SENATE, No. 1925

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED MAY 14, 2012

Sponsored by:
Senator  BOB SMITH
District 17 (Middlesex and Somerset)
Senator  STEPHEN M. SWEENEY
 District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS
Revises certain solar renewable energy programs and requirements; provides for aggregating net metering of Class I renewable energy production on certain contiguous and non-contiguous properties owned by local government units and school districts.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning net metering and solar renewable portfolio standards requirements and amending P.L.1999, c.23.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Bondable stranded costs rate order" means one or more irrevocable written orders issued by the board pursuant to P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of bondable stranded costs and the initial amount of transition bond charges authorized to be imposed to recover such bondable stranded costs, including the costs to be financed from the proceeds of the
transition bonds, as well as on-going costs associated with servicing
and credit enhancing the transition bonds, and provides the electric
public utility specific authority to issue or cause to be issued,
directly or indirectly, transition bonds through a financing entity
and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
which order shall become effective immediately upon the written
consent of the related electric public utility to such order as
provided in P.L.1999, c.23 (C.48:3-49 et al.);
"Bondable transition property" means the property consisting of
the irrevocable right to charge, collect and receive, and be paid
from collections of, transition bond charges in the amount necessary
to provide for the full recovery of bondable stranded costs which
are determined to be recoverable in a bondable stranded costs rate
order, all rights of the related electric public utility under such
bondable stranded costs rate order including, without limitation, all
rights to obtain periodic adjustments of the related transition bond
charges pursuant to subsection b. of section 15 of P.L.1999, c.23
(C.48:3-64), and all revenues, collections, payments, money and
proceeds arising under, or with respect to, all of the foregoing;
"British thermal unit" or "Btu" means the amount of heat
required to increase the temperature of one pound of water by one
degree Fahrenheit;
"Broker" means a duly licensed electric power supplier that
assumes the contractual and legal responsibility for the sale of
electric generation service, transmission or other services to end-use
retail customers, but does not take title to any of the power sold, or
a duly licensed gas supplier that assumes the contractual and legal
obligation to provide gas supply service to end-use retail customers,
but does not take title to the gas;
"Brownfield" means any former or current commercial or
industrial site that is currently vacant or underutilized and on which
there has been, or there is suspected to have been, a discharge of
contaminant, as included in the "Brownfields Redevelopment Task
Force" inventory, developed pursuant to section 5 of P.L.1997,
c.278 (C.58:10B-23);
"Buydown" means an arrangement or arrangements involving the
buyer and seller in a given power purchase contract and, in some
cases third parties, for consideration to be given by the buyer in
order to effectuate a reduction in the pricing, or the restructuring of
other terms to reduce the overall cost of the power contract, for the
remaining succeeding period of the purchased power arrangement
or arrangements;
"Buyout" means an arrangement or arrangements involving the
buyer and seller in a given power purchase contract and, in some
cases third parties, for consideration to be given by the buyer in
order to effectuate a termination of such power purchase contract;
"Class I renewable energy" means electric energy produced from
solar technologies, photovoltaic technologies, wind energy, fuel
cells, geothermal technologies, wave or tidal action, small scale
hydropower facilities with a capacity of three megawatts or less and
put into service after the effective date of P.L. ___, c. ___ (C. ___)
(pending before the Legislature as this bill), and methane gas from
landfills or a biomass facility, provided that the biomass is
cultivated and harvested in a sustainable manner;

"Class II renewable energy" means electric energy produced at a
resource recovery facility or hydropower facility with a capacity
of greater than three megawatts or a resource recovery facility,
provided that such facility is located where retail competition is
permitted and provided further that the Commissioner of
Environmental Protection has determined that such facility meets
the highest environmental standards and minimizes any impacts to
the environment and local communities;

