

# ASSEMBLY, No. 1344

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

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**District 15 (Hunterdon and Mercer)**

**Assemblywoman ELIZABETH MAHER MUOIO**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblyman Karabinchak, Assemblywoman Pinkin, Assemblymen  
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**SYNOPSIS**

Allows electric energy produced from biofuel to be eligible as Class II renewable energy.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning Class II renewable energy and amending  
2 P.L.1999, c.23.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read as  
8 follow:

9 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

10 "Assignee" means a person to which an electric public utility or  
11 another assignee assigns, sells, or transfers, other than as security,  
12 all or a portion of its right to or interest in bondable transition  
13 property. Except as specifically provided in P.L.1999,  
14 c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public  
15 utility requirements of Title 48 or any rules or regulations adopted  
16 pursuant thereto.

17 "Base load electric power generation facility" means an electric  
18 power generation facility intended to be operated at a greater than  
19 50 percent capacity factor including, but not limited to, a combined  
20 cycle power facility and a combined heat and power facility.

21 "Base residual auction" means the auction conducted by PJM, as  
22 part of PJM's reliability pricing model, three years prior to the start  
23 of the delivery year to secure electrical capacity as necessary to  
24 satisfy the capacity requirements for that delivery year.

25 "Basic gas supply service" means gas supply service that is  
26 provided to any customer that has not chosen an alternative gas  
27 supplier, whether or not the customer has received offers as to  
28 competitive supply options, including, but not limited to, any  
29 customer that cannot obtain such service for any reason, including  
30 non-payment for services. Basic gas supply service is not a  
31 competitive service and shall be fully regulated by the board.

32 "Basic generation service" or "BGS" means electric generation  
33 service that is provided, to any customer that has not chosen an  
34 alternative electric power supplier, whether or not the customer has  
35 received offers for competitive supply options, including, but not  
36 limited to, any customer that cannot obtain such service from an  
37 electric power supplier for any reason, including non-payment for  
38 services. Basic generation service is not a competitive service and  
39 shall be fully regulated by the board.

40 "Basic generation service provider" or "provider" means a  
41 provider of basic generation service.

42 "Basic generation service transition costs" means the amount by  
43 which the payments by an electric public utility for the procurement  
44 of power for basic generation service and related ancillary and  
45 administrative costs exceeds the net revenues from the basic

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 generation service charge established by the board pursuant to  
2 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,  
3 together with interest on the balance at the board-approved rate, that  
4 is reflected in a deferred balance account approved by the board in  
5 an order addressing the electric public utility's unbundled rates,  
6 stranded costs, and restructuring filings pursuant to P.L.1999,  
7 c.23 (C.48:3-49 et al.). Basic generation service transition costs  
8 shall include, but are not limited to, costs of purchases from the  
9 spot market, bilateral contracts, contracts with non-utility  
10 generators, parting contracts with the purchaser of the electric  
11 public utility's divested generation assets, short-term advance  
12 purchases, and financial instruments such as hedging, forward  
13 contracts, and options. Basic generation service transition costs  
14 shall also include the payments by an electric public utility pursuant  
15 to a competitive procurement process for basic generation service  
16 supply during the transition period, and costs of any such process  
17 used to procure the basic generation service supply.

18 "Biofuel" means liquid or gaseous fuels produced from organic  
19 sources, such as sustainably grown and harvested crops, including  
20 native noninvasive energy crops, agricultural residues, and non-  
21 recycled organic waste, including waste cooking oil, grease and  
22 food wastes, sewage, and algae.

23 "Board" means the New Jersey Board of Public Utilities or any  
24 successor agency.

25 "Bondable stranded costs" means any stranded costs or basic  
26 generation service transition costs of an electric public utility  
27 approved by the board for recovery pursuant to the provisions of  
28 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the  
29 board: (1) the cost of retiring existing debt or equity capital of the  
30 electric public utility, including accrued interest, premium and other  
31 fees, costs, and charges relating thereto, with the proceeds of the  
32 financing of bondable transition property; (2) if requested by an  
33 electric public utility in its application for a bondable stranded costs  
34 rate order, federal, State and local tax liabilities associated with  
35 stranded costs recovery, basic generation service transition cost  
36 recovery, or the transfer or financing of the property, or both,  
37 including taxes, whose recovery period is modified by the effect of  
38 a stranded costs recovery order, a bondable stranded costs rate  
39 order, or both; and (3) the costs incurred to issue, service or  
40 refinance transition bonds, including interest, acquisition or  
41 redemption premium, and other financing costs, whether paid upon  
42 issuance or over the life of the transition bonds, including, but not  
43 limited to, credit enhancements, service charges,  
44 overcollateralization, interest rate cap, swap or collar, yield  
45 maintenance, maturity guarantee or other hedging agreements,  
46 equity investments, operating costs, and other related fees, costs,  
47 and charges, or to assign, sell, or otherwise transfer bondable  
48 transition property.

