

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 463**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

ADOPTED MAY 13, 2010

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**SYNOPSIS**

Authorizes creation of local renewable energy collaboratives and central renewable energy generation systems, and provides for sale of renewable power generation.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Telecommunications and Utilities Committee on September 13, 2010, with amendments.

(Sponsorship Updated As Of: 12/6/2011)

1 AN ACT authorizing the establishment of local renewable energy  
2 collaboratives and central renewable energy generation systems,  
3 and amending P.L.1999, c.23.  
4

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

7  
8 <sup>2</sup>[1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read  
9 as follows:

10 3. "Assignee" means a person to which an electric public utility  
11 or 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, c.23  
14 (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 "Basic gas supply service" means gas supply service that is  
18 provided to any customer that has not chosen an alternative gas  
19 supplier, whether or not the customer has received offers as to  
20 competitive supply options, including, but not limited to, any  
21 customer that cannot obtain such service for any reason, including  
22 non-payment for services. Basic gas supply service is not a  
23 competitive service and shall be fully regulated by the board;

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

32 "Basic generation service provider" or "provider" means a  
33 provider of basic generation service;

34 "Basic generation service transition costs" means the amount by  
35 which the payments by an electric public utility for the procurement  
36 of power for basic generation service and related ancillary and  
37 administrative costs exceeds the net revenues from the basic  
38 generation service charge established by the board pursuant to  
39 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,  
40 together with interest on the balance at the board-approved rate, that  
41 is reflected in a deferred balance account approved by the board in  
42 an order addressing the electric public utility's unbundled rates,  
43 stranded costs, and restructuring filings pursuant to P.L.1999, c.23

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> **Senate floor amendments adopted June 10, 2010.**

<sup>2</sup> **Assembly ATU committee amendments adopted September 13, 2010.**

1 (C.48:3-49 et al.). Basic generation service transition costs shall  
2 include, but are not limited to, costs of purchases from the spot  
3 market, bilateral contracts, contracts with non-utility generators,  
4 parting contracts with the purchaser of the electric public utility's  
5 divested generation assets, short-term advance purchases, and  
6 financial instruments such as hedging, forward contracts, and  
7 options. Basic generation service transition costs shall also include  
8 the payments by an electric public utility pursuant to a competitive  
9 procurement process for basic generation service supply during the  
10 transition period, and costs of any such process used to procure the  
11 basic generation service supply;

12 "Board" means the New Jersey Board of Public Utilities or any  
13 successor agency;

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

37 "Bondable stranded costs rate order" means one or more  
38 irrevocable written orders issued by the board pursuant to P.L.1999,  
39 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
40 stranded costs and the initial amount of transition bond charges  
41 authorized to be imposed to recover such bondable stranded costs,  
42 including the costs to be financed from the proceeds of the  
43 transition bonds, as well as on-going costs associated with servicing  
44 and credit enhancing the transition bonds, and provides the electric  
45 public utility specific authority to issue or cause to be issued,  
46 directly or indirectly, transition bonds through a financing entity  
47 and related matters as provided in P.L.1999, c.23, which order shall

1 become effective immediately upon the written consent of the  
2 related electric public utility to such order as provided in P.L.1999,  
3 c.23;

4 "Bondable transition property" means the property consisting of  
5 the irrevocable right to charge, collect and receive, and be paid  
6 from collections of, transition bond charges in the amount necessary  
7 to provide for the full recovery of bondable stranded costs which  
8 are determined to be recoverable in a bondable stranded costs rate  
9 order, all rights of the related electric public utility under such  
10 bondable stranded costs rate order including, without limitation, all  
11 rights to obtain periodic adjustments of the related transition bond  
12 charges pursuant to subsection b. of section 15 of P.L.1999, c.23  
13 (C.48:3-64), and all revenues, collections, payments, money and  
14 proceeds arising under, or with respect to, all of the foregoing;

15 "British thermal unit" or "Btu" means the amount of heat  
16 required to increase the temperature of one pound of water by one  
17 degree Fahrenheit;

18 "Broker" means a duly licensed electric power supplier that  
19 assumes the contractual and legal responsibility for the sale of  
20 electric generation service, transmission or other services to end-use  
21 retail customers, but does not take title to any of the power sold, or  
22 a duly licensed gas supplier that assumes the contractual and legal  
23 obligation to provide gas supply service to end-use retail customers,  
24 but does not take title to the gas;

25 "Buydown" means an arrangement or arrangements involving the  
26 buyer and seller in a given power purchase contract and, in some  
27 cases third parties, for consideration to be given by the buyer in  
28 order to effectuate a reduction in the pricing, or the restructuring of  
29 other terms to reduce the overall cost of the power contract, for the  
30 remaining succeeding period of the purchased power arrangement  
31 or arrangements;

32 "Buyout" means an arrangement or arrangements involving the  
33 buyer and seller in a given power purchase contract and, in some  
34 cases third parties, for consideration to be given by the buyer in  
35 order to effectuate a termination of such power purchase contract;

36 "Central renewable energy generation system" or "CREG  
37 system" means a separately metered, Class I renewable energy  
38 generation system that has been 'established and' installed at a site  
39 'after the effective date of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill)', that provides power to '[an LREC] one or  
41 more LRECs', 'that' sells power into the PJM grid, and '[which]  
42 that' is '[registered with] licensed by' the board pursuant to  
43 'subsection f. of section 38 of' P.L.1999, c.23 [(C.48:3-49 et al.)]  
44 (C.48:3-87)';

45 "Class I renewable energy" means electric energy produced from  
46 solar technologies, photovoltaic technologies, wind energy, fuel  
47 cells, geothermal technologies, wave or tidal action, and methane

1 gas from landfills or a biomass facility, provided that the biomass is  
2 cultivated and harvested in a sustainable manner;

3 "Class II renewable energy" means electric energy produced at a  
4 resource recovery facility or hydropower facility, provided that  
5 such facility is located where retail competition is permitted and  
6 provided further that the Commissioner of Environmental  
7 Protection has determined that such facility meets the highest  
8 environmental standards and minimizes any impacts to the  
9 environment and local communities;

10 "Co-generation" means the sequential production of electricity  
11 and steam or other forms of useful energy used for industrial or  
12 commercial heating and cooling purposes;

13 "Combined heat and power facility" or "co-generation facility"  
14 means a generation facility which produces electric energy, steam,  
15 or other forms of useful energy such as heat, which are used for  
16 industrial or commercial heating or cooling purposes. A combined  
17 heat and power facility or co-generation facility shall not be  
18 considered a public utility;

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

23 "Commercial and industrial energy pricing class customer" or  
24 "CIEP class customer" means that group of non-residential  
25 customers with high peak demand, as determined by periodic board  
26 order, which either is eligible or which would be eligible, as  
27 determined by periodic board order, to receive funds from the Retail  
28 Margin Fund established pursuant to section 9 of P.L.1999, c.23  
29 (C.48:3-57) and for which basic generation service is hourly-priced;

30 "Comprehensive resource analysis" means an analysis including,  
31 but not limited to, an assessment of existing market barriers to the  
32 implementation of energy efficiency and renewable technologies  
33 that are not or cannot be delivered to customers through a  
34 competitive marketplace;

35 "Customer" means any person that is an end user and is  
36 connected to any part of the transmission and distribution system  
37 within an electric public utility's service territory or a gas public  
38 utility's service territory within this State;

39 "Customer account service" means metering, billing, or such  
40 other administrative activity associated with maintaining a customer  
41 account;

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

1 "Electric generation service" means the provision of retail  
2 electric energy and capacity which is generated off-site from the  
3 location at which the consumption of such electric energy and  
4 capacity is metered for retail billing purposes, including agreements  
5 and arrangements related thereto;

6 "Electric power generator" means an entity that proposes to  
7 construct, own, lease or operate, or currently owns, leases or  
8 operates, an electric power production facility that will sell or does  
9 sell at least 90 percent of its output, either directly or through a  
10 marketer, to a customer or customers located at sites that are not on  
11 or contiguous to the site on which the facility will be located or is  
12 located. The designation of an entity as an electric power generator  
13 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
14 and of itself, affect the entity's status as an exempt wholesale  
15 generator under the Public Utility Holding Company Act of 1935,  
16 15 U.S.C.s.79 et seq.;

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

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

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

36 "Electronic signature" means an electronic sound, symbol or  
37 process, attached to, or logically associated with, a contract or other  
38 record, and executed or adopted by a person with the intent to sign  
39 the record;

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;

1 "Energy consumer" means a business or residential consumer of  
2 electric generation service or gas supply service located within the  
3 territorial jurisdiction of a government aggregator;

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

8 "Energy year" or "EY" means the 12-month period from June 1st  
9 through May 31st and shall be numbered according to the calendar  
10 year in which it ends;

11 "Financing entity" means an electric public utility, a special  
12 purpose entity, or any other assignee of bondable transition  
13 property, which issues transition bonds. Except as specifically  
14 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
15 which is not itself an electric public utility shall not be subject to  
16 the public utility requirements of Title 48 or any rules or regulations  
17 adopted pursuant thereto;

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

20 "Gas related service" means a service that is directly related to  
21 the consumption of gas by an end user, including, but not limited to,  
22 the installation of demand side management measures at the end  
23 user's premises, the maintenance, repair or replacement of  
24 appliances or other energy-consuming devices at the end user's  
25 premises, and the provision of energy consumption measurement  
26 and billing services;

27 "Gas supplier" means a person that is duly licensed pursuant to  
28 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
29 assume the contractual and legal obligation to provide gas supply  
30 service to retail customers, and includes, but is not limited to,  
31 marketers and brokers. A non-public utility affiliate of a public  
32 utility holding company may be a gas supplier, but a gas public  
33 utility or any subsidiary of a gas utility is not a gas supplier. In the  
34 event that a gas public utility is not part of a holding company legal  
35 structure, a related competitive business segment of that gas public  
36 utility may be a gas supplier, provided that related competitive  
37 business segment is structurally separated from the gas public  
38 utility, and provided that the interactions between the gas public  
39 utility and the related competitive business segment are subject to  
40 the affiliate relations standards adopted by the board pursuant to  
41 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

42 "Gas supply service" means the provision to customers of the  
43 retail commodity of gas, but does not include any regulated  
44 distribution service;

45 "Government aggregator" means any government entity subject  
46 to the requirements of the "Local Public Contracts Law," P.L.1971,  
47 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"

1 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
2 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
3 contract with a licensed electric power supplier or a licensed gas  
4 supplier for: (1) the provision of electric generation service, electric  
5 related service, gas supply service, or gas related service for its own  
6 use or the use of other government aggregators; or (2) if a  
7 municipal or county government, the provision of electric  
8 generation service or gas supply service on behalf of business or  
9 residential customers within its territorial jurisdiction;

10 "Government energy aggregation program" means a program and  
11 procedure pursuant to which a government aggregator enters into a  
12 written contract for the provision of electric generation service or  
13 gas supply service on behalf of business or residential customers  
14 within its territorial jurisdiction;

15 "Governmental entity" means any federal, state, municipal, local  
16 or other governmental department, commission, board, agency,  
17 court, authority or instrumentality having competent jurisdiction;

18 "Greenhouse gas emissions portfolio standard" means a  
19 requirement that addresses or limits the amount of carbon dioxide  
20 emissions indirectly resulting from the use of electricity as applied  
21 to any electric power suppliers and basic generation service  
22 providers of electricity;