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

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

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

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

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

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

"Connected to the distribution system" means, for a solar electric
generation facility, (1) connected to a net metering
customer’s side of a meter, regardless of the voltage at which that
customer connects to the electric grid, or (2) directly connected to
the electric grid at 69 kilovolts or less, regardless of how an electric
public utility classifies that portion of its electric grid, except that
notwithstanding that it meets the criterion set forth in paragraph (1)
or (2) hereof, a solar electric power generation facility that is
neither net metered nor an on-site generation facility shall not be
considered “connected to the distribution system” unless it shall
have been designated as such by the board pursuant to subsections
q. through s. of section 38 of P.L.1999, c.23 (C.48:3-87). Any solar
electric power generation facility, other than that of a net metering
customer on the customer’s side of the meter, connected above 69
kilovolts, shall not be considered connected to the distribution
system:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Mid-merit electric power generation facility" means a generation facility that operates at a capacity factor between baseload generation facilities and peak generation facilities;

“Net metering” means the process of measuring the difference between (1) the quantity of electric power supplied by a basic generation service provider or an electric power supplier to a customer owning or leasing a generating facility that produces Class I renewable energy, and (2) the quantity of electric power generated by that facility which is used to offset part or all of the customer-generator’s requirements for electric power;

“Net metering aggregation” means the combination of readings from, and billing for, all net metering of the electric power consumption of a customer, provided that such customer is a school district, a county or any agency, authority, or other entity thereof, or a municipality, or any agency, authority, or other entity thereof, which owns or leases properties and which operates a Class I renewable energy generation system or systems on one or more of those properties, provided that such properties are located within the service territory of a single electric public utility. Net metering aggregation may be completed through physical or virtual net metering aggregation;

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

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

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

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

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

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

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity:

"Physical net metering aggregation" means the physical rewiring of all instruments for net metering of the electric power consumption of a single customer that is a school district, a county or any agency, authority, or other entity thereof, or a municipality, or any agency, authority, or other entity thereof, to provide a single point of contact for net metering of that customer's consumption;

"PJM Interconnection, L.L.C." or "PJM" means the privately-held, limited liability corporation that is a FERC-approved Regional Transmission Organization, or its successor, that manages the regional, high-voltage electricity grid serving all or parts of 13 states including New Jersey and the District of Columbia, operates the regional competitive wholesale electric market, manages the regional transmission planning process, and establishes systems and rules to ensure that the regional and in-State energy markets operate fairly and efficiently;

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

"Properly closed sanitary landfill facility" means a sanitary landfill facility at which all activities associated with the design, purchase, or construction of all measures required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the costs of placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility;
"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the Securities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 1935 or its successor;

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

"Registration program" means an administrative process developed by the board that requires all owners of solar electric power generation facilities connected to the distribution system that intend to generate SRECs, to file with the board documents detailing the size, location, interconnection plan, land use, and other project information as required by the board;

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

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

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility;
"Reliability pricing model" or "RPM" means PJM's capacity-market model, and its successors, that secures capacity on behalf of electric load serving entities to satisfy load obligations not satisfied through the output of electric generation facilities owned by those entities, or otherwise secured by those entities through bilateral contracts;

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

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

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse, which the Department of Environmental Protection has determined to be in compliance with current environmental standards, including, but not limited to, all applicable requirements of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

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

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service or basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);
"Retail margin" means an amount, reflecting differences in prices that electric power suppliers and electric public utilities may charge in providing electric generation service and basic generation service, respectively, to retail customers, excluding residential customers, which the board may authorize to be charged to categories of basic generation service customers of electric public utilities in this State, other than residential customers, under the board's continuing regulation of basic generation service pursuant to sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the purpose of promoting a competitive retail market for the supply of electricity;

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

"School district" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.);