1 "Bondable stranded costs rate order" means one or more  
2 irrevocable written orders issued by the board pursuant to P.L.1999,  
3 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
4 stranded costs and the initial amount of transition bond charges  
5 authorized to be imposed to recover the bondable stranded costs,  
6 including the costs to be financed from the proceeds of the  
7 transition bonds, as well as on-going costs associated with servicing  
8 and credit enhancing the transition bonds, and provides the electric  
9 public utility specific authority to issue or cause to be issued,  
10 directly or indirectly, transition bonds through a financing entity  
11 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),  
12 which order shall become effective immediately upon the written  
13 consent of the related electric public utility to the order as provided  
14 in P.L.1999, c.23 (C.48:3-49 et al.).

15 "Bondable transition property" means the property consisting of  
16 the irrevocable right to charge, collect, and receive, and be paid  
17 from collections of, transition bond charges in the amount necessary  
18 to provide for the full recovery of bondable stranded costs which  
19 are determined to be recoverable in a bondable stranded costs rate  
20 order, all rights of the related electric public utility under the  
21 bondable stranded costs rate order including, without limitation, all  
22 rights to obtain periodic adjustments of the related transition bond  
23 charges pursuant to subsection b. of section 15 of P.L.1999,  
24 c.23 (C.48:3-64), and all revenues, collections, payments, money,  
25 and proceeds arising under, or with respect to, all of the foregoing.

26 "British thermal unit" or "Btu" means the amount of heat  
27 required to increase the temperature of one pound of water by one  
28 degree Fahrenheit.

29 "Broker" means a duly licensed electric power supplier that  
30 assumes the contractual and legal responsibility for the sale of  
31 electric generation service, transmission, or other services to end-  
32 use retail customers, but does not take title to any of the power sold,  
33 or a duly licensed gas supplier that assumes the contractual and  
34 legal obligation to provide gas supply service to end-use retail  
35 customers, but does not take title to the gas.

36 "Brownfield" means any former or current commercial or  
37 industrial site that is currently vacant or underutilized and on which  
38 there has been, or there is suspected to have been, a discharge of a  
39 contaminant.

40 "Buydown" means an arrangement or arrangements involving the  
41 buyer and seller in a given power purchase contract and, in some  
42 cases third parties, for consideration to be given by the buyer in  
43 order to effectuate a reduction in the pricing, or the restructuring of  
44 other terms to reduce the overall cost of the power contract, for the  
45 remaining succeeding period of the purchased power arrangement  
46 or arrangements.

47 "Buyout" means an arrangement or arrangements involving the  
48 buyer and seller in a given power purchase contract and, in some

1 cases third parties, for consideration to be given by the buyer in  
2 order to effectuate a termination of such power purchase contract.

3 "Class I renewable energy" means electric energy produced from  
4 solar technologies, photovoltaic technologies, wind energy, fuel  
5 cells, geothermal technologies, wave or tidal action, small scale  
6 hydropower facilities with a capacity of three megawatts or less and  
7 put into service after the effective date of P.L.2012, c.24, and  
8 methane gas from landfills or a biomass facility, provided that the  
9 biomass is cultivated and harvested in a sustainable manner.

10 "Class II renewable energy" means electric energy produced  
11 from biofuel, or electric energy produced at a hydropower facility  
12 with a capacity of greater than three megawatts, but less than 30  
13 megawatts, or at a resource recovery facility, provided that the  
14 facility is located where retail competition is permitted and  
15 provided further that the Commissioner of Environmental  
16 Protection has determined that the facility meets the highest  
17 environmental standards and minimizes any impacts to the  
18 environment and local communities. Class II renewable energy  
19 shall not include electric energy produced at a hydropower facility  
20 with a capacity of greater than 30 megawatts on or after the  
21 effective date of P.L.2015, c.51.

22 "Co-generation" means the sequential production of electricity  
23 and steam or other forms of useful energy used for industrial or  
24 commercial heating and cooling purposes.

25 "Combined cycle power facility" means a generation facility that  
26 combines two or more thermodynamic cycles, by producing electric  
27 power via the combustion of fuel and then routing the resulting  
28 waste heat by-product to a conventional boiler or to a heat recovery  
29 steam generator for use by a steam turbine to produce electric  
30 power, thereby increasing the overall efficiency of the generating  
31 facility.

32 "Combined heat and power facility" or "co-generation facility"  
33 means a generation facility which produces electric energy and  
34 steam or other forms of useful energy such as heat, which are used  
35 for industrial or commercial heating or cooling purposes. A  
36 combined heat and power facility or co-generation facility shall not  
37 be considered a public utility.

38 "Competitive service" means any service offered by an electric  
39 public utility or a gas public utility that the board determines to be  
40 competitive pursuant to section 8 or section 10 of P.L.1999,  
41 c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board.