23 "Leakage" means an increase in greenhouse gas emissions  
24 related to generation sources located outside of the State that are not  
25 subject to a state, interstate or regional greenhouse gas emissions  
26 cap or standard that applies to generation sources located within the  
27 State;

28 "Local renewable energy collaborative" or "LREC" means a  
29 limited liability corporation or other legal entity <sup>1</sup>established after  
30 the effective date of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill) <sup>1</sup>which consists of a group of <sup>1</sup>residential  
32 customers who <sup>1</sup>reside in the same municipality and <sup>1</sup>share the  
33 benefits of a Class I renewable energy generation system, and  
34 which is <sup>1</sup>[registered with] licensed by <sup>1</sup>the board pursuant to  
35 subsection f. of section 38 of <sup>1</sup>P.L.1999, c.23 <sup>1</sup>[(C.48:3-49 et al.)]  
36 (C.48:3-87) <sup>1</sup>;

37 "Market transition charge" means a charge imposed pursuant to  
38 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public  
39 utility, at a level determined by the board, on the electric public  
40 utility customers for a limited duration transition period to recover  
41 stranded costs created as a result of the introduction of electric  
42 power supply competition pursuant to the provisions of P.L.1999,  
43 c.23 (C.48:3-49 et al.);

44 "Marketer" means a duly licensed electric power supplier that  
45 takes title to electric energy and capacity, transmission and other  
46 services from electric power generators and other wholesale  
47 suppliers and then assumes the contractual and legal obligation to



1 provide electric generation service, and may include transmission  
2 and other services, to an end-use retail customer or customers, or a  
3 duly licensed gas supplier that takes title to gas and then assumes  
4 the contractual and legal obligation to provide gas supply service to  
5 an end-use customer or customers;

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 "Off-site end use thermal energy services customer" means an  
11 end use customer that purchases thermal energy services from an  
12 on-site generation facility, combined heat and power facility, or co-  
13 generation facility, and that is located on property that is separated  
14 from the property on which the on-site generation facility,  
15 combined heat and power facility, or co-generation facility is  
16 located by more than one easement, public thoroughfare, or  
17 transportation or utility-owned right-of-way;

18 "On-site generation facility" means a generation facility, and  
19 equipment and services appurtenant to electric **[sales]** output by  
20 such facility **[to]** for sale to or use by the end use customer located  
21 on the property or on property contiguous to the property on which  
22 the end user is located. An on-site generation facility shall not be  
23 considered a public utility. The property of the end use customer  
24 and the property on which the on-site generation facility is located  
25 shall be considered contiguous if they are geographically located  
26 next to each other, but may be otherwise separated by an easement,  
27 public thoroughfare, transportation or utility-owned right-of-way, or  
28 if the end use customer is purchasing thermal energy services  
29 produced by the on-site generation facility, for use for heating or  
30 cooling, or both, regardless of whether the customer is located on  
31 property that is separated from the property on which the on-site  
32 generation facility is located by more than one easement, public  
33 thoroughfare, or transportation or utility-owned right-of-way;

34 "Person" means an individual, partnership, corporation,  
35 association, trust, limited liability company, governmental entity or  
36 other legal entity;

37 "Private aggregator" means a non-government aggregator that is  
38 a duly-organized business or non-profit organization authorized to  
39 do business in this State that enters into a contract with a duly  
40 licensed electric power supplier for the purchase of electric energy  
41 and capacity, or with a duly licensed gas supplier for the purchase  
42 of gas supply service, on behalf of multiple end-use customers by  
43 combining the loads of those customers;

44 "Public utility holding company" means: (1) any company that,  
45 directly or indirectly, owns, controls, or holds with power to vote,  
46 ten percent or more of the outstanding voting securities of an  
47 electric public utility or a gas public utility or of a company which

1 is a public utility holding company by virtue of this definition,  
2 unless the Securities and Exchange Commission, or its successor,  
3 by order declares such company not to be a public utility holding  
4 company under the Public Utility Holding Company Act of 1935,  
5 15 U.S.C.s.79 et seq., or its successor; or (2) any person that the  
6 Securities and Exchange Commission, or its successor, determines,  
7 after notice and opportunity for hearing, directly or indirectly, to  
8 exercise, either alone or pursuant to an arrangement or  
9 understanding with one or more other persons, such a controlling  
10 influence over the management or policies of an electric public  
11 utility or a gas public utility or public utility holding company as to  
12 make it necessary or appropriate in the public interest or for the  
13 protection of investors or consumers that such person be subject to  
14 the obligations, duties, and liabilities imposed in the Public Utility  
15 Holding Company Act of 1935 or its successor;

16 "Regulatory asset" means an asset recorded on the books of an  
17 electric public utility or gas public utility pursuant to the Statement  
18 of Financial Accounting Standards, No. 71, entitled "Accounting for  
19 the Effects of Certain Types of Regulation," or any successor  
20 standard and as deemed recoverable by the board;

21 "Related competitive business segment of an electric public  
22 utility or gas public utility" means any business venture of an  
23 electric public utility or gas public utility including, but not limited  
24 to, functionally separate business units, joint ventures, and  
25 partnerships, that offers to provide or provides competitive services;

26 "Related competitive business segment of a public utility holding  
27 company" means any business venture of a public utility holding  
28 company, including, but not limited to, functionally separate  
29 business units, joint ventures, and partnerships and subsidiaries, that  
30 offers to provide or provides competitive services, but does not  
31 include any related competitive business segments of an electric  
32 public utility or gas public utility;

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

38 "Resource recovery facility" means a solid waste facility  
39 constructed and operated for the incineration of solid waste for  
40 energy production and the recovery of metals and other materials  
41 for reuse;

42 "Restructuring related costs" means reasonably incurred costs  
43 directly related to the restructuring of the electric power industry,  
44 including the closure, sale, functional separation and divestiture of  
45 generation and other competitive utility assets by a public utility, or  
46 the provision of competitive services as such costs are determined  
47 by the board, and which are not stranded costs as defined in

1 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited  
2 to, investments in management information systems, and which  
3 shall include expenses related to employees affected by  
4 restructuring which result in efficiencies and which result in  
5 benefits to ratepayers, such as training or retraining at the level  
6 equivalent to one year's training at a vocational or technical school  
7 or county community college, the provision of severance pay of two  
8 weeks of base pay for each year of full-time employment, and a  
9 maximum of 24 months' continued health care coverage. Except as  
10 to expenses related to employees affected by restructuring,  
11 "restructuring related costs" shall not include going forward costs;

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

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

29 "Shopping credit" means an amount deducted from the bill of an  
30 electric public utility customer to reflect the fact that such customer  
31 has switched to an electric power supplier and no longer takes basic  
32 generation service from the electric public utility;

33 "Social program" means a program implemented with board  
34 approval to provide assistance to a group of disadvantaged  
35 customers, to provide protection to consumers, or to accomplish a  
36 particular societal goal, and includes, but is not limited to, the  
37 winter moratorium program, utility practices concerning "bad debt"  
38 customers, low income assistance, deferred payment plans,  
39 weatherization programs, and late payment and deposit policies, but  
40 does not include any demand side management program or any  
41 environmental requirements or controls;

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

45 "Solar alternative compliance payment" or "SACP" means a  
46 payment of a certain dollar amount per megawatt hour (MWh)  
47 which an electric power supplier or provider may submit to the

1 board in order to comply with the solar electric generation  
2 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

3 "Solar renewable energy certificate" or "SREC" means a  
4 certificate issued by the board or its designee, representing one  
5 megawatt hour (MWh) of solar energy that is generated by a facility  
6 connected to the distribution system in this State and has value  
7 based upon, and driven by, the energy market;

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

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

22 "Thermal efficiency" means the useful electric energy output of a  
23 facility, plus the useful thermal energy output of the facility,  
24 expressed as a percentage of the total energy input to the facility;

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

30 "Transition bonds" means bonds, notes, certificates of  
31 participation or beneficial interest or other evidences of  
32 indebtedness or ownership issued pursuant to an indenture, contract  
33 or other agreement of an electric public utility or a financing entity,  
34 the proceeds of which are used, directly or indirectly, to recover,  
35 finance or refinance bondable stranded costs and which are, directly  
36 or indirectly, secured by or payable from bondable transition  
37 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
38 principal, interest, and acquisition or redemption premium with  
39 respect to transition bonds which are issued in the form of  
40 certificates of participation or beneficial interest or other evidences  
41 of ownership shall refer to the comparable payments on such  
42 securities;

43 "Transition period" means the period from August 1, 1999  
44 through July 31, 2003;

45 "Transmission and distribution system" means, with respect to an  
46 electric public utility, any facility or equipment that is used for the  
47 transmission, distribution or delivery of electricity to the customers

1 of the electric public utility including, but not limited to, the land,  
2 structures, meters, lines, switches and all other appurtenances  
3 thereof and thereto, owned or controlled by the electric public  
4 utility within this State; and

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

8 (cf: P.L.2009, c.289, s.1)]<sup>2</sup>

9

10 <sup>2</sup>1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read  
11 as follows:

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

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

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

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

35 "Basic generation service provider" or "provider" means a  
36 provider of basic generation service;

37 "Basic generation service transition costs" means the amount by  
38 which the payments by an electric public utility for the procurement  
39 of power for basic generation service and related ancillary and  
40 administrative costs exceeds the net revenues from the basic  
41 generation service charge established by the board pursuant to  
42 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,  
43 together with interest on the balance at the board-approved rate, that  
44 is reflected in a deferred balance account approved by the board in  
45 an order addressing the electric public utility's unbundled rates,  
46 stranded costs, and restructuring filings pursuant to P.L.1999, c.23  
47 (C.48:3-49 et al.). Basic generation service transition costs shall

1 include, but are not limited to, costs of purchases from the spot  
2 market, bilateral contracts, contracts with non-utility generators,  
3 parting contracts with the purchaser of the electric public utility's  
4 divested generation assets, short-term advance purchases, and  
5 financial instruments such as hedging, forward contracts, and  
6 options. Basic generation service transition costs shall also include  
7 the payments by an electric public utility pursuant to a competitive  
8 procurement process for basic generation service supply during the  
9 transition period, and costs of any such process used to procure the  
10 basic generation service supply;

11 "Board" means the New Jersey Board of Public Utilities or any  
12 successor agency;

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

36 "Bondable stranded costs rate order" means one or more  
37 irrevocable written orders issued by the board pursuant to P.L.1999,  
38 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
39 stranded costs and the initial amount of transition bond charges  
40 authorized to be imposed to recover such bondable stranded costs,  
41 including the costs to be financed from the proceeds of the  
42 transition bonds, as well as on-going costs associated with servicing  
43 and credit enhancing the transition bonds, and provides the electric  
44 public utility specific authority to issue or cause to be issued,  
45 directly or indirectly, transition bonds through a financing entity  
46 and related matters as provided in P.L.1999, c.23, which order shall  
47 become effective immediately upon the written consent of the

1 related electric public utility to such order as provided in P.L.1999,  
2 c.23;

3 "Bondable transition property" means the property consisting of  
4 the irrevocable right to charge, collect and receive, and be paid  
5 from collections of, transition bond charges in the amount necessary  
6 to provide for the full recovery of bondable stranded costs which  
7 are determined to be recoverable in a bondable stranded costs rate  
8 order, all rights of the related electric public utility under such  
9 bondable stranded costs rate order including, without limitation, all  
10 rights to obtain periodic adjustments of the related transition bond  
11 charges pursuant to subsection b. of section 15 of P.L.1999, c.23  
12 (C.48:3-64), and all revenues, collections, payments, money and  
13 proceeds arising under, or with respect to, all of the foregoing;