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

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

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

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

"Solar alternative compliance payment" or "SACP" means a payment of a certain dollar amount per megawatt hour (MWh)
which an electric power supplier or provider may submit to the
board in order to comply with the solar electric generation
requirements under section 38 of P.L.1999, c.23 (C.48:3-87);
"Solar renewable energy certificate" or "SREC" means a
certificate issued by the board or its designee, representing one
megawatt hour (MWh) of solar energy that is generated by a facility
connected to the distribution system in this State and has value
based upon, and driven by, the energy market;
"Standard offer capacity agreement" or "SOCA" means a
financially-settled transaction agreement, approved by board order,
that provides for eligible generators to receive payments from the
electric public utilities for a defined amount of electric capacity for
a term to be determined by the board but not to exceed 15 years,
and for such payments to be a fully non-bypassable charge, with
such an order, once issued, being irrevocable;
"Standard offer capacity price" or "SOCP" means the capacity
price that is fixed for the term of the SOCA and which is the price
to be received by eligible generators under a board-approved
SOCA;
"Stranded cost" means the amount by which the net cost of an
electric public utility's electric generating assets or electric power
purchase commitments, as determined by the board consistent with
the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
market value of those assets or contractual commitments in a
competitive supply marketplace and the costs of buydowns or
buysouts of power purchase contracts;
"Stranded costs recovery order" means each order issued by the
board in accordance with subsection c. of section 13 of P.L.1999,
c.23 (C.48:3-61) which sets forth the amount of stranded costs, if
any, the board has determined an electric public utility is eligible to
recover and collect in accordance with the standards set forth in
section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
mechanisms therefor;
"Thermal efficiency" means the useful electric energy output of a
facility, plus the useful thermal energy output of the facility,
expressed as a percentage of the total energy input to the facility;
"Transition bond charge" means a charge, expressed as an
amount per kilowatt hour, that is authorized by and imposed on
electric public utility ratepayers pursuant to a bondable stranded
costs rate order, as modified at any time pursuant to the provisions
of P.L.1999, c.23 (C.48:3-49 et al.);
"Transition bonds" means bonds, notes, certificates of
participation or beneficial interest or other evidences of
indebtedness or ownership issued pursuant to an indenture, contract
or other agreement of an electric public utility or a financing entity,
the proceeds of which are used, directly or indirectly, to recover,
finance or refinance bondable stranded costs and which are, directly
or indirectly, secured by or payable from bondable transition
property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities;

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

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

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

“Virtual net metering aggregation” means the combination of readings from instruments for, and billing for, all net metering of the electric power consumption of a single customer which is a school district, a county or any agency, authority, or other entity thereof, or a municipality, or any agency, authority, or other entity thereof, which owns or leases properties and which operates a generating facility on those properties that produces Class I renewable energy by means of the electric public utility’s billing process, rather than through physical rewiring of the customer’s property to provide a single point of contact, provided that such properties are located three miles within the boundaries of each other and within the service territory of a single electric public utility. A customer engaged in virtual net metering shall not be considered a public utility.

(cf: P.L.2011, c.9, s.2)

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

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

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;
(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and
(3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

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

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

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

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

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

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

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

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

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

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

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

Unless the Attorney General or the Attorney General’s designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally burden interstate commerce or would be preempted by federal law, the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage.