42 "Commercial and industrial energy pricing class customer" or  
43 "CIEP class customer" means that group of non-residential  
44 customers with high peak demand, as determined by periodic board  
45 order, which either is eligible or which would be eligible, as  
46 determined by periodic board order, to receive funds from the Retail  
47 Margin Fund established pursuant to section 9 of P.L.1999,

1 c.23 (C.48:3-57) and for which basic generation service is hourly-  
2 priced.

3 "Comprehensive resource analysis" means an analysis including,  
4 but not limited to, an assessment of existing market barriers to the  
5 implementation of energy efficiency and renewable technologies  
6 that are not or cannot be delivered to customers through a  
7 competitive marketplace.

8 "Connected to the distribution system" means, for a solar electric  
9 power generation facility, that the facility is: (1) connected to a net  
10 metering customer's side of a meter, regardless of the voltage at  
11 which that customer connects to the electric grid; (2) an on-site  
12 generation facility; (3) qualified for net metering aggregation as  
13 provided pursuant to paragraph (4) of subsection e. of section 38 of  
14 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric  
15 public utility and approved by the board pursuant to section 13 of  
16 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric  
17 grid at 69 kilovolts or less, regardless of how an electric public  
18 utility classifies that portion of its electric grid, and is designated as  
19 "connected to the distribution system" by the board pursuant to  
20 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-  
21 87); or (6) is certified by the board, in consultation with the  
22 Department of Environmental Protection, as being located on a  
23 brownfield, on an area of historic fill, or on a properly closed  
24 sanitary landfill facility. Any solar electric power generation  
25 facility, other than that of a net metering customer on the customer's  
26 side of the meter, connected above 69 kilovolts shall not be  
27 considered connected to the distribution system.

28 "Customer" means any person that is an end user and is  
29 connected to any part of the transmission and distribution system  
30 within an electric public utility's service territory or a gas public  
31 utility's service territory within this State.

32 "Customer account service" means metering, billing, or such  
33 other administrative activity associated with maintaining a customer  
34 account.

35 "Delivery year" or "DY" means the 12-month period from June  
36 1st through May 31st, numbered according to the calendar year in  
37 which it ends.

38 "Demand side management" means the management of customer  
39 demand for energy service through the implementation of cost-  
40 effective energy efficiency technologies, including, but not limited  
41 to, installed conservation, load management, and energy efficiency  
42 measures on and in the residential, commercial, industrial,  
43 institutional, and governmental premises and facilities in this State.

44 "Electric generation service" means the provision of retail  
45 electric energy and capacity which is generated off-site from the  
46 location at which the consumption of such electric energy and  
47 capacity is metered for retail billing purposes, including agreements  
48 and arrangements related thereto.

1 "Electric power generator" means an entity that proposes to  
2 construct, own, lease, or operate, or currently owns, leases, or  
3 operates, an electric power production facility that will sell or does  
4 sell at least 90 percent of its output, either directly or through a  
5 marketer, to a customer or customers located at sites that are not on  
6 or contiguous to the site on which the facility will be located or is  
7 located. The designation of an entity as an electric power generator  
8 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
9 and of itself, affect the entity's status as an exempt wholesale  
10 generator under the Public Utility Holding Company Act of 1935,  
11 15 U.S.C. s.79 et seq., or its successor act.

12 "Electric power supplier" means a person or entity that is duly  
13 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et  
14 al.) to offer and to assume the contractual and legal responsibility to  
15 provide electric generation service to retail customers, and includes  
16 load serving entities, marketers, and brokers that offer or provide  
17 electric generation service to retail customers. The term excludes an  
18 electric public utility that provides electric generation service only  
19 as a basic generation service pursuant to section 9 of P.L.1999,  
20 c.23 (C.48:3-57).

21 "Electric public utility" means a public utility, as that term is  
22 defined in R.S.48:2-13, that transmits and distributes electricity to  
23 end users within this State.

24 "Electric related service" means a service that is directly related  
25 to the consumption of electricity by an end user, including, but not  
26 limited to, the installation of demand side management measures at  
27 the end user's premises, the maintenance, repair, or replacement of  
28 appliances, lighting, motors, or other energy-consuming devices at  
29 the end user's premises, and the provision of energy consumption  
30 measurement and billing services.

31 "Electronic signature" means an electronic sound, symbol, or  
32 process, attached to, or logically associated with, a contract or other  
33 record, and executed or adopted by a person with the intent to sign  
34 the record.

35 "Eligible generator" means a developer of a base load or mid-  
36 merit electric power generation facility including, but not limited to,  
37 an on-site generation facility that qualifies as a capacity resource  
38 under PJM criteria and that commences construction after the  
39 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

40 "Energy agent" means a person that is duly registered pursuant to  
41 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the  
42 sale of retail electricity or electric related services, or retail gas  
43 supply or gas related services, between government aggregators or  
44 private aggregators and electric power suppliers or gas suppliers,  
45 but does not take title to the electric or gas sold.