14 "British thermal unit" or "Btu" means the amount of heat  
15 required to increase the temperature of one pound of water by one  
16 degree Fahrenheit;

17 "Broker" means a duly licensed electric power supplier that  
18 assumes the contractual and legal responsibility for the sale of  
19 electric generation service, transmission or other services to end-use  
20 retail customers, but does not take title to any of the power sold, or  
21 a duly licensed gas supplier that assumes the contractual and legal  
22 obligation to provide gas supply service to end-use retail customers,  
23 but does not take title to the gas;

24 "Buydown" means an arrangement or arrangements involving the  
25 buyer and seller in a given power purchase contract and, in some  
26 cases third parties, for consideration to be given by the buyer in  
27 order to effectuate a reduction in the pricing, or the restructuring of  
28 other terms to reduce the overall cost of the power contract, for the  
29 remaining succeeding period of the purchased power arrangement  
30 or arrangements;

31 "Buyout" means an arrangement or arrangements involving the  
32 buyer and seller in a given power purchase contract and, in some  
33 cases third parties, for consideration to be given by the buyer in  
34 order to effectuate a termination of such power purchase contract;

35 "Central renewable energy generation system" or "CREG  
36 system" means a separately metered, Class I renewable energy  
37 generation system that has been established and installed at a site  
38 after the effective date of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill), that provides power to one or more LRECs,  
40 that sells power into the PJM grid, and that is licensed by the board  
41 pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-  
42 87);

43 "Class I renewable energy" means electric energy produced from  
44 solar technologies, photovoltaic technologies, wind energy, fuel  
45 cells, geothermal technologies, wave or tidal action, and methane  
46 gas from landfills or a biomass facility, provided that the biomass is  
47 cultivated and harvested in a sustainable manner;

1 "Class II renewable energy" means electric energy produced at a  
2 resource recovery facility or hydropower facility, provided that  
3 such facility is located where retail competition is permitted and  
4 provided further that the Commissioner of Environmental  
5 Protection has determined that such facility meets the highest  
6 environmental standards and minimizes any impacts to the  
7 environment and local communities;

8 "Co-generation" means the sequential production of electricity  
9 and steam or other forms of useful energy used for industrial or  
10 commercial heating and cooling purposes;

11 "Combined heat and power facility" or "co-generation facility"  
12 means a generation facility which produces electric energy, steam,  
13 or other forms of useful energy such as heat, which are used for  
14 industrial or commercial heating or cooling purposes. A combined  
15 heat and power facility or co-generation facility shall not be  
16 considered a public utility;

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

21 "Commercial and industrial energy pricing class customer" or  
22 "CIEP class customer" means that group of non-residential  
23 customers with high peak demand, as determined by periodic board  
24 order, which either is eligible or which would be eligible, as  
25 determined by periodic board order, to receive funds from the Retail  
26 Margin Fund established pursuant to section 9 of P.L.1999, c.23  
27 (C.48:3-57) and for which basic generation service is hourly-priced;

28 "Comprehensive resource analysis" means an analysis including,  
29 but not limited to, an assessment of existing market barriers to the  
30 implementation of energy efficiency and renewable technologies  
31 that are not or cannot be delivered to customers through a  
32 competitive marketplace;

33 "Customer" means any person that is an end user and is  
34 connected to any part of the transmission and distribution system  
35 within an electric public utility's service territory or a gas public  
36 utility's service territory within this State;

37 "Customer account service" means metering, billing, or such  
38 other administrative activity associated with maintaining a customer  
39 account;

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

46 "Electric generation service" means the provision of retail  
47 electric energy and capacity which is generated off-site from the



1 location at which the consumption of such electric energy and  
2 capacity is metered for retail billing purposes, including agreements  
3 and arrangements related thereto;

4 "Electric power generator" means an entity that proposes to  
5 construct, own, lease or operate, or currently owns, leases or  
6 operates, an electric power production facility that will sell or does  
7 sell at least 90 percent of its output, either directly or through a  
8 marketer, to a customer or customers located at sites that are not on  
9 or contiguous to the site on which the facility will be located or is  
10 located. The designation of an entity as an electric power generator  
11 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
12 and of itself, affect the entity's status as an exempt wholesale  
13 generator under the Public Utility Holding Company Act of 1935,  
14 15 U.S.C. s.79 et seq.;

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

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

27 "Electric rebate" means a reimbursement to the members of an  
28 LREC of a portion of their payments for electric generation service,  
29 the amount of which reimbursement is established pursuant to an  
30 agreement negotiated between a CREG system operator and an  
31 LREC for the benefit of the members of the LREC, provided that  
32 such amount is based primarily on the quantity of energy produced  
33 by the CREG system and the LREC members' usage of electricity;

34 "Electric related service" means a service that is directly related  
35 to the consumption of electricity by an end user, including, but not  
36 limited to, the installation of demand side management measures at  
37 the end user's premises, the maintenance, repair or replacement of  
38 appliances, lighting, motors or other energy-consuming devices at  
39 the end user's premises, and the provision of energy consumption  
40 measurement and billing services;

41 "Electronic signature" means an electronic sound, symbol or  
42 process, attached to, or logically associated with, a contract or other  
43 record, and executed or adopted by a person with the intent to sign  
44 the record;

45 "Energy agent" means a person that is duly registered pursuant to  
46 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the  
47 sale of retail electricity or electric related services or retail gas

1 supply or gas related services between government aggregators or  
2 private aggregators and electric power suppliers or gas suppliers,  
3 but does not take title to the electric or gas sold;

4 "Energy consumer" means a business or residential consumer of  
5 electric generation service or gas supply service located within the  
6 territorial jurisdiction of a government aggregator;

7 "Energy efficiency portfolio standard" means a requirement to  
8 procure a specified amount of energy efficiency or demand side  
9 management resources as a means of managing and reducing energy  
10 usage and demand by customers;

11 "Energy year" or "EY" means the 12-month period from June 1st  
12 through May 31st and shall be numbered according to the calendar  
13 year in which it ends;

14 "Financing entity" means an electric public utility, a special  
15 purpose entity, or any other assignee of bondable transition  
16 property, which issues transition bonds. Except as specifically  
17 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
18 which is not itself an electric public utility shall not be subject to  
19 the public utility requirements of Title 48 or any rules or regulations  
20 adopted pursuant thereto;

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

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

30 "Gas supplier" means a person that is duly licensed pursuant to  
31 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
32 assume the contractual and legal obligation to provide gas supply  
33 service to retail customers, and includes, but is not limited to,  
34 marketers and brokers. A non-public utility affiliate of a public  
35 utility holding company may be a gas supplier, but a gas public  
36 utility or any subsidiary of a gas utility is not a gas supplier. In the  
37 event that a gas public utility is not part of a holding company legal  
38 structure, a related competitive business segment of that gas public  
39 utility may be a gas supplier, provided that related competitive  
40 business segment is structurally separated from the gas public  
41 utility, and provided that the interactions between the gas public  
42 utility and the related competitive business segment are subject to  
43 the affiliate relations standards adopted by the board pursuant to  
44 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

45 "Gas supply service" means the provision to customers of the  
46 retail commodity of gas, but does not include any regulated  
47 distribution service;

1 "Government aggregator" means any government entity subject  
2 to the requirements of the "Local Public Contracts Law," P.L.1971,  
3 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
4 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
5 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
6 contract with a licensed electric power supplier or a licensed gas  
7 supplier for: (1) the provision of electric generation service, electric  
8 related service, gas supply service, or gas related service for its own  
9 use or the use of other government aggregators; or (2) if a  
10 municipal or county government, the provision of electric  
11 generation service or gas supply service on behalf of business or  
12 residential customers within its territorial jurisdiction;

13 "Government energy aggregation program" means a program and  
14 procedure pursuant to which a government aggregator enters into a  
15 written contract for the provision of electric generation service or  
16 gas supply service on behalf of business or residential customers  
17 within its territorial jurisdiction;

18 "Governmental entity" means any federal, state, municipal, local  
19 or other governmental department, commission, board, agency,  
20 court, authority or instrumentality having competent jurisdiction;

21 "Greenhouse gas emissions portfolio standard" means a  
22 requirement that addresses or limits the amount of carbon dioxide  
23 emissions indirectly resulting from the use of electricity as applied  
24 to any electric power suppliers and basic generation service  
25 providers of electricity;

26 "Leakage" means an increase in greenhouse gas emissions  
27 related to generation sources located outside of the State that are not  
28 subject to a state, interstate or regional greenhouse gas emissions  
29 cap or standard that applies to generation sources located within the  
30 State;

31 "Local renewable energy collaborative" or "LREC" means a  
32 limited liability corporation or other legal entity established after  
33 the effective date of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) which consists of a group of residential  
35 customers who reside in the same municipality and share the  
36 benefits of a Class I renewable energy generation system and which  
37 is licensed by the board pursuant to subsection f. of section 38 of  
38 P.L.1999, c.23 (C.48:3-87);

39 "Market transition charge" means a charge imposed pursuant to  
40 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public  
41 utility, at a level determined by the board, on the electric public  
42 utility customers for a limited duration transition period to recover  
43 stranded costs created as a result of the introduction of electric  
44 power supply competition pursuant to the provisions of P.L.1999,  
45 c.23 (C.48:3-49 et al.);

46 "Marketer" means a duly licensed electric power supplier that  
47 takes title to electric energy and capacity, transmission and other

1 services from electric power generators and other wholesale  
2 suppliers and then assumes the contractual and legal obligation to  
3 provide electric generation service, and may include transmission  
4 and other services, to an end-use retail customer or customers, or a  
5 duly licensed gas supplier that takes title to gas and then assumes  
6 the contractual and legal obligation to provide gas supply service to  
7 an end-use customer or customers;

8 "Net proceeds" means proceeds less transaction and other related  
9 costs as determined by the board;

10 "Net revenues" means revenues less related expenses, including  
11 applicable taxes, as determined by the board;

12 "Offshore wind energy" means electric energy produced by a  
13 qualified offshore wind project;

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

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

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

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

45 "Private aggregator" means a non-government aggregator that is  
46 a duly-organized business or non-profit organization authorized to  
47 do business in this State that enters into a contract with a duly

1 licensed electric power supplier for the purchase of electric energy  
2 and capacity, or with a duly licensed gas supplier for the purchase  
3 of gas supply service, on behalf of multiple end-use customers by  
4 combining the loads of those customers;

5 "Public utility holding company" means: (1) any company that,  
6 directly or indirectly, owns, controls, or holds with power to vote,  
7 ten percent or more of the outstanding voting securities of an  
8 electric public utility or a gas public utility or of a company which  
9 is a public utility holding company by virtue of this definition,  
10 unless the Securities and Exchange Commission, or its successor,  
11 by order declares such company not to be a public utility holding  
12 company under the Public Utility Holding Company Act of 1935,  
13 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
14 Securities and Exchange Commission, or its successor, determines,  
15 after notice and opportunity for hearing, directly or indirectly, to  
16 exercise, either alone or pursuant to an arrangement or  
17 understanding with one or more other persons, such a controlling  
18 influence over the management or policies of an electric public  
19 utility or a gas public utility or public utility holding company as to  
20 make it necessary or appropriate in the public interest or for the  
21 protection of investors or consumers that such person be subject to  
22 the obligations, duties, and liabilities imposed in the Public Utility  
23 Holding Company Act of 1935 or its successor;

