

SENATE, No. 2611

STATE OF NEW JERSEY
215th LEGISLATURE

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Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

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District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Directs BPU to coordinate with PJM Interconnection, L.L.C. concerning development of offshore transmission infrastructure.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning transmission infrastructure, electricity security,
2 and offshore wind energy development, and supplementing Title
3 48 of the Revised Statutes.

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

7
8 1. This act shall be known and may be cited as the “New
9 Jersey Transmission Infrastructure, Development of Employment,
10 and Electric Security