46 "Energy consumer" means a business or residential consumer of  
47 electric generation service or gas supply service located within the  
48 territorial jurisdiction of a government aggregator.

1       "Energy crop" means a crop grown exclusively for energy  
2 production, including switchgrass and poplar.

3       "Energy efficiency portfolio standard" means a requirement to  
4 procure a specified amount of energy efficiency or demand side  
5 management resources as a means of managing and reducing energy  
6 usage and demand by customers.

7       "Energy year" or "EY" means the 12-month period from June 1st  
8 through May 31st, numbered according to the calendar year in  
9 which it ends.

10       "Existing business relationship" means a relationship formed by  
11 a voluntary two-way communication between an electric power  
12 supplier, gas supplier, broker, energy agent, marketer, private  
13 aggregator, sales representative, or telemarketer and a customer,  
14 regardless of an exchange of consideration, on the basis of an  
15 inquiry, application, purchase, or transaction initiated by the  
16 customer regarding products or services offered by the electric  
17 power supplier, gas supplier, broker, energy agent, marketer,  
18 private aggregator, sales representative, or telemarketer; however, a  
19 consumer's use of electric generation service or gas supply service  
20 through the consumer's electric public utility or gas public utility  
21 shall not constitute or establish an existing business relationship for  
22 the purpose of P.L.2013, c.263.

23       "Farmland" means land actively devoted to agricultural or  
24 horticultural use that is valued, assessed, and taxed pursuant to the  
25 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
26 seq.).

27       "Federal Energy Regulatory Commission" or "FERC" means the  
28 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to  
29 regulate the interstate transmission of electricity, natural gas, and  
30 oil.

31       "Final remediation document" shall have the same meaning as  
32 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

33       "Financing entity" means an electric public utility, a special  
34 purpose entity, or any other assignee of bondable transition  
35 property, which issues transition bonds. Except as specifically  
36 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
37 which is not itself an electric public utility shall not be subject to  
38 the public utility requirements of Title 48 of the Revised Statutes or  
39 any rules or regulations adopted pursuant thereto.

40       "Gas public utility" means a public utility, as that term is defined  
41 in R.S.48:2-13, that distributes gas to end users within this State.

42       "Gas related service" means a service that is directly related to  
43 the consumption of gas by an end user, including, but not limited to,  
44 the installation of demand side management measures at the end  
45 user's premises, the maintenance, repair or replacement of  
46 appliances or other energy-consuming devices at the end user's  
47 premises, and the provision of energy consumption measurement  
48 and billing services.



1 "Gas supplier" means a person that is duly licensed pursuant to  
2 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
3 assume the contractual and legal obligation to provide gas supply  
4 service to retail customers, and includes, but is not limited to,  
5 marketers and brokers. A non-public utility affiliate of a public  
6 utility holding company may be a gas supplier, but a gas public  
7 utility or any subsidiary of a gas utility is not a gas supplier. In the  
8 event that a gas public utility is not part of a holding company legal  
9 structure, a related competitive business segment of that gas public  
10 utility may be a gas supplier, provided that related competitive  
11 business segment is structurally separated from the gas public  
12 utility, and provided that the interactions between the gas public  
13 utility and the related competitive business segment are subject to  
14 the affiliate relations standards adopted by the board pursuant to  
15 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

16 "Gas supply service" means the provision to customers of the  
17 retail commodity of gas, but does not include any regulated  
18 distribution service.

19 "Government aggregator" means any government entity subject  
20 to the requirements of the "Local Public Contracts Law," P.L.1971,  
21 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
22 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
23 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
24 contract with a licensed electric power supplier or a licensed gas  
25 supplier for: (1) the provision of electric generation service, electric  
26 related service, gas supply service, or gas related service for its own  
27 use or the use of other government aggregators; or (2) if a  
28 municipal or county government, the provision of electric  
29 generation service or gas supply service on behalf of business or  
30 residential customers within its territorial jurisdiction.

31 "Government energy aggregation program" means a program and  
32 procedure pursuant to which a government aggregator enters into a  
33 written contract for the provision of electric generation service or  
34 gas supply service on behalf of business or residential customers  
35 within its territorial jurisdiction.

36 "Governmental entity" means any federal, state, municipal, local,  
37 or other governmental department, commission, board, agency,  
38 court, authority, or instrumentality having competent jurisdiction.

39 "Greenhouse gas emissions portfolio standard" means a  
40 requirement that addresses or limits the amount of carbon dioxide  
41 emissions indirectly resulting from the use of electricity as applied  
42 to any electric power suppliers and basic generation service  
43 providers of electricity.