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

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

(2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection;
(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2025, that requires suppliers or providers to purchase at least the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of GWhrs</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2011</td>
<td>306 GWhrs</td>
<td>1.832%</td>
</tr>
<tr>
<td>EY 2012</td>
<td>442 GWhrs</td>
<td>2.145%</td>
</tr>
<tr>
<td>EY 2013</td>
<td>596 GWhrs</td>
<td>2.851%</td>
</tr>
<tr>
<td>EY 2014</td>
<td>772 GWhrs</td>
<td>3.111%</td>
</tr>
<tr>
<td>EY 2015</td>
<td>965 GWhrs</td>
<td>3.230%</td>
</tr>
<tr>
<td>EY 2016</td>
<td>1,150 GWhrs</td>
<td>3.320%</td>
</tr>
<tr>
<td>EY 2017</td>
<td>1,357 GWhrs</td>
<td>3.434%</td>
</tr>
<tr>
<td>EY 2018</td>
<td>1,591 GWhrs</td>
<td>3.579%</td>
</tr>
<tr>
<td>EY 2019</td>
<td>1,858 GWhrs</td>
<td>3.625%</td>
</tr>
<tr>
<td>EY 2020</td>
<td>2,164 GWhrs</td>
<td>3.730%</td>
</tr>
<tr>
<td>EY 2021</td>
<td>2,518 GWhrs</td>
<td>3.730%</td>
</tr>
<tr>
<td>EY 2022</td>
<td>2,928 GWhrs</td>
<td>3.730%</td>
</tr>
<tr>
<td>EY 2023</td>
<td>3,433 GWhrs</td>
<td>3.730%</td>
</tr>
<tr>
<td>EY 2024</td>
<td>3,989 GWhrs</td>
<td>3.730%</td>
</tr>
<tr>
<td>EY 2025</td>
<td>4,610 GWhrs</td>
<td>3.730%</td>
</tr>
<tr>
<td>EY 2026</td>
<td>5,316 GWhrs</td>
<td>3.730%</td>
</tr>
</tbody>
</table>

EY 2028, 3.730%, and for every energy year thereafter, at least 5,316 GWhrs 3.730% per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators connected to the distribution system in this State, and to establish a framework within which, of the electricity that the generators sell in this State, suppliers and providers shall purchase each obtain at least 2,518 GWhrs 3.730% in the energy year 2026 and 5,316 GWhrs 3.730% in the energy year 2028 from solar electric power generators connected to the distribution system in this State, provided, however, that the number of solar kilowatt-hours required to be purchased by each supplier or provider, when expressed as a percentage of the total number of solar kilowatt-hours purchased in this State, shall be equivalent to each supplier’s or provider’s proportionate share of the total number of kilowatt-hours sold in this State by all suppliers and providers.]

(a) The board shall determine an appropriate period of no less than 120 days following the end of an energy year prior to which a
provider or supplier must demonstrate compliance for that energy year with the annual renewable portfolio standard;

(b) No more than 24 months following the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally;

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) from any increase beyond the number of SRECs that exceeds the number mandated by the solar renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental new requirements shall be distributed over the electric power suppliers and providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all suppliers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers, such that non-exempt providers are assigned the requirements that would have otherwise been assigned to the exempt providers.

(d) The solar renewable portfolio standards requirements in this paragraph [(3) of this subsection] shall automatically increase by 20% for the remainder of the schedule in the event that the following two conditions are met: [(a)] (i) the number of SRECs generated meets or exceeds the requirement for three consecutive reporting years, starting with energy year [2013] 2014; and [(b)] (ii) the [average] SREC price for [all] SRECs purchased by entities with renewable energy portfolio standards obligations [has decreased] in each of the same three consecutive reporting years is less than the current SREC price in the year prior to the three consecutive reporting years; and

(e) The board shall exempt providers' [existing] supply contracts that are [(a)] effective prior to the date of [P.L.2009, c.289; or (b) effective prior to any future increase in the solar renewable portfolio standard beyond the multi-year schedule established in paragraph (3) of this subsection] any such increase. This exemption shall apply to the number of SRECs that exceeds the number mandated by the solar renewable portfolio standards requirements that were in effect on the date that the suppliers or providers executed their existing supply contracts. This limited
exemption for providers’ existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph [(3) of this subsection]. Such incremental new requirements shall be distributed over the electric power suppliers and providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all suppliers are subject to the new requirement in a manner that is competitively neutral among all suppliers and providers, such that non-exempt providers are assigned the requirements that would have otherwise been assigned to the exempt providers.