24 "Qualified offshore wind project" means a wind turbine  
25 electricity generation facility in the Atlantic Ocean and connected  
26 to the electric transmission system in this State, and includes the  
27 associated transmission-related interconnection facilities and  
28 equipment, and approved by the board pursuant to section 3 of  
29 P.L.2010, c.57 (C.48:3-87.1);

30 "Regulatory asset" means an asset recorded on the books of an  
31 electric public utility or gas public utility pursuant to the Statement  
32 of Financial Accounting Standards, No. 71, entitled "Accounting for  
33 the Effects of Certain Types of Regulation," or any successor  
34 standard and as deemed recoverable by the board;

35 "Related competitive business segment of an electric public  
36 utility or gas public utility" means any business venture of an  
37 electric public utility or gas public utility including, but not limited  
38 to, functionally separate business units, joint ventures, and  
39 partnerships, that offers to provide or provides competitive services;

40 "Related competitive business segment of a public utility holding  
41 company" means any business venture of a public utility holding  
42 company, including, but not limited to, functionally separate  
43 business units, joint ventures, and partnerships and subsidiaries, that  
44 offers to provide or provides competitive services, but does not  
45 include any related competitive business segments of an electric  
46 public utility or gas public utility;

1 "Renewable energy certificate" or "REC" means a certificate  
2 representing the environmental benefits or attributes of one  
3 megawatt-hour of generation from a generating facility that  
4 produces Class I or Class II renewable energy, but shall not include  
5 a solar renewable energy certificate or an offshore wind renewable  
6 energy certificate;

7 "Resource recovery facility" means a solid waste facility  
8 constructed and operated for the incineration of solid waste for  
9 energy production and the recovery of metals and other materials  
10 for reuse;

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

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

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

45 "Shopping credit" means an amount deducted from the bill of an  
46 electric public utility customer to reflect the fact that such customer

1 has switched to an electric power supplier and no longer takes basic  
2 generation service from the electric public utility;

3 "Social program" means a program implemented with board  
4 approval to provide assistance to a group of disadvantaged  
5 customers, to provide protection to consumers, or to accomplish a  
6 particular societal goal, and includes, but is not limited to, the  
7 winter moratorium program, utility practices concerning "bad debt"  
8 customers, low income assistance, deferred payment plans,  
9 weatherization programs, and late payment and deposit policies, but  
10 does not include any demand side management program or any  
11 environmental requirements or controls;

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

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

20 "Solar renewable energy certificate" or "SREC" means a  
21 certificate issued by the board or its designee, representing one  
22 megawatt hour (MWh) of solar energy that is generated by a facility  
23 connected to the distribution system in this State and has value  
24 based upon, and driven by, the energy market;

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

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

39 "Thermal efficiency" means the useful electric energy output of a  
40 facility, plus the useful thermal energy output of the facility,  
41 expressed as a percentage of the total energy input to the facility;

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

1 "Transition bonds" means bonds, notes, certificates of  
2 participation or beneficial interest or other evidences of  
3 indebtedness or ownership issued pursuant to an indenture, contract  
4 or other agreement of an electric public utility or a financing entity,  
5 the proceeds of which are used, directly or indirectly, to recover,  
6 finance or refinance bondable stranded costs and which are, directly  
7 or indirectly, secured by or payable from bondable transition  
8 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
9 principal, interest, and acquisition or redemption premium with  
10 respect to transition bonds which are issued in the form of  
11 certificates of participation or beneficial interest or other evidences  
12 of ownership shall refer to the comparable payments on such  
13 securities;

14 "Transition period" means the period from August 1, 1999  
15 through July 31, 2003;

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

23 "Universal service" means any service approved by the board  
24 with the purpose of assisting low-income residential customers in  
25 obtaining or retaining electric generation or delivery service.<sup>2</sup>  
26 (cf: P.L.2010, c.57, s.1)

27

28 <sup>2</sup>[2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to  
29 read as follows:

30 38. a. The board shall require an electric power supplier or  
31 basic generation service provider to disclose on a customer's bill or  
32 on customer contracts or marketing materials, a uniform, common  
33 set of information about the environmental characteristics of the  
34 energy purchased by the customer, including, but not limited to:

35 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,  
36 solar, hydroelectric, wind and biomass, or a regional average  
37 determined by the board;

38 (2) Its emissions, in pounds per megawatt hour, of sulfur  
39 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant  
40 that the board may determine to pose an environmental or health  
41 hazard, or an emissions default to be determined by the board; and

42 (3) Any discrete emission reduction retired pursuant to rules and  
43 regulations adopted pursuant to P.L.1995, c.188.

44 b. Notwithstanding any provisions of the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
46 contrary, the board shall initiate a proceeding and shall adopt, in  
47 consultation with the Department of Environmental Protection, after



1 notice and opportunity for public comment and public hearing,  
2 interim standards to implement this disclosure requirement,  
3 including, but not limited to:

4 (1) A methodology for disclosure of emissions based on output  
5 pounds per megawatt hour;

6 (2) Benchmarks for all suppliers and basic generation service  
7 providers to use in disclosing emissions that will enable consumers  
8 to perform a meaningful comparison with a supplier's or basic  
9 generation service provider's emission levels; and

10 (3) A uniform emissions disclosure format that is graphic in  
11 nature and easily understandable by consumers. The board shall  
12 periodically review the disclosure requirements to determine if  
13 revisions to the environmental disclosure system as implemented  
14 are necessary.

15 Such standards shall be effective as regulations immediately  
16 upon filing with the Office of Administrative Law and shall be  
17 effective for a period not to exceed 18 months, and may, thereafter,  
18 be amended, adopted or readopted by the board in accordance with  
19 the provisions of the "Administrative Procedure Act."

20 c. (1) The board may adopt, in consultation with the  
21 Department of Environmental Protection, after notice and  
22 opportunity for public comment, an emissions portfolio standard  
23 applicable to all electric power suppliers and basic generation  
24 service providers, upon a finding that:

25 (a) The standard is necessary as part of a plan to enable the  
26 State to meet federal Clean Air Act or State ambient air quality  
27 standards; and

28 (b) Actions at the regional or federal level cannot reasonably be  
29 expected to achieve the compliance with the federal standards.

30 (2) By July 1, 2009, the board shall adopt, pursuant to the  
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
32 seq.), a greenhouse gas emissions portfolio standard to mitigate  
33 leakage or another regulatory mechanism to mitigate leakage  
34 applicable to all electric power suppliers and basic generation  
35 service providers that provide electricity to customers within the  
36 State. The greenhouse gas emissions portfolio standard or any other  
37 regulatory mechanism to mitigate leakage shall:

38 (a) Allow a transition period, either before or after the effective  
39 date of the regulation to mitigate leakage, for a basic generation  
40 service provider or electric power supplier to either meet the  
41 emissions portfolio standard or other regulatory mechanism to  
42 mitigate leakage, or to transfer any customer to a basic generation  
43 service provider or electric power supplier that meets the emissions  
44 portfolio standard or other regulatory mechanism to mitigate  
45 leakage. If the transition period allowed pursuant to this  
46 subparagraph occurs after the implementation of an emissions  
47 portfolio standard or other regulatory mechanism to mitigate

1 leakage, the transition period shall be no longer than three years;  
2 and

3 (b) Exempt the provision of basic generation service pursuant to  
4 a basic generation service purchase and sale agreement effective  
5 prior to the date of the regulation.

6 Unless the Attorney General or the Attorney General's designee  
7 determines that a greenhouse gas emissions portfolio standard  
8 would unconstitutionally burden interstate commerce or would be  
9 preempted by federal law, the adoption by the board of an electric  
10 energy efficiency portfolio standard pursuant to subsection [g.] h.  
11 of this section, a gas energy efficiency portfolio standard pursuant  
12 to subsection [h.] i. of this section, or any other enhanced energy  
13 efficiency policies to mitigate leakage shall not be considered  
14 sufficient to fulfill the requirement of this subsection for the  
15 adoption of a greenhouse gas emissions portfolio standard or any  
16 other regulatory mechanism to mitigate leakage.

17 d. Notwithstanding any provisions of the "Administrative  
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
19 contrary, the board shall initiate a proceeding and shall adopt, after  
20 notice, provision of the opportunity for comment, and public  
21 hearing, renewable energy portfolio standards that shall require:

22 (1) that two and one-half percent of the kilowatt hours sold in  
23 this State by each electric power supplier and each basic generation  
24 service provider be from Class I or Class II renewable energy  
25 sources; [and]

26 (2) beginning on January 1, 2001, that one-half of one percent  
27 of the kilowatt hours sold in this State by each electric power  
28 supplier and each basic generation service provider be from Class I  
29 renewable energy sources. The board shall increase the required  
30 percentage for Class I renewable energy sources so that by January  
31 1, 2006, one percent of the kilowatt hours sold in this State by each  
32 electric power supplier and each basic generation service provider  
33 shall be from Class I renewable energy sources and shall  
34 additionally increase the required percentage for Class I renewable  
35 energy sources by one-half of one percent each year until January 1,  
36 2012, when four percent of the kilowatt hours sold in this State by  
37 each electric power supplier and each basic generation service  
38 provider shall be from Class I renewable energy sources[.

39 An electric power supplier or basic generation service provider  
40 may satisfy the requirements of this subsection by participating in a  
41 renewable energy trading program approved by the board in  
42 consultation with the Department of Environmental Protection.];  
43 and

44 (3) that the board establish a multi-year schedule, applicable to  
45 each electric power supplier or basic generation service provider in  
46 this State, beginning with the one-year period commencing on June  
47 1, 2010, and continuing for each subsequent one-year period up to

1 and including, the one-year period commencing on June 1, 2025,  
2 that requires suppliers or providers to purchase at least the  
3 following number of kilowatt-hours from solar electric power  
4 generators in this State:

5	EY 2011	306 Gigawatthours (Gwhrs)
6	EY 2012	442 Gwhrs
7	EY 2013	596 Gwhrs
8	EY 2014	772 Gwhrs
9	EY 2015	965 Gwhrs
10	EY 2016	1,150 Gwhrs
11	EY 2017	1,357 Gwhrs
12	EY 2018	1,591 Gwhrs
13	EY 2019	1,858 Gwhrs
14	EY 2020	2,164 Gwhrs
15	EY 2021	2,518 Gwhrs
16	EY 2022	2,928 Gwhrs
17	EY 2023	3,433 Gwhrs
18	EY 2024	3,989 Gwhrs
19	EY 2025	4,610 Gwhrs
20	EY 2026	5,316 Gwhrs

21 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs  
22 per energy year to reflect an increasing number of kilowatt-hours to  
23 be purchased by suppliers or providers from solar electric power  
24 generators in this State, and to establish a framework within which  
25 suppliers and providers shall purchase at least 2,518 Gwhrs in the  
26 energy year 2021 and 5,316 Gwhrs in the energy year 2026 from  
27 solar electric power generators in this State, provided, however, that  
28 the number of solar kilowatt-hours required to be purchased by each  
29 supplier or provider, when expressed as a percentage of the total  
30 number of solar kilowatt-hours purchased in this State, shall be  
31 equivalent to each supplier's or provider's proportionate share of the  
32 total number of kilowatt-hours sold in this State by all suppliers and  
33 providers.