44 "Historic fill" means generally large volumes of non-indigenous  
45 material, no matter what date they were emplaced on the site, used  
46 to raise the topographic elevation of a site, which were  
47 contaminated prior to emplacement and are in no way connected  
48 with the operations at the location of emplacement and which

1 include, but are not limited to, construction debris, dredge spoils,  
2 incinerator residue, demolition debris, fly ash, and non-hazardous  
3 solid waste. "Historic fill" shall not include any material which is  
4 substantially chromate chemical production waste or any other  
5 chemical production waste or waste from processing of metal or  
6 mineral ores, residues, slags, or tailings.

7 "Incremental auction" means an auction conducted by PJM, as  
8 part of PJM's reliability pricing model, prior to the start of the  
9 delivery year to secure electric capacity as necessary to satisfy the  
10 capacity requirements for that delivery year, that is not otherwise  
11 provided for in the base residual auction.

12 "Leakage" means an increase in greenhouse gas emissions  
13 related to generation sources located outside of the State that are not  
14 subject to a state, interstate, or regional greenhouse gas emissions  
15 cap or standard that applies to generation sources located within the  
16 State.

17 "Locational deliverability area" or "LDA" means one or more of  
18 the zones within the PJM region which are used to evaluate area  
19 transmission constraints and reliability issues including electric  
20 public utility company zones, sub-zones, and combinations of  
21 zones.

22 "Long-term capacity agreement pilot program" or "LCAPP"  
23 means a pilot program established by the board that includes  
24 participation by eligible generators, to seek offers for financially-  
25 settled standard offer capacity agreements with eligible generators  
26 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

27 "Market transition charge" means a charge imposed pursuant to  
28 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public  
29 utility, at a level determined by the board, on the electric public  
30 utility customers for a limited duration transition period to recover  
31 stranded costs created as a result of the introduction of electric  
32 power supply competition pursuant to the provisions of P.L.1999,  
33 c.23 (C.48:3-49 et al.).

34 "Marketer" means a duly licensed electric power supplier that  
35 takes title to electric energy and capacity, transmission and other  
36 services from electric power generators and other wholesale  
37 suppliers and then assumes the contractual and legal obligation to  
38 provide electric generation service, and may include transmission  
39 and other services, to an end-use retail customer or customers, or a  
40 duly licensed gas supplier that takes title to gas and then assumes  
41 the contractual and legal obligation to provide gas supply service to  
42 an end-use customer or customers.

43 "Mid-merit electric power generation facility" means a  
44 generation facility that operates at a capacity factor between  
45 baseload generation facilities and peaker generation facilities.

46 "Net metering aggregation" means a procedure for calculating  
47 the combination of the annual energy usage for all facilities owned  
48 by a single customer where such customer is a State entity, school

1 district, county, county agency, county authority, municipality,  
2 municipal agency, or municipal authority, and which are served by  
3 a solar electric power generating facility as provided pursuant to  
4 paragraph (4) of subsection e. of section 38 of P.L.1999,  
5 c.23 (C.48:3-87).

6 "Net proceeds" means proceeds less transaction and other related  
7 costs as determined by the board.

8 "Net revenues" means revenues less related expenses, including  
9 applicable taxes, as determined by the board.

10 "Offshore wind energy" means electric energy produced by a  
11 qualified offshore wind project.

12 "Offshore wind renewable energy certificate" or "OREC" means  
13 a certificate, issued by the board or its designee, representing the  
14 environmental attributes of one megawatt hour of electric  
15 generation from a qualified offshore wind project.

16 "Off-site end use thermal energy services customer" means an  
17 end use customer that purchases thermal energy services from an  
18 on-site generation facility, combined heat and power facility, or co-  
19 generation facility, and that is located on property that is separated  
20 from the property on which the on-site generation facility,  
21 combined heat and power facility, or co-generation facility is  
22 located by more than one easement, public thoroughfare, or  
23 transportation or utility-owned right-of-way.

24 "On-site generation facility" means a generation facility,  
25 including, but not limited to, a generation facility that produces  
26 Class I or Class II renewable energy, and equipment and services  
27 appurtenant to electric sales by such facility to the end use customer  
28 located on the property or on property contiguous to the property on  
29 which the end user is located. An on-site generation facility shall  
30 not be considered a public utility. The property of the end use  
31 customer and the property on which the on-site generation facility is  
32 located shall be considered contiguous if they are geographically  
33 located next to each other, but may be otherwise separated by an  
34 easement, public thoroughfare, transportation or utility-owned  
35 right-of-way, or if the end use customer is purchasing thermal  
36 energy services produced by the on-site generation facility, for use  
37 for heating or cooling, or both, regardless of whether the customer  
38 is located on property that is separated from the property on which  
39 the on-site generation facility is located by more than one easement,  
40 public thoroughfare, or transportation or utility-owned right-of-way.

41 "Person" means an individual, partnership, corporation,  
42 association, trust, limited liability company, governmental entity, or  
43 other legal entity.