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

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

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

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

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

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

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

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

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

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at non-discriminatory rates to industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as measured in watts, are eligible for net metering. However, the system shall not be sized in excess of the generation capacity necessary to serve the annualized energy needs of (a) on-site load, inclusive of load associated with a customer-generator receiving physical net metering aggregation service, or (b) load associated with a customer-generator receiving virtual net metering aggregation service. For a customer-generator eligible for virtual net metering aggregation service, the customer-generator may designate other of its net metering instruments to be credited with the kilowatt-hour production from any physical net metering aggregation service, including net annual excess, if any. For physical net metering aggregation and virtual net metering
aggregation, if the amount of electricity generated by the customer-generator, plus any kilowatt hour credits held over from the previous billing periods, exceeds the electricity supplied by the electric power supplier or basic generation service provider, then the electric power supplier or basic generation service provider, as the case may be, shall credit the customer-generator for the excess kilowatt hours until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits or, if the customer-generator chooses, credit the customer-generator on a real-time basis, at the electric power supplier's or basic generation service provider's avoided cost of wholesale power or the PJM electric power pool's real-time locational marginal pricing rate, adjusted for losses, for the respective zone in the PJM electric power pool. Alternatively, the customer-generator may execute a bilateral agreement with an electric power supplier or basic generation service provider for the sale and purchase of the customer-generator's excess generation. The customer-generator may be credited on a real-time basis, so long as the customer-generator follows applicable rules prescribed by the PJM electric power pool for its capacity requirements for the net amount of electricity supplied by the electric power supplier or basic generation service provider. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 2.5 percent of the State's peak electricity demand;

(2) safety and power quality interconnection standards for Class I renewable energy source systems used by a customer-generator that shall be eligible for net metering. Such standards or rules shall take into consideration the goals of the New Jersey Energy Master Plan, applicable industry standards, and the standards of other states and the Institute of Electrical and Electronic Engineers. The board shall allow electric public utilities to recover the costs of any new net meters, upgraded net meters, system reinforcements or upgrades, and interconnection costs through either their regulated rates or from the net metering customer-generator; and

(3) credit or other incentive rules for generators using Class I renewable energy generation systems that connect to New Jersey's electric public utilities' distribution system but who do not net meter. Such rules shall require the board or its designee to issue a credit or other incentive to those generators that do not use a net meter but otherwise generate electricity derived from a Class I renewable energy source and to issue an enhanced credit or other incentive, including, but not limited to, a solar renewable energy credit, to those generators that generate electricity derived from solar technologies.
Such standards or rules shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

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

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

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

i. After the board establishes a schedule of solar kilowatt-hour sale or purchase requirements pursuant to paragraph (3) of subsection d. of this section, the board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, increased minimum solar kilowatt-hour sale or purchase requirements, provided that the board shall not reduce previously established minimum solar kilowatt-hour sale or purchase requirements, or otherwise impose constraints that reduce the requirements by any means.
j. The board shall determine an appropriate level of solar alternative compliance payment, and permit each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The value of the SACP for each Energy Year, for Energy Years 2014 through 2028 per megawatt hour from solar electric generation required pursuant to this section, shall be:

<table>
<thead>
<tr>
<th>Energy Year</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2014</td>
<td>$350</td>
</tr>
<tr>
<td>EY 2015</td>
<td>$343</td>
</tr>
<tr>
<td>EY 2016</td>
<td>$336</td>
</tr>
<tr>
<td>EY 2017</td>
<td>$329</td>
</tr>
<tr>
<td>EY 2018</td>
<td>$322</td>
</tr>
<tr>
<td>EY 2019</td>
<td>$315</td>
</tr>
<tr>
<td>EY 2020</td>
<td>$308</td>
</tr>
<tr>
<td>EY 2021</td>
<td>$301</td>
</tr>
<tr>
<td>EY 2022</td>
<td>$294</td>
</tr>
<tr>
<td>EY 2023</td>
<td>$287</td>
</tr>
<tr>
<td>EY 2024</td>
<td>$280</td>
</tr>
<tr>
<td>EY 2025</td>
<td>$273</td>
</tr>
<tr>
<td>EY 2026</td>
<td>$266</td>
</tr>
<tr>
<td>EY 2027</td>
<td>$259</td>
</tr>
<tr>
<td>EY 2028</td>
<td>$252</td>
</tr>
</tbody>
</table>