34 The solar renewable portfolio standards requirements in this  
35 paragraph [(3) of this subsection] shall automatically increase by  
36 20% for the remainder of the schedule in the event that the  
37 following two conditions are met: (a) the number of SRECs  
38 generated meets or exceeds the requirement for three consecutive  
39 reporting years, starting with energy year 2013; and (b) the average  
40 SREC price for all SRECs purchased by entities with renewable  
41 energy portfolio standards obligations has decreased in the same  
42 three consecutive reporting years. The board shall exempt  
43 providers' existing supply contracts that are: (a) effective prior to  
44 the date of P.L.2009, c.289; or (b) effective prior to any future  
45 increase in the solar renewable portfolio standard beyond the multi-  
46 year schedule established in this paragraph [(3) of this subsection].  
47 This exemption shall apply to the number of SRECs that exceeds

1 the number mandated by the solar renewable portfolio standards  
2 requirements that were in effect on the date that the providers  
3 executed their existing supply contracts. This limited exemption for  
4 providers' existing supply contracts shall not be construed to lower  
5 the Statewide solar purchase requirements set forth in this  
6 paragraph [(3) of this subsection]. Such incremental new  
7 requirements shall be distributed over the electric power suppliers  
8 and providers not subject to the existing supply contract exemption  
9 until such time as existing supply contracts expire and all suppliers  
10 are subject to the new requirement.

11 An electric power supplier or basic generation service provider  
12 may satisfy the requirements of this subsection by participating in a  
13 renewable energy trading program approved by the board in  
14 consultation with the Department of Environmental Protection, or  
15 compliance with the requirements of this subsection may be  
16 demonstrated to the board by suppliers or providers through the  
17 purchase of SRECs.

18 The renewable energy portfolio standards adopted by the board  
19 pursuant to paragraphs (1) and (2) of this subsection shall be  
20 effective as regulations immediately upon filing with the Office of  
21 Administrative Law and shall be effective for a period not to exceed  
22 18 months, and may, thereafter, be amended, adopted or readopted  
23 by the board in accordance with the provisions of the  
24 "Administrative Procedure Act."

25 The renewable energy portfolio standards adopted by the board  
26 pursuant to paragraph (3) of this subsection shall be effective as  
27 regulations immediately upon filing with the Office of  
28 Administrative Law and shall be effective for a period not to exceed  
29 30 months after such filing, and shall, thereafter, be amended,  
30 adopted or readopted by the board in accordance with the  
31 "Administrative Procedure Act."

32 e. Notwithstanding any provisions of the "Administrative  
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
34 contrary, the board shall initiate a proceeding and shall adopt, after  
35 notice, provision of the opportunity for comment, and public  
36 hearing:

37 (1) net metering standards for electric power suppliers and basic  
38 generation service providers. The standards shall require electric  
39 power suppliers and basic generation service providers to offer net  
40 metering at non-discriminatory rates to industrial, large  
41 commercial, residential and small commercial customers, as those  
42 customers are classified or defined by the board, that generate  
43 electricity, on the customer's side of the meter, using a Class I  
44 renewable energy source, for the net amount of electricity supplied  
45 by the electric power supplier or basic generation service provider  
46 over an annualized period. Systems of any sized capacity, as  
47 measured in watts, are eligible for net metering. If the amount of

1 electricity generated by the customer-generator, plus any kilowatt  
2 hour credits held over from the previous billing periods, exceeds the  
3 electricity supplied by the electric power supplier or basic  
4 generation service provider, then the electric power supplier or  
5 basic generation service provider, as the case may be, shall credit  
6 the customer-generator for the excess kilowatt hours until the end of  
7 the annualized period at which point the customer-generator will be  
8 compensated for any remaining credits or, if the customer-generator  
9 chooses, credit the customer-generator on a real-time basis, at the  
10 electric power supplier's or basic generation service provider's  
11 avoided cost of wholesale power or the PJM electric power pool's  
12 real-time locational marginal pricing rate, adjusted for losses, for  
13 the respective zone in the PJM electric power pool. Alternatively,  
14 the customer-generator may execute a bilateral agreement with an  
15 electric power supplier or basic generation service provider for the  
16 sale and purchase of the customer-generator's excess generation.  
17 The customer-generator may be credited on a real-time basis, so  
18 long as the customer-generator follows applicable rules prescribed  
19 by the PJM electric power pool for its capacity requirements for the  
20 net amount of electricity supplied by the electric power supplier or  
21 basic generation service provider. The board may authorize an  
22 electric power supplier or basic generation service provider to cease  
23 offering net metering whenever the total rated generating capacity  
24 owned and operated by net metering customer-generators Statewide  
25 equals 2.5 percent of the State's peak electricity demand;

26 (2) safety and power quality interconnection standards for Class  
27 I renewable energy source systems used by a customer-generator  
28 that shall be eligible for net metering.

29 Such standards or rules shall take into consideration the goals of  
30 the New Jersey Energy Master Plan, applicable industry standards,  
31 and the standards of other states and the Institute of Electrical and  
32 Electronic Engineers. The board shall allow electric public utilities  
33 to recover the costs of any new net meters, upgraded net meters,  
34 system reinforcements or upgrades, and interconnection costs  
35 through either their regulated rates or from the net metering  
36 customer-generator; and

37 (3) credit or other incentive rules for generators using Class I  
38 renewable energy generation systems that connect to New Jersey's  
39 electric public utilities' distribution system but who do not net  
40 meter.

41 Such rules shall require the board or its designee to issue a credit  
42 or other incentive to those generators that do not use a net meter but  
43 otherwise generate electricity derived from a Class I renewable  
44 energy source and to issue an enhanced credit or other incentive,  
45 including, but not limited to, a solar renewable energy credit, to  
46 those generators that generate electricity derived from solar  
47 technologies.

1 Such standards or rules shall be effective as regulations  
2 immediately upon filing with the Office of Administrative Law and  
3 shall be effective for a period not to exceed 18 months, and may,  
4 thereafter, be amended, adopted or readopted by the board in  
5 accordance with the provisions of the "Administrative Procedure  
6 Act."

7 f. Notwithstanding any provisions of the "Administrative  
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
9 contrary, the board shall initiate a proceeding and, after notice,  
10 provision of the opportunity for comment, and public hearing, may  
11 adopt standards which require electric public utilities to offer non-  
12 discriminatory rates to an LREC. Customers who are members of  
13 an LREC may act as host for the installation of a CREG system.  
14 The electric public utility shall be responsible for reading the utility  
15 meter of each of the LREC's members and shall render a bill to each  
16 member at the standard prevailing tariff rates for electric generation  
17 service and electric delivery service that are normally applicable to  
18 each such member and otherwise in accordance with the applicable  
19 regulations, including any applicable net metering regulations to the  
20 extent a customer meets the requirements of the net metering  
21 regulations. Subject to compliance by each '[registered] licensed'  
22 CREG system with applicable requirements of the PJM electric  
23 power pool for generators, including without limitation, PJM  
24 metering requirements, the CREG system operator shall take title to  
25 the energy generated by each such CREG system and shall sell such  
26 energy into the PJM electric power pool's real-time energy market,  
27 and arrange for the electric public utility to receive the gross  
28 payments for energy and capacity received from PJM associated  
29 with the energy generated by each such CREG system, without  
30 deduction for any fees or penalties paid or payable to PJM by the  
31 LREC. For each kilowatt-hour of energy sold by the CREG system  
32 operator for which the electric public utility receives such assigned  
33 PJM payments, the electric public utility shall pay the LREC an  
34 amount equal to '[110% of]' the then prevailing per kilowatt-hour  
35 BGS rate for fixed price customers, or in the case of an LREC  
36 whose members are all residential customers who reside in  
37 structures older than 10 years 'with heating systems' that are served  
38 '[only] predominantly' by electric energy, 120% of the then  
39 prevailing per kilowatt-hour BGS rate for fixed price customers, or  
40 if there is no such rate, a reasonably comparable amount determined  
41 by the board; provided that, if the aggregate generation of all CREG  
42 systems serving an LREC exceeds the aggregate amount of  
43 electricity supplied by the electric power supplier or BGS provider  
44 to all LREC members over an annualized period, the price for such  
45 excess generation shall be the average over such annualized period  
46 of the PJM electric power pool's real-time locational marginal  
47 pricing rate, adjusted for losses, for the respective zone in the PJM

1 electric power pool, which may require an adjustment to the  
2 amounts previously paid by the electric public utility to the LREC.  
3 Such payments, or the financial equivalent of such payments, shall  
4 be made by the electric public utility to the LREC no more  
5 frequently than monthly and may be made through tariff or contract  
6 according to the preference of the electric public utility with which  
7 the LREC is registered. The LREC shall be responsible for  
8 allocating the payments received from the electric public utility  
9 among the LREC's members as an electric rebate in accordance  
10 with an agreement between the CREG system operator and the  
11 LREC. <sup>1</sup>[Any difference between the amounts paid by the electric  
12 public utility to the CREG system operator and the PJM payments  
13 received by the electric public utility associated with such CREG  
14 system energy, positive or negative, along with the electric public  
15 utility's incremental costs of implementing and administering the  
16 LREC payments, shall flow through a reconciliation clause of the  
17 electric public utility's tariff.]<sup>1</sup>

18 LRECs <sup>1</sup>[may] shall<sup>1</sup> include <sup>1</sup>[all classes of] only residential  
19 class<sup>1</sup> customers as members, <sup>1</sup>[but] and<sup>1</sup> all LREC members shall  
20 <sup>1</sup>[be] reside<sup>1</sup> within the <sup>1</sup>same municipality and within the<sup>1</sup> same  
21 electric public utility territory. The total capacity of all CREG  
22 systems associated with a particular LREC may not exceed the  
23 projected annual consumption of the LREC members. CREG  
24 systems within an LREC that are connected to the distribution  
25 system may earn eligible energy credits, SRECs, or other applicable  
26 incentives. An LREC shall not be considered an electric public  
27 utility. All LRECs and CREG systems shall be <sup>1</sup>[registered with]  
28 licensed by<sup>1</sup> the board. The board's <sup>1</sup>[registration] licensing<sup>1</sup>  
29 requirements shall ensure sound and uniform business practices.  
30 <sup>1</sup>The board shall adopt and implement an LREC and CREG  
31 licensing procedure within 90 days after the effective date of  
32 P.L. , c. (pending before the Legislature as this bill). For the  
33 purposes of the licensing procedure established pursuant to this  
34 subsection, the board shall issue an order in writing either  
35 approving or disapproving an LREC or CREG application for  
36 licensing within 30 days of the date of receipt of such application.  
37 If the board fails to either approve or disapprove the application  
38 within the 30-day period, the application shall be deemed to be  
39 approved.<sup>1</sup>

40 [f.] g. The board may assess, by written order and after notice  
41 and opportunity for comment, a separate fee to cover the cost of  
42 implementing and overseeing an emission disclosure system or  
43 emission portfolio standard, which fee shall be assessed based on an  
44 electric power supplier's or basic generation service provider's share  
45 of the retail electricity supply market. The board shall not impose a  
46 fee for the cost of implementing and overseeing a greenhouse gas

1 emissions portfolio standard adopted pursuant to paragraph (2) of  
2 subsection c. of this section, the electric energy efficiency portfolio  
3 standard adopted pursuant to subsection g. of this section, or the gas  
4 energy efficiency portfolio standard adopted pursuant to subsection  
5 h. of this section.

6 **[g.] h.** The board may adopt, pursuant to the "Administrative  
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric  
8 energy efficiency portfolio standard that may require each electric  
9 public utility to implement energy efficiency measures that reduce  
10 electricity usage in the State by 2020 to a level that is 20 percent  
11 below the usage projected by the board in the absence of such a  
12 standard. Nothing in this section shall be construed to prevent an  
13 electric public utility from meeting the requirements of this section  
14 by contracting with another entity for the performance of the  
15 requirements.