44 "PJM Interconnection, L.L.C." or "PJM" means the privately-  
45 held, limited liability corporation that is a FERC-approved Regional  
46 Transmission Organization, or its successor, that manages the  
47 regional, high-voltage electricity grid serving all or parts of 13  
48 states including New Jersey and the District of Columbia, operates

1 the regional competitive wholesale electric market, manages the  
2 regional transmission planning process, and establishes systems and  
3 rules to ensure that the regional and in-State energy markets operate  
4 fairly and efficiently.

5 "Preliminary assessment" shall have the same meaning as  
6 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

7 "Private aggregator" means a non-government aggregator that is  
8 a duly-organized business or non-profit organization authorized to  
9 do business in this State that enters into a contract with a duly  
10 licensed electric power supplier for the purchase of electric energy  
11 and capacity, or with a duly licensed gas supplier for the purchase  
12 of gas supply service, on behalf of multiple end-use customers by  
13 combining the loads of those customers.

14 "Properly closed sanitary landfill facility" means a sanitary  
15 landfill facility, or a portion of a sanitary landfill facility, for which  
16 performance is complete with respect to all activities associated  
17 with the design, installation, purchase, or construction of all  
18 measures, structures, or equipment required by the Department of  
19 Environmental Protection, pursuant to law, in order to prevent,  
20 minimize, or monitor pollution or health hazards resulting from a  
21 sanitary landfill facility subsequent to the termination of operations  
22 at any portion thereof, including, but not necessarily limited to, the  
23 placement of earthen or vegetative cover, and the installation of  
24 methane gas vents or monitors and leachate monitoring wells or  
25 collection systems at the site of any sanitary landfill facility.

26 "Public utility holding company" means: (1) any company that,  
27 directly or indirectly, owns, controls, or holds with power to vote,  
28 10 percent or more of the outstanding voting securities of an  
29 electric public utility or a gas public utility or of a company which  
30 is a public utility holding company by virtue of this definition,  
31 unless the Securities and Exchange Commission, or its successor,  
32 by order declares such company not to be a public utility holding  
33 company under the Public Utility Holding Company Act of 1935,  
34 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
35 Securities and Exchange Commission, or its successor, determines,  
36 after notice and opportunity for hearing, directly or indirectly, to  
37 exercise, either alone or pursuant to an arrangement or  
38 understanding with one or more other persons, such a controlling  
39 influence over the management or policies of an electric public  
40 utility or a gas public utility or public utility holding company as to  
41 make it necessary or appropriate in the public interest or for the  
42 protection of investors or consumers that such person be subject to  
43 the obligations, duties, and liabilities imposed in the Public Utility  
44 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its  
45 successor act.

46 "Qualified offshore wind project" means a wind turbine  
47 electricity generation facility in the Atlantic Ocean and connected  
48 to the electric transmission system in this State, and includes the

1 associated transmission-related interconnection facilities and  
2 equipment, and approved by the board pursuant to section 3 of  
3 P.L.2010, c.57 (C.48:3-87.1).

4 "Registration program" means an administrative process  
5 developed by the board pursuant to subsection u. of section 38 of  
6 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric  
7 power generation facilities connected to the distribution system that  
8 intend to generate SRECs, to file with the board documents  
9 detailing the size, location, interconnection plan, land use, and other  
10 project information as required by the board.

11 "Regulatory asset" means an asset recorded on the books of an  
12 electric public utility or gas public utility pursuant to the Statement  
13 of Financial Accounting Standards, No. 71, entitled "Accounting for  
14 the Effects of Certain Types of Regulation," or any successor  
15 standard and as deemed recoverable by the board.

16 "Related competitive business segment of an electric public  
17 utility or gas public utility" means any business venture of an  
18 electric public utility or gas public utility including, but not limited  
19 to, functionally separate business units, joint ventures, and  
20 partnerships, that offers to provide or provides competitive services.

21 "Related competitive business segment of a public utility holding  
22 company" means any business venture of a public utility holding  
23 company, including, but not limited to, functionally separate  
24 business units, joint ventures, and partnerships and subsidiaries, that  
25 offers to provide or provides competitive services, but does not  
26 include any related competitive business segments of an electric  
27 public utility or gas public utility.

28 "Reliability pricing model" or "RPM" means PJM's capacity-  
29 market model, and its successors, that secures capacity on behalf of  
30 electric load serving entities to satisfy load obligations not satisfied  
31 through the output of electric generation facilities owned by those  
32 entities, or otherwise secured by those entities through bilateral  
33 contracts.

34 "Renewable energy certificate" or "REC" means a certificate  
35 representing the environmental benefits or attributes of one  
36 megawatt-hour of generation from a generating facility that  
37 produces Class I or Class II renewable energy, but shall not include  
38 a solar renewable energy certificate or an offshore wind renewable  
39 energy certificate.