The board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, an increase in solar alternative compliance payments, provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts through a competitive process, direct electric public utility investment and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board’s approvals shall not be modified by subsequent board orders.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

1. place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;
2. maintain adequate regulatory authority over non-competitive public utility services;
3. consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;
(4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;
(5) make energy services more affordable for low and moderate income customers;
(6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;
(7) achieve the goals put forth under the renewable energy portfolio standards;
(8) promote the lowest cost to ratepayers; and
(9) allow all market segments to participate.

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

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

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:
   (1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;
   (2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;
   (3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and
   (4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs and ORECS shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. SRECs [and ORECs] shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years.
portfolio standards compliance in the energy year in which they are
generated, and for the following [two] four energy years.

q. (1) During the energy years of 2014, 2015, and 2016, a solar
electric generation facility project which is not net metered, not an
on-site generation facility, or not certified as being located on a
brownfield or a properly closed sanitary landfill facility, as
provided pursuant to subsection t. of this section, shall be
considered "connected to the distribution system" if (a) the facility
files a notice with the board indicating its intent to qualify under
this subsection; and (b) the capacity of the facility, when added to
the capacity of other facilities that have been approved for
connection prior to the facility’s filing under this subsection, does
not exceed 100 megawatts in the aggregate for each year. The
board shall act within 180 days of its receipt of a completed
application for designation of a solar power electric generation
facility as "connected to the distribution system," to either approve,
conditionally approve, or disapprove the application. Filings made
pursuant to this subsection shall include a notice escrow of $40,000
per megawatt of the proposed capacity of the facility. The notice
escrow shall be reimbursed to the facility in full upon the facility
entering commercial operation, or shall be forfeited to the State if
the facility is determined to be “connected to the distribution
system” pursuant to this paragraph but does not enter commercial
operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar power electric generation facility does
not commence commercial operations within two years following
the date of the designation by the board pursuant to this subsection,
the designation of the facility as “connected to the distribution
system” shall be deemed to be null and void, and the facility shall
thereafter be considered not "connected to the distribution system."

r. (1) For solar power electric generation facility projects
proposed in addition to those approved pursuant to subsection q. of
this section and for all projects proposed in each energy year
following energy year 2016, a proposed solar power electric
generation facility that is neither net metered nor an on-site
generation facility, may be considered “connected to the
distribution system” only upon designation as such by the board,
after notice to the public and opportunity for public comment or
hearing. A proposed solar power electric generation facility
seeking board designation as "connected to the distribution system"
shall submit an application to the board that includes for the
proposed facility: the nameplate capacity; the estimated energy and
number of SRECs to be produced and sold per year; the estimated
annual rate impact on ratepayers; the estimated capacity of the
generator as defined by PJM for sale in the PJM capacity market;
the point of interconnection; the total acreage and location; the
current land use designation of the property; the type of solar
technology to be used; and other such information as the board shall require.

(2) The board shall approve the designation of the proposed solar power electric generation facility as “connected to the distribution system” if the board determines that:

(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;

(b) the loss of tillable acreage that would result from the approval of the designation of the proposed facility, together with the tillable acreage of all other facilities approved pursuant to this subsection, would cumulatively constitute a loss of less than one percent of the total tillable acres of farmland in the State on the date of enactment of P.L. , c. (pending before the Legislature as this bill), pursuant to information provided by the New Jersey Department of Agriculture; and

(c) the impact of the designation on electric rates and economic development is beneficial.