16 **[h] i.** The board may adopt, pursuant to the "Administrative  
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy  
18 efficiency portfolio standard that may require each gas public utility  
19 to implement energy efficiency measures that reduce natural gas  
20 usage for heating in the State by 2020 to a level that is 20 percent  
21 below the usage projected by the board in the absence of such a  
22 standard. Nothing in this section shall be construed to prevent a gas  
23 public utility from meeting the requirements of this section by  
24 contracting with another entity for the performance of the  
25 requirements.

26 **[i.] j.** After the board establishes a schedule of solar kilowatt-  
27 hour sale or purchase requirements pursuant to paragraph (3) of  
28 subsection d. of this section, the board may initiate subsequent  
29 proceedings and adopt, after appropriate notice and opportunity for  
30 public comment and public hearing, increased minimum solar  
31 kilowatt-hour sale or purchase requirements, provided that the  
32 board shall not reduce previously established minimum solar  
33 kilowatt-hour sale or purchase requirements, or otherwise impose  
34 constraints that reduce the requirements by any means.

35 **[j] k.** The board shall determine an appropriate level of solar  
36 alternative compliance payment, and establish a 15-year solar  
37 alternative compliance payment schedule, that permits each supplier  
38 or provider to submit an SACP to comply with the solar electric  
39 generation requirements of paragraph (3) of subsection d. of this  
40 section. The board may initiate subsequent proceedings and adopt,  
41 after appropriate notice and opportunity for public comment and  
42 public hearing, an increase in solar alternative compliance  
43 payments, provided that the board shall not reduce previously  
44 established levels of solar alternative compliance payments, nor  
45 shall the board provide relief from the obligation of payment of the  
46 SACP by the electric power suppliers or basic generation service



1 providers in any form. Any SACP payments collected shall be  
2 refunded directly to the ratepayers by the electric public utilities.

3 **[k.] l.** The board may allow electric public utilities to offer  
4 long-term contracts and other means of financing, including but not  
5 limited to loans, for the purchase of SRECs and the resale of SRECs  
6 to suppliers or providers or others, provided that after such  
7 contracts have been approved by the board, the board's approvals  
8 shall not be modified by subsequent board orders.

9 **[l.] m.** The board shall implement its responsibilities under the  
10 provisions of this section in such a manner as to:

11 (1) place greater reliance on competitive markets, with the  
12 explicit goal of encouraging and ensuring the emergence of new  
13 entrants that can foster innovations and price competition;

14 (2) maintain adequate regulatory authority over non-competitive  
15 public utility services;

16 (3) consider alternative forms of regulation in order to address  
17 changes in the technology and structure of electric public utilities;

18 (4) promote energy efficiency and Class I renewable energy  
19 market development, taking into consideration environmental  
20 benefits and market barriers;

21 (5) make energy services more affordable for low and moderate  
22 income customers;

23 (6) attempt to transform the renewable energy market into one  
24 that can move forward without subsidies from the State or public  
25 utilities;

26 (7) achieve the goals put forth under the renewable energy  
27 portfolio standards;

28 (8) promote the lowest cost to ratepayers; and

29 (9) allow all market segments to participate.

30 **[m.] n.** The board shall ensure the availability of financial  
31 incentives under its jurisdiction, including, but not limited to, long-  
32 term contracts, loans, SRECs, or other financial support, to ensure  
33 market diversity, competition, and appropriate coverage across all  
34 ratepayer segments, including, but not limited to, residential,  
35 commercial, industrial, non-profit, farms, schools, and public entity  
36 customers.

37 **[n.] o.** For projects which are owned, or directly invested in, by  
38 a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
39 98.1), the board shall determine the number of SRECs with which  
40 such projects shall be credited; and in determining such number the  
41 board shall ensure that the market for SRECs does not detrimentally  
42 affect the development of non-utility solar projects and shall  
43 consider how its determination may impact the ratepayers.

44 **[o.] p.** The board, in consultation with the Department of  
45 Environmental Protection, electric public utilities, the Division of  
46 Rate Counsel in the Department of the Public Advocate, affected  
47 members of the solar energy industry, and relevant stakeholders,

1 shall periodically consider increasing the renewable energy  
2 portfolio standards beyond the minimum amounts set forth in  
3 subsection d. of this section, taking into account the cost impacts  
4 and public benefits of such increases including, but not limited to:

5 (1) reductions in air pollution, water pollution, land disturbance,  
6 and greenhouse gas emissions;

7 (2) reductions in peak demand for electricity and natural gas,  
8 and the overall impact on the costs to customers of electricity and  
9 natural gas;

10 (3) increases in renewable energy development, manufacturing,  
11 investment, and job creation opportunities in this State; and

12 (4) reductions in State and national dependence on the use of  
13 fossil fuels.

14 **[p.] q.** Class I RECs shall be eligible for use in renewable  
15 energy portfolio standards compliance in the energy year in which  
16 they are generated, and for the following two energy years. SRECs  
17 shall be eligible for use in renewable energy portfolio standards  
18 compliance in the energy year in which they are generated, and for  
19 the following two energy years.

20 r. The board shall convene a proceeding and invite  
21 participation from the public, representatives of electric public  
22 utilities, electric power suppliers, commercial and industrial  
23 customers, and metering system, equipment manufacturers and  
24 statutory parties, if any, concerning the advisability of adopting  
25 advanced metering infrastructure, including system capability,  
26 security, and interoperability standards for advanced metering  
27 infrastructure, and safety and power quality interconnection  
28 standards. The board shall consider: (1) the feasibility of deploying  
29 advanced metering infrastructure; (2) potential system capability,  
30 security, and interoperability standards for advanced metering  
31 infrastructure; and (3) safety and power quality interconnection  
32 standards. The potential standards shall address the following  
33 advanced meter infrastructure capabilities: monitoring, diagnostic,  
34 and control information and services that improve the efficiency  
35 and reliability of the transmission and distribution system; the use  
36 of electricity, including automated load control or demand response  
37 programs; voltage fluctuation detection and prevention; remote  
38 outage and restoration detection; reporting of customer usage and  
39 demand; performance monitoring of electrical distribution network  
40 equipment; and predictive maintenance and diagnostics. Any  
41 standards shall take into consideration the goals of the New Jersey  
42 Energy Master Plan, applicable industry standards, the standards of  
43 other states, and the standards of the Institute of Electrical and  
44 Electronics Engineers. The adoption of any standards shall be  
45 pursuant to the provisions of the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.)<sup>1</sup>;  
47 (cf: P.L.2009, c.289, s.2)]<sup>2</sup>

1       <sup>2</sup>2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read  
2 as follows:

3       38. a. The board shall require an electric power supplier or  
4 basic generation service provider to disclose on a customer's bill or  
5 on customer contracts or marketing materials, a uniform, common  
6 set of information about the environmental characteristics of the  
7 energy purchased by the customer, including, but not limited to:

8       (1) Its fuel mix, including categories for oil, gas, nuclear, coal,  
9 solar, hydroelectric, wind and biomass, or a regional average  
10 determined by the board;

11       (2) Its emissions, in pounds per megawatt hour, of sulfur  
12 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant  
13 that the board may determine to pose an environmental or health  
14 hazard, or an emissions default to be determined by the board; and

15       (3) Any discrete emission reduction retired pursuant to rules and  
16 regulations adopted pursuant to P.L.1995, c.188.

17       b. Notwithstanding any provisions of the "Administrative  
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
19 contrary, the board shall initiate a proceeding and shall adopt, in  
20 consultation with the Department of Environmental Protection, after  
21 notice and opportunity for public comment and public hearing,  
22 interim standards to implement this disclosure requirement,  
23 including, but not limited to:

24       (1) A methodology for disclosure of emissions based on output  
25 pounds per megawatt hour;

26       (2) Benchmarks for all suppliers and basic generation service  
27 providers to use in disclosing emissions that will enable consumers  
28 to perform a meaningful comparison with a supplier's or basic  
29 generation service provider's emission levels; and

30       (3) A uniform emissions disclosure format that is graphic in  
31 nature and easily understandable by consumers. The board shall  
32 periodically review the disclosure requirements to determine if  
33 revisions to the environmental disclosure system as implemented  
34 are necessary.

35       Such standards shall be effective as regulations immediately  
36 upon filing with the Office of Administrative Law and shall be  
37 effective for a period not to exceed 18 months, and may, thereafter,  
38 be amended, adopted or readopted by the board in accordance with  
39 the provisions of the "Administrative Procedure Act."

40       c. (1) The board may adopt, in consultation with the Department  
41 of Environmental Protection, after notice and opportunity for public  
42 comment, an emissions portfolio standard applicable to all electric  
43 power suppliers and basic generation service providers, upon a  
44 finding that:

45       (a) The standard is necessary as part of a plan to enable the  
46 State to meet federal Clean Air Act or State ambient air quality  
47 standards; and

1 (b) Actions at the regional or federal level cannot reasonably be  
2 expected to achieve the compliance with the federal standards.

3 (2) By July 1, 2009, the board shall adopt, pursuant to the  
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
5 seq.), a greenhouse gas emissions portfolio standard to mitigate  
6 leakage or another regulatory mechanism to mitigate leakage  
7 applicable to all electric power suppliers and basic generation  
8 service providers that provide electricity to customers within the  
9 State. The greenhouse gas emissions portfolio standard or any other  
10 regulatory mechanism to mitigate leakage shall:

11 (a) Allow a transition period, either before or after the effective  
12 date of the regulation to mitigate leakage, for a basic generation  
13 service provider or electric power supplier to either meet the  
14 emissions portfolio standard or other regulatory mechanism to  
15 mitigate leakage, or to transfer any customer to a basic generation  
16 service provider or electric power supplier that meets the emissions  
17 portfolio standard or other regulatory mechanism to mitigate  
18 leakage. If the transition period allowed pursuant to this  
19 subparagraph occurs after the implementation of an emissions  
20 portfolio standard or other regulatory mechanism to mitigate  
21 leakage, the transition period shall be no longer than three years;  
22 and

23 (b) Exempt the provision of basic generation service pursuant to  
24 a basic generation service purchase and sale agreement effective  
25 prior to the date of the regulation.

26 Unless the Attorney General or the Attorney General's designee  
27 determines that a greenhouse gas emissions portfolio standard  
28 would unconstitutionally burden interstate commerce or would be  
29 preempted by federal law, the adoption by the board of an electric  
30 energy efficiency portfolio standard pursuant to subsection **[g.]** h.  
31 of this section, a gas energy efficiency portfolio standard pursuant  
32 to subsection **[h.]** i. of this section, or any other enhanced energy  
33 efficiency policies to mitigate leakage shall not be considered  
34 sufficient to fulfill the requirement of this subsection for the  
35 adoption of a greenhouse gas emissions portfolio standard or any  
36 other regulatory mechanism to mitigate leakage.

37 d. Notwithstanding any provisions of the "Administrative  
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
39 contrary, the board shall initiate a proceeding and shall adopt, after  
40 notice, provision of the opportunity for comment, and public  
41 hearing, renewable energy portfolio standards that shall require:

42 (1) that two and one-half percent of the kilowatt hours sold in  
43 this State by each electric power supplier and each basic generation  
44 service provider be from Class I or Class II renewable energy  
45 sources;

46 (2) beginning on January 1, 2001, that one-half of one percent  
47 of the kilowatt hours sold in this State by each electric power

1 supplier and each basic generation service provider be from Class I  
2 renewable energy sources. The board shall increase the required  
3 percentage for Class I renewable energy sources so that by January  
4 1, 2006, one percent of the kilowatt hours sold in this State by each  
5 electric power supplier and each basic generation service provider  
6 shall be from Class I renewable energy sources and shall  
7 additionally increase the required percentage for Class I renewable  
8 energy sources by one-half of one percent each year until January 1,  
9 2012, when four percent of the kilowatt hours sold in this State by  
10 each electric power supplier and each basic generation service  
11 provider shall be from Class I renewable energy sources[.