40 "Resource clearing price" or "RCP" means the clearing price  
41 established for the applicable locational deliverability area by the  
42 base residual auction or incremental auction, as determined by the  
43 optimization algorithm for each auction, conducted by PJM as part  
44 of PJM's reliability pricing model.

45 "Resource recovery facility" means a solid waste facility  
46 constructed and operated for the incineration of solid waste for  
47 energy production and the recovery of metals and other materials  
48 for reuse, which the Department of Environmental Protection has

1 determined to be in compliance with current environmental  
2 standards, including, but not limited to, all applicable requirements  
3 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

4 "Restructuring related costs" means reasonably incurred costs  
5 directly related to the restructuring of the electric power industry,  
6 including the closure, sale, functional separation, and divestiture of  
7 generation and other competitive utility assets by a public utility, or  
8 the provision of competitive services as those costs are determined  
9 by the board, and which are not stranded costs as defined in  
10 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited  
11 to, investments in management information systems, and which  
12 shall include expenses related to employees affected by  
13 restructuring which result in efficiencies and which result in  
14 benefits to ratepayers, such as training or retraining at the level  
15 equivalent to one year's training at a vocational or technical school  
16 or county community college, the provision of severance pay of two  
17 weeks of base pay for each year of full-time employment, and a  
18 maximum of 24 months' continued health care coverage. Except as  
19 to expenses related to employees affected by restructuring,  
20 "restructuring related costs" shall not include going forward costs.

21 "Retail choice" means the ability of retail customers to shop for  
22 electric generation or gas supply service from electric power or gas  
23 suppliers, or opt to receive basic generation service or basic gas  
24 service, and the ability of an electric power or gas supplier to offer  
25 electric generation service or gas supply service to retail customers,  
26 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

27 "Retail margin" means an amount, reflecting differences in  
28 prices that electric power suppliers and electric public utilities may  
29 charge in providing electric generation service and basic generation  
30 service, respectively, to retail customers, excluding residential  
31 customers, which the board may authorize to be charged to  
32 categories of basic generation service customers of electric public  
33 utilities in this State, other than residential customers, under the  
34 board's continuing regulation of basic generation service pursuant to  
35 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and C.48:3-57), for  
36 the purpose of promoting a competitive retail market for the supply  
37 of electricity.

38 "Sales representative" means a person employed by, acting on  
39 behalf of, or as an independent contractor for, an electric power  
40 supplier, gas supplier, broker, energy agent, marketer, or private  
41 aggregator who, by any means, solicits a potential residential  
42 customer for the provision of electric generation service or gas  
43 supply service.

44 "Sanitary landfill facility" shall have the same meaning as  
45 provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

46 "School district" means a local or regional school district  
47 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
48 New Jersey Statutes, a county special services school district

1 established pursuant to article 8 of chapter 46 of Title 18A of the  
2 New Jersey Statutes, a county vocational school district established  
3 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey  
4 Statutes, and a district under full State intervention pursuant to  
5 P.L.1987, c.399 (C.18A:7A-34 et al.).

6 "Shopping credit" means an amount deducted from the bill of an  
7 electric public utility customer to reflect the fact that the customer  
8 has switched to an electric power supplier and no longer takes basic  
9 generation service from the electric public utility.

10 "Site investigation" shall have the same meaning as provided in  
11 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

12 "Small scale hydropower facility" means a facility located within  
13 this State that is connected to the distribution system, and that  
14 meets the requirements of, and has been certified by, a nationally  
15 recognized low-impact hydropower organization that has  
16 established low-impact hydropower certification criteria applicable  
17 to: (1) river flows; (2) water quality; (3) fish passage and  
18 protection; (4) watershed protection; (5) threatened and endangered  
19 species protection; (6) cultural resource protection; (7) recreation;  
20 and (8) facilities recommended for removal.

21 "Social program" means a program implemented with board  
22 approval to provide assistance to a group of disadvantaged  
23 customers, to provide protection to consumers, or to accomplish a  
24 particular societal goal, and includes, but is not limited to, the  
25 winter moratorium program, utility practices concerning "bad debt"  
26 customers, low income assistance, deferred payment plans,  
27 weatherization programs, and late payment and deposit policies, but  
28 does not include any demand side management program or any  
29 environmental requirements or controls.

30 "Societal benefits charge" means a charge imposed by an electric  
31 public utility, at a level determined by the board, pursuant to, and in  
32 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60).

33 "Solar alternative compliance payment" or "SACP" means a  
34 payment of a certain dollar amount per megawatt hour (MWh)  
35 which an electric power supplier or provider may submit to the  
36 board in order to comply with the solar electric generation  
37 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

38 "Solar renewable energy certificate" or "SREC" means a  
39 certificate issued by the board or its designee, representing one  
40 megawatt hour (MWh) of solar energy that is generated by a facility  
41 connected to the distribution system in this State and has value  
42 based upon, and driven by, the energy market.