(3) The board shall act within 180 days of its receipt of a completed application for designation of a solar power electric generation facility as “connected to the distribution system,” to either approve, conditionally approve, or disapprove the application. If the proposed solar power electric generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility as “connected to the distribution system” shall be deemed to be null and void, and the facility shall thereafter be considered not “connected to the distribution system.”

s. Notwithstanding the foregoing provisions of this section, a solar power electric generation facility located on farmland, and not heretofore approved pursuant to subsection q. of this section, shall not be considered “connected to the distribution system” unless the facility has been approved as such by the board and (a) PJM issued a System Impact Study for the facility prior to March 31, 2011; (b) the facility files a notice with the board within 60 days of the effective date of P.L. , c. (pending before the Legislature as this bill), indicating its intent to qualify under this subsection.

t. No more than 180 days after the date of enactment of P.L. , c. (pending before the Legislature as this bill), the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar power electric generation facility projects certified by the board as being located on a brownfield or a properly closed sanitary landfill facility. Projects certified under this
subsection shall (1) be considered “connected to the distribution system” and shall not require such designation by the board and (2) shall not be subject to board review required pursuant to subsections q. and r. of this section. For projects certified under this subsection, the board shall credit additional incentives to be determined by the board for each megawatt hour (MWh) of solar energy that is generated by the project. The issuance of SRECs for all solar electric generation facility projects pursuant to this subsection shall be deemed “Board of Public Utilities financial assistance” as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

u. No more than 180 days after the date of enactment of P.L., c. (C.) (pending before the Legislature as this bill), the board shall complete a proceeding to establish a registration program. The registration program shall require the owners of solar power electric generation facility projects connected to the distribution system to make periodic milestone filings with the board in a manner and at such times as determined by the board to provide full disclosure and transparency regarding the overall level of development and construction activity of those projects Statewide.

v. The issuance of SRECs for all solar power electric generation facility projects pursuant to this section, for projects connected to the distribution system with a capacity of one megawatt or greater, shall be deemed “Board of Public Utilities financial assistance” as provided pursuant to under section 1 of P.L.2009, c.89 (C.48:2-29.47).

(cf: P.L.2010, c.57, s.2)

3. This act shall take effect immediately.

STATEMENT

The bill amends sections 3 and 38 of P.L.1999, c.23 (C.48:3-49 et al.) (“EDECA”) concerning solar renewable energy programs, purchase requirements, and net metering standards. The bill would provide that a solar power electric generation facility shall be deemed by the Board of Public Utilities (“BPU”) as "connected to the distribution system" ("connected") if it is: (1) connected to a net metering customer’s side of a meter, regardless of the voltage at which that customer connects to the electric grid, or (2) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, except that a solar facility that is neither net metered nor an on-site generation facility would not be considered “connected” unless it was designated as such by the BPU as provided pursuant to the bill’s provisions except that, during the energy years of 2014
through 2016, a solar electric generation facility project which is not net metered, not an on-site generation facility, and not certified as being located on a brownfield or a properly closed sanitary landfill facility shall be considered “connected” if the capacity of the facility, when added to the capacity of other facilities that have been approved for connection prior to the facility’s filing, does not exceed 100 megawatts in the aggregate for each energy year. Such facilities would not be subject to BPU review. Failure to commence commercial operations within two years following the date of the “connected” designation would void the designation.

Notwithstanding the foregoing criteria, the BPU must approve the designation of the proposed facility as “connected” if it determines that: (1) the solar renewable energy certificates (“SREC”s) forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State; (2) the loss of tillable acreage that would result from the approval of the designation of the proposed facility, together with the tillable acreage of all other similar facilities, would cumulatively constitute a loss of less than one percent of the total tillable acres of farmland in the State on the date of the bill’s enactment, pursuant to information provided by the New Jersey Department of Agriculture; and (3) the impact of the designation on electric rates and economic development is beneficial provided, however, that a solar facility constructed on farmland would not be considered “connected” unless it is approved by the BPU as such and (a) it is approved as a facility not subject to BPU review for energy years 2014, 2015, or 2016, or (b) PJM issued a System Impact Study for the facility prior to March 31, 2011 and the facility files a notice with the board within 60 days of the bill’s effective date indicating its intent to qualify as connected under the bill.