12 An electric power supplier or basic generation service provider  
13 may satisfy the requirements of this subsection by participating in a  
14 renewable energy trading program approved by the board in  
15 consultation with the Department of Environmental Protection];

16 (3) that the board establish a multi-year schedule, applicable to  
17 each electric power supplier or basic generation service provider in  
18 this State, beginning with the one-year period commencing on June  
19 1, 2010, and continuing for each subsequent one-year period up to  
20 and including, the one-year period commencing on June 1, 2025,  
21 that requires suppliers or providers to purchase at least the  
22 following number of kilowatt-hours from solar electric power  
23 generators in this State:

24	EY 2011	306 Gigawatthours (Gwhrs)
25	EY 2012	442 Gwhrs
26	EY 2013	596 Gwhrs
27	EY 2014	772 Gwhrs
28	EY 2015	965 Gwhrs
29	EY 2016	1,150 Gwhrs
30	EY 2017	1,357 Gwhrs
31	EY 2018	1,591 Gwhrs
32	EY 2019	1,858 Gwhrs
33	EY 2020	2,164 Gwhrs
34	EY 2021	2,518 Gwhrs
35	EY 2022	2,928 Gwhrs
36	EY 2023	3,433 Gwhrs
37	EY 2024	3,989 Gwhrs
38	EY 2025	4,610 Gwhrs
39	EY 2026	5,316 Gwhrs
40	EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs	
41	per energy year to reflect an increasing number of kilowatt-hours to	
42	be purchased by suppliers or providers from solar electric power	
43	generators in this State, and to establish a framework within which	
44	suppliers and providers shall purchase at least 2,518 Gwhrs in the	
45	energy year 2021 and 5,316 Gwhrs in the energy year 2026 from	
46	solar electric power generators in this State, provided, however, that	
47	the number of solar kilowatt-hours required to be purchased by each	

1 supplier or provider, when expressed as a percentage of the total  
2 number of solar kilowatt-hours purchased in this State, shall be  
3 equivalent to each supplier's or provider's proportionate share of the  
4 total number of kilowatt-hours sold in this State by all suppliers and  
5 providers.

6 The solar renewable portfolio standards requirements in this  
7 paragraph [(3) of this subsection] shall automatically increase by  
8 20% for the remainder of the schedule in the event that the  
9 following two conditions are met: (a) the number of SRECs  
10 generated meets or exceeds the requirement for three consecutive  
11 reporting years, starting with energy year 2013; and (b) the average  
12 SREC price for all SRECs purchased by entities with renewable  
13 energy portfolio standards obligations has decreased in the same  
14 three consecutive reporting years. The board shall exempt  
15 providers' existing supply contracts that are: (a) effective prior to  
16 the date of P.L.2009, c.289; or (b) effective prior to any future  
17 increase in the solar renewable portfolio standard beyond the multi-  
18 year schedule established in this paragraph [(3) of this subsection].  
19 This exemption shall apply to the number of SRECs that exceeds  
20 the number mandated by the solar renewable portfolio standards  
21 requirements that were in effect on the date that the providers  
22 executed their existing supply contracts. This limited exemption for  
23 providers' existing supply contracts shall not be construed to lower  
24 the Statewide solar purchase requirements set forth in this  
25 paragraph [(3) of this subsection]. Such incremental new  
26 requirements shall be distributed over the electric power suppliers  
27 and providers not subject to the existing supply contract exemption  
28 until such time as existing supply contracts expire and all suppliers  
29 are subject to the new requirement.

30 An electric power supplier or basic generation service provider  
31 may satisfy the requirements of this subsection by participating in a  
32 renewable energy trading program approved by the board in  
33 consultation with the Department of Environmental Protection, or  
34 compliance with the requirements of this subsection may be  
35 demonstrated to the board by suppliers or providers through the  
36 purchase of SRECs.

37 The renewable energy portfolio standards adopted by the board  
38 pursuant to paragraphs (1) and (2) of this subsection shall be  
39 effective as regulations immediately upon filing with the Office of  
40 Administrative Law and shall be effective for a period not to exceed  
41 18 months, and may, thereafter, be amended, adopted or readopted  
42 by the board in accordance with the provisions of the  
43 "Administrative Procedure Act."

44 The renewable energy portfolio standards adopted by the board  
45 pursuant to paragraph (3) of this subsection shall be effective as  
46 regulations immediately upon filing with the Office of  
47 Administrative Law and shall be effective for a period not to exceed

1 30 months after such filing, and shall, thereafter, be amended,  
2 adopted or readopted by the board in accordance with the  
3 "Administrative Procedure Act"; and

4 (4) within 180 days after the date of enactment of P.L.2010,  
5 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind  
6 renewable energy certificate program to require that a percentage of  
7 the kilowatt hours sold in this State by each electric power supplier  
8 and each basic generation service provider be from offshore wind  
9 energy in order to support at least 1,100 megawatts of generation  
10 from qualified offshore wind projects.

11 The percentage established by the board pursuant to this  
12 paragraph shall serve as an offset to the renewable energy portfolio  
13 standard established pursuant to paragraphs (1) and (2) of this  
14 subsection and shall reduce the corresponding Class I renewable  
15 energy requirement.

16 The percentage established by the board pursuant to this  
17 paragraph shall reflect the projected OREC production of each  
18 qualified offshore wind project, approved by the board pursuant to  
19 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the  
20 commercial operation start date of the qualified offshore wind  
21 project which production projection and OREC purchase  
22 requirement, once approved by the board, shall not be subject to  
23 reduction.

24 An electric power supplier or basic generation service provider  
25 shall comply with the OREC program established pursuant to this  
26 paragraph through the purchase of offshore wind renewable energy  
27 certificates at a price and for the time period required by the board.  
28 In the event there are insufficient offshore wind renewable energy  
29 certificates available, the electric power supplier or basic generation  
30 service provider shall pay an offshore wind alternative compliance  
31 payment established by the board. Any offshore wind alternative  
32 compliance payments collected shall be refunded directly to the  
33 ratepayers by the electric public utilities.

34 The rules established by the board pursuant to this paragraph  
35 shall be effective as regulations immediately upon filing with the  
36 Office of Administrative Law and shall be effective for a period not  
37 to exceed 18 months, and may, thereafter, be amended, adopted or  
38 readopted by the board in accordance with the provisions of the  
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.).

41 e. Notwithstanding any provisions of the "Administrative  
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
43 contrary, the board shall initiate a proceeding and shall adopt, after  
44 notice, provision of the opportunity for comment, and public  
45 hearing:

46 (1) net metering standards for electric power suppliers and basic  
47 generation service providers. The standards shall require electric

1 power suppliers and basic generation service providers to offer net  
2 metering at non-discriminatory rates to industrial, large  
3 commercial, residential and small commercial customers, as those  
4 customers are classified or defined by the board, that generate  
5 electricity, on the customer's side of the meter, using a Class I  
6 renewable energy source, for the net amount of electricity supplied  
7 by the electric power supplier or basic generation service provider  
8 over an annualized period. Systems of any sized capacity, as  
9 measured in watts, are eligible for net metering. If the amount of  
10 electricity generated by the customer-generator, plus any kilowatt  
11 hour credits held over from the previous billing periods, exceeds the  
12 electricity supplied by the electric power supplier or basic  
13 generation service provider, then the electric power supplier or  
14 basic generation service provider, as the case may be, shall credit  
15 the customer-generator for the excess kilowatt hours until the end of  
16 the annualized period at which point the customer-generator will be  
17 compensated for any remaining credits or, if the customer-generator  
18 chooses, credit the customer-generator on a real-time basis, at the  
19 electric power supplier's or basic generation service provider's  
20 avoided cost of wholesale power or the PJM electric power pool's  
21 real-time locational marginal pricing rate, adjusted for losses, for  
22 the respective zone in the PJM electric power pool. Alternatively,  
23 the customer-generator may execute a bilateral agreement with an  
24 electric power supplier or basic generation service provider for the  
25 sale and purchase of the customer-generator's excess generation.  
26 The customer-generator may be credited on a real-time basis, so  
27 long as the customer-generator follows applicable rules prescribed  
28 by the PJM electric power pool for its capacity requirements for the  
29 net amount of electricity supplied by the electric power supplier or  
30 basic generation service provider. The board may authorize an  
31 electric power supplier or basic generation service provider to cease  
32 offering net metering whenever the total rated generating capacity  
33 owned and operated by net metering customer-generators Statewide  
34 equals 2.5 percent of the State's peak electricity demand;

35 (2) safety and power quality interconnection standards for Class  
36 I renewable energy source systems used by a customer-generator  
37 that shall be eligible for net metering.

38 Such standards or rules shall take into consideration the goals of  
39 the New Jersey Energy Master Plan, applicable industry standards,  
40 and the standards of other states and the Institute of Electrical and  
41 Electronic Engineers. The board shall allow electric public utilities  
42 to recover the costs of any new net meters, upgraded net meters,  
43 system reinforcements or upgrades, and interconnection costs  
44 through either their regulated rates or from the net metering  
45 customer-generator; and

46 (3) credit or other incentive rules for generators using Class I  
47 renewable energy generation systems that connect to New Jersey's



1 electric public utilities' distribution system but who do not net  
2 meter.

3 Such rules shall require the board or its designee to issue a credit  
4 or other incentive to those generators that do not use a net meter but  
5 otherwise generate electricity derived from a Class I renewable  
6 energy source and to issue an enhanced credit or other incentive,  
7 including, but not limited to, a solar renewable energy credit, to  
8 those generators that generate electricity derived from solar  
9 technologies.

10 Such standards or rules shall be effective as regulations  
11 immediately upon filing with the Office of Administrative Law and  
12 shall be effective for a period not to exceed 18 months, and may,  
13 thereafter, be amended, adopted or readopted by the board in  
14 accordance with the provisions of the "Administrative Procedure  
15 Act."