43 "Standard offer capacity agreement" or "SOCA" means a  
44 financially-settled transaction agreement, approved by board order,  
45 that provides for eligible generators to receive payments from the  
46 electric public utilities for a defined amount of electric capacity for  
47 a term to be determined by the board but not to exceed 15 years,

1 and for such payments to be a fully non-bypassable charge, with  
2 such an order, once issued, being irrevocable.

3 "Standard offer capacity price" or "SOCP" means the capacity  
4 price that is fixed for the term of the SOCA and which is the price  
5 to be received by eligible generators under a board-approved  
6 SOCA.

7 "State entity" means a department, agency, or office of State  
8 government, a State university or college, or an authority created by  
9 the State.

10 "Stranded cost" means the amount by which the net cost of an  
11 electric public utility's electric generating assets or electric power  
12 purchase commitments, as determined by the board consistent with  
13 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the  
14 market value of those assets or contractual commitments in a  
15 competitive supply marketplace and the costs of buydowns or  
16 buyouts of power purchase contracts.

17 "Stranded costs recovery order" means each order issued by the  
18 board in accordance with subsection c. of section 13 of P.L.1999,  
19 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if  
20 any, the board has determined an electric public utility is eligible to  
21 recover and collect in accordance with the standards set forth in  
22 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery  
23 mechanisms therefor.

24 "Telemarketer" shall have the same meaning as set forth in  
25 section 2 of P.L.2003, c.76 (C.56:8-120).

26 "Telemarketing sales call" means a telephone call made by a  
27 telemarketer to a potential residential customer as part of a plan,  
28 program, or campaign to encourage the customer to change the  
29 customer's electric power supplier or gas supplier. A telephone call  
30 made to an existing customer of an electric power supplier, gas  
31 supplier, broker, energy agent, marketer, private aggregator, or  
32 sales representative, for the sole purpose of collecting on accounts  
33 or following up on contractual obligations, shall not be deemed a  
34 telemarketing sales call. A telephone call made in response to an  
35 express written request of a customer shall not be deemed a  
36 telemarketing sales call.

37 "Thermal efficiency" means the useful electric energy output of a  
38 facility, plus the useful thermal energy output of the facility,  
39 expressed as a percentage of the total energy input to the facility.

40 "Transition bond charge" means a charge, expressed as an  
41 amount per kilowatt hour, that is authorized by and imposed on  
42 electric public utility ratepayers pursuant to a bondable stranded  
43 costs rate order, as modified at any time pursuant to the provisions  
44 of P.L.1999, c.23 (C.48:3-49 et al.).

45 "Transition bonds" means bonds, notes, certificates of  
46 participation, beneficial interest, or other evidences of indebtedness  
47 or ownership issued pursuant to an indenture, contract, or other  
48 agreement of an electric public utility or a financing entity, the



1 proceeds of which are used, directly or indirectly, to recover,  
2 finance or refinance bondable stranded costs and which are, directly  
3 or indirectly, secured by or payable from bondable transition  
4 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
5 principal, interest, and acquisition or redemption premium with  
6 respect to transition bonds which are issued in the form of  
7 certificates of participation or beneficial interest or other evidences  
8 of ownership shall refer to the comparable payments on such  
9 securities.

10 "Transition period" means the period from August 1, 1999  
11 through July 31, 2003.

12 "Transmission and distribution system" means, with respect to an  
13 electric public utility, any facility or equipment that is used for the  
14 transmission, distribution, or delivery of electricity to the customers  
15 of the electric public utility including, but not limited to, the land,  
16 structures, meters, lines, switches, and all other appurtenances  
17 thereof and thereto, owned or controlled by the electric public  
18 utility within this State.

19 "Universal service" means any service approved by the board  
20 with the purpose of assisting low-income residential customers in  
21 obtaining or retaining electric generation or delivery service.

22 "Unsolicited advertisement" means any advertising claims of the  
23 commercial availability or quality of services provided by an  
24 electric power supplier, gas supplier, broker, energy agent,  
25 marketer, private aggregator, sales representative, or telemarketer  
26 which is transmitted to a potential customer without that customer's  
27 prior express invitation or permission.

28 (cf: P.L.2015, c.51, s.1)

29

30 2. This act shall take effect immediately.

31

32

33

#### STATEMENT

34

35 This bill adds electric energy produced from biofuel to the  
36 definition of "Class II renewable energy," thereby making that  
37 electric energy eligible for participation in the State's renewable  
38 energy certificate program.

39 Under the bill, "biofuel" means liquid or gaseous fuels produced  
40 from organic sources, such as sustainably grown and harvested  
41 crops, including native noninvasive energy crops, agricultural  
42 residues, and non-recycled organic waste, including waste cooking  
43 oil, grease and food wastes, sewage, and algae. "Energy crop"  
44 means a crop grown exclusively for energy production, including  
45 switchgrass and poplar.