The bill directs the BPU, to within 180 days of the bill’s enactment, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, establish a program to provide SRECs to owners of solar power electric generation facility projects certified as being located on a brownfield or a properly closed sanitary landfill facility and provide that such projects shall (1) be considered “connected to the distribution system,” (2) not be subject to board review, and (3) be credited additional incentives for each megawatt hour of solar energy that is generated by the project.

The bill provides that the issuance of SRECs for projects located on brownfields and landfills, and for projects greater than one megawatt are to be deemed “Board of Public Utilities financial assistance” as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47), to provide that prevailing wage rates would apply to such projects.
The bill requires the BPU to establish a solar registration program, which would require that all owners of solar electric power generation facilities that are filing with the BPU for approval to generate SRECs, to file documents detailing the size, location, interconnection plan, land use, and other project information as required by the BPU.

The bill would extend the scope of "Class I renewable energy" producers to include small scale hydropower facilities with a capacity of three megawatts or less that are put into service after the effective date of the bill. "Small scale hydropower facility" is defined to mean a facility located within New Jersey that is connected to the distribution system, and that meets the requirements of, and has been certified by, a nationally recognized low-impact hydropower organization. Electricity from any hydropower facility with a capacity greater than three megawatts would be included in the category of "Class II renewable energy."

The bill would provide that for a resource recovery facility to be considered as generating Class II renewable energy, the facility must be in compliance with current environmental standards, including, but not limited to, all applicable requirements of the federal “Clean Air Act.” The bill clarifies that a "combined heat and power facility" or "co-generation facility" means a generation facility which produces electric energy and steam. The bill also provides that an on-site generation facility shall include an on-site facility that produces Class I or Class II renewable energy.

The bill would change the solar alternative compliance payment ("SACP") schedule from a 15-year schedule with obligations set by the board to a statutorily established schedule with specifically prescribed SACP values for each energy year.

The bill revises the multi-year schedule of Statewide solar gigawatt hour requirements applicable to electric power suppliers and basic generation providers for Energy Years 2014 to 2028. The requirements are stated in percentages, instead of being enumerated in gigawatt hours, from 1.832% in 2014 to 3.730% in 2028 and every energy year thereafter. The bill also provides for the BPU to determine whether a provider or supplier is in compliance with annual renewable portfolio standards within a period of no less than 120 days following the end of an energy year, and to provide for a future adjustment in annual Statewide gigawatt hour requirements based upon any shortfall that is determined by the BPU.

The bill requires the BPU to, within 24 months following enactment, complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit a report to the Governor and the Legislature, detailing its findings and recommendations. As part of the proceeding, the BPU must evaluate other techniques used nationally and internationally.

The bill would provide that the additional solar purchase requirements distributed over the electric power providers not
subject to the existing supply contract exemption provided under section 38 of EDECA, shall be distributed in a manner that is competitively neutral among all providers, such that non-exempt providers are assigned the requirements that would have otherwise been assigned to the exempt providers.

The bill provides that long-term SREC purchase contracts offered by the BPU, shall be offered through a competitive process, including direct investment by electric utilities.

Finally, the bill revises the BPU’s mandate concerning the prescribing of standards under which basic generation service providers and electric power suppliers must offer net metering to their customers that generate electricity, on the customer side of the meter, using a Class I renewable energy source, for a customer that is a school district, county or municipality, including any agency, authority, or other entity thereof ("customer-generators"). Specifically, the bill expands the eligibility requirements for the provision of net metering to customer-generators when the generation is occurring on two or more properties owned or leased and operated by customer-generators where those properties are either: (1) contiguous to each other within the service territory of one electric utility ("physical net metering aggregation"); or (2) non-contiguous but within three miles of each other property of the customer-generator within the service territory of one electric utility ("virtual net metering aggregation"). Further, the bill allows customer-generators receiving virtual net metering aggregation service to designate other of its net metering instruments to be credited with the kilowatt-hour production from its physical net metering aggregation service, including net annual excess, if any.