16 f. Notwithstanding any provisions of the "Administrative  
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
18 contrary, the board shall initiate a proceeding and, after notice,  
19 provision of the opportunity for comment, and public hearing, may  
20 adopt standards which require electric public utilities to offer non-  
21 discriminatory rates to an LREC. Customers who are members of  
22 an LREC may act as host for the installation of a CREG system.  
23 The electric public utility shall be responsible for reading the utility  
24 meter of each of the LREC's members and shall render a bill to each  
25 member at the standard prevailing tariff rates for electric generation  
26 service and electric delivery service that are normally applicable to  
27 each such member and otherwise in accordance with the applicable  
28 regulations, including any applicable net metering regulations to the  
29 extent a customer meets the requirements of the net metering  
30 regulations. Subject to compliance by each licensed CREG system  
31 with applicable requirements of the PJM electric power pool for  
32 generators, including without limitation, PJM metering  
33 requirements, the CREG system operator shall take title to the  
34 energy generated by each such CREG system and shall sell such  
35 energy into the PJM electric power pool's real-time energy market,  
36 and arrange for the electric public utility to receive the gross  
37 payments for energy and capacity received from PJM associated  
38 with the energy generated by each such CREG system, without  
39 deduction for any fees or penalties paid or payable to PJM by the  
40 LREC. For each kilowatt-hour of energy sold by the CREG system  
41 operator for which the electric public utility receives such assigned  
42 PJM payments, the electric public utility shall pay the CREG an  
43 amount equal to the then prevailing per kilowatt-hour BGS rate for  
44 fixed price customers, or in the case of an LREC whose members  
45 are all residential customers who reside in structures older than 10  
46 years with heating systems that are served predominantly by electric  
47 energy, 120% of the prevailing per kilowatt-hour BGS rate for fixed

1 price customers, or if there is no such rate, a reasonably comparable  
2 amount determined by the board; provided that, if the aggregate  
3 generation of all CREG systems serving an LREC exceeds the  
4 aggregate amount of electricity supplied by the electric power  
5 supplier or BGS provider to all LREC members over an annualized  
6 period, the price for such excess generation shall be the average  
7 over such annualized period of the PJM electric power pool's real-  
8 time locational marginal pricing rate, adjusted for losses, for the  
9 respective zone in the PJM electric power pool, which may require  
10 an adjustment to the amounts previously paid by the electric public  
11 utility to the LREC. Such payments, or the financial equivalent of  
12 such payments, shall be made by the electric public utility to the  
13 CREG no more frequently than monthly and may be made through  
14 tariff or contract according to the preference of the electric public  
15 utility with which the LREC is registered. Any difference between  
16 the amounts paid by the electric public utility to the CREG system  
17 operator and the PJM payments received by the electric public  
18 utility associated with such CREG system energy, positive or  
19 negative, along with the electric public utility's incremental costs of  
20 implementing and administering the LREC payments, shall flow  
21 through a reconciliation clause of the electric public utility's tariff.

22 If a CREG system operator enters into an agreement with an  
23 LREC to establish an electric rebate, the agreement shall provide  
24 for the electric public utility with which the CREG system operator  
25 is registered to pay the amount of such electric rebate to the  
26 members of the LREC in accordance with the electric rebate  
27 agreement unless the public utility elects to allow the LREC to  
28 implement the electric rebate agreement on behalf of the public  
29 utility. If the public utility allows the LREC to implement such an  
30 agreement on behalf of the utility, the utility shall pay the electric  
31 rebate amount to the CREG system operator, which shall remit that  
32 amount to the LREC for distribution to the members of the LREC.  
33 The LREC shall be responsible for allocating the payments received  
34 from the CREG among the LREC's members as an electric rebate in  
35 accordance with an agreement between the CREG system operator  
36 and the LREC.

37 LRECs shall include only residential class customers as  
38 members, and all LREC members shall reside within the same  
39 municipality and within the same electric public utility territory.  
40 The total capacity of all CREG systems associated with a particular  
41 LREC may not exceed the projected annual consumption of the  
42 LREC members. CREG systems within an LREC that are  
43 connected to the distribution system may earn eligible energy  
44 credits, SRECs, or other applicable incentives. An LREC shall not  
45 be considered an electric public utility. All LRECs and CREG  
46 systems shall be licensed by the board. The board's licensing  
47 requirements shall ensure sound and uniform business practices.

1 The board shall adopt and implement an LREC and CREG licensing  
2 procedure within 90 days after the effective date of P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill). For the  
4 purposes of the licensing procedure established pursuant to this  
5 subsection, the board shall issue an order in writing either  
6 approving or disapproving an LREC or CREG application for  
7 licensing within 30 days of the date of receipt of such application.  
8 If the board fails to either approve or disapprove the application  
9 within the 30-day period, the application shall be deemed to be  
10 approved.

11 **[f.] g.** The board may assess, by written order and after notice  
12 and opportunity for comment, a separate fee to cover the cost of  
13 implementing and overseeing an emission disclosure system or  
14 emission portfolio standard, which fee shall be assessed based on an  
15 electric power supplier's or basic generation service provider's share  
16 of the retail electricity supply market. The board shall not impose a  
17 fee for the cost of implementing and overseeing a greenhouse gas  
18 emissions portfolio standard adopted pursuant to paragraph (2) of  
19 subsection c. of this section, the electric energy efficiency portfolio  
20 standard adopted pursuant to subsection g. of this section, or the gas  
21 energy efficiency portfolio standard adopted pursuant to subsection  
22 h. of this section.

23 **[g.] h.** The board may adopt, pursuant to the "Administrative  
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric  
25 energy efficiency portfolio standard that may require each electric  
26 public utility to implement energy efficiency measures that reduce  
27 electricity usage in the State by 2020 to a level that is 20 percent  
28 below the usage projected by the board in the absence of such a  
29 standard. Nothing in this section shall be construed to prevent an  
30 electric public utility from meeting the requirements of this section  
31 by contracting with another entity for the performance of the  
32 requirements.

33 **[h.] i.** The board may adopt, pursuant to the "Administrative  
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy  
35 efficiency portfolio standard that may require each gas public utility  
36 to implement energy efficiency measures that reduce natural gas  
37 usage for heating in the State by 2020 to a level that is 20 percent  
38 below the usage projected by the board in the absence of such a  
39 standard. Nothing in this section shall be construed to prevent a gas  
40 public utility from meeting the requirements of this section by  
41 contracting with another entity for the performance of the  
42 requirements.

43 **[i.] j.** After the board establishes a schedule of solar kilowatt-  
44 hour sale or purchase requirements pursuant to paragraph (3) of  
45 subsection d. of this section, the board may initiate subsequent  
46 proceedings and adopt, after appropriate notice and opportunity for  
47 public comment and public hearing, increased minimum solar

1 kilowatt-hour sale or purchase requirements, provided that the  
2 board shall not reduce previously established minimum solar  
3 kilowatt-hour sale or purchase requirements, or otherwise impose  
4 constraints that reduce the requirements by any means.

5 **[j.]** k. The board shall determine an appropriate level of solar  
6 alternative compliance payment, and establish a 15-year solar  
7 alternative compliance payment schedule, that permits each supplier  
8 or provider to submit an SACP to comply with the solar electric  
9 generation requirements of paragraph (3) of subsection d. of this  
10 section. The board may initiate subsequent proceedings and adopt,  
11 after appropriate notice and opportunity for public comment and  
12 public hearing, an increase in solar alternative compliance  
13 payments, provided that the board shall not reduce previously  
14 established levels of solar alternative compliance payments, nor  
15 shall the board provide relief from the obligation of payment of the  
16 SACP by the electric power suppliers or basic generation service  
17 providers in any form. Any SACP payments collected shall be  
18 refunded directly to the ratepayers by the electric public utilities.

19 **[k.]** l. The board may allow electric public utilities to offer  
20 long-term contracts and other means of financing, including but not  
21 limited to loans, for the purchase of SRECs and the resale of SRECs  
22 to suppliers or providers or others, provided that after such  
23 contracts have been approved by the board, the board's approvals  
24 shall not be modified by subsequent board orders.

25 **[l.]** m. The board shall implement its responsibilities under the  
26 provisions of this section in such a manner as to:

27 (1) place greater reliance on competitive markets, with the  
28 explicit goal of encouraging and ensuring the emergence of new  
29 entrants that can foster innovations and price competition;

30 (2) maintain adequate regulatory authority over non-competitive  
31 public utility services;

32 (3) consider alternative forms of regulation in order to address  
33 changes in the technology and structure of electric public utilities;

34 (4) promote energy efficiency and Class I renewable energy  
35 market development, taking into consideration environmental  
36 benefits and market barriers;

37 (5) make energy services more affordable for low and moderate  
38 income customers;

39 (6) attempt to transform the renewable energy market into one  
40 that can move forward without subsidies from the State or public  
41 utilities;

42 (7) achieve the goals put forth under the renewable energy  
43 portfolio standards;

44 (8) promote the lowest cost to ratepayers; and

45 (9) allow all market segments to participate.

46 **[m.]** n. The board shall ensure the availability of financial  
47 incentives under its jurisdiction, including, but not limited to, long-

1 term contracts, loans, SRECs, or other financial support, to ensure  
2 market diversity, competition, and appropriate coverage across all  
3 ratepayer segments, including, but not limited to, residential,  
4 commercial, industrial, non-profit, farms, schools, and public entity  
5 customers.

6 **[n.] o.** For projects which are owned, or directly invested in, by  
7 a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
8 98.1), the board shall determine the number of SRECs with which  
9 such projects shall be credited; and in determining such number the  
10 board shall ensure that the market for SRECs does not detrimentally  
11 affect the development of non-utility solar projects and shall  
12 consider how its determination may impact the ratepayers.

13 **[o.] p.** The board, in consultation with the Department of  
14 Environmental Protection, electric public utilities, the Division of  
15 Rate Counsel in, but not of, the Department of the Treasury,  
16 affected members of the solar energy industry, and relevant  
17 stakeholders, shall periodically consider increasing the renewable  
18 energy portfolio standards beyond the minimum amounts set forth  
19 in subsection d. of this section, taking into account the cost impacts  
20 and public benefits of such increases including, but not limited to:

21 (1) reductions in air pollution, water pollution, land disturbance,  
22 and greenhouse gas emissions;

23 (2) reductions in peak demand for electricity and natural gas,  
24 and the overall impact on the costs to customers of electricity and  
25 natural gas;

26 (3) increases in renewable energy development, manufacturing,  
27 investment, and job creation opportunities in this State; and

28 (4) reductions in State and national dependence on the use of  
29 fossil fuels.

30 **[p.] q.** Class I RECs shall be eligible for use in renewable  
31 energy portfolio standards compliance in the energy year in which  
32 they are generated, and for the following two energy years. SRECs  
33 and ORECs shall be eligible for use in renewable energy portfolio  
34 standards compliance in the energy year in which they are  
35 generated, and for the following two energy years.

36 r. The board shall convene a proceeding and invite  
37 participation from the public, representatives of electric public  
38 utilities, electric power suppliers, commercial and industrial  
39 customers, and metering system, equipment manufacturers and  
40 statutory parties, if any, concerning the advisability of adopting  
41 advanced metering infrastructure, including system capability,  
42 security, and interoperability standards for advanced metering  
43 infrastructure, and safety and power quality interconnection  
44 standards. The board shall consider: (1) the feasibility of deploying  
45 advanced metering infrastructure; (2) potential system capability,  
46 security, and interoperability standards for advanced metering  
47 infrastructure; and (3) safety and power quality interconnection

1 standards. The potential standards shall address the following  
2 advanced meter infrastructure capabilities: monitoring, diagnostic,  
3 and control information and services that improve the efficiency  
4 and reliability of the transmission and distribution system; the use  
5 of electricity, including automated load control or demand response  
6 programs; voltage fluctuation detection and prevention; remote  
7 outage and restoration detection; reporting of customer usage and  
8 demand; performance monitoring of electrical distribution network  
9 equipment; and predictive maintenance and diagnostics. Any  
10 standards shall take into consideration the goals of the New Jersey  
11 Energy Master Plan, applicable industry standards, the standards of  
12 other states, and the standards of the Institute of Electrical and  
13 Electronics Engineers. The adoption of any standards shall be  
14 pursuant to the provisions of the "Administrative Procedure Act,"  
15 P.L.1968, c.410 (C.52:14B-1 et seq.).<sup>2</sup>  
16 (cf: P.L.2010, c.57, s.2)

17  
18 3. This act shall take effect <sup>1</sup>**[**on the 90th day after the date of  
19 enactment, but the Board of Public Utilities may take such  
20 anticipatory administrative action in advance thereof as shall be  
21 necessary for the implementation of this act**]** immediately<sup>1</sup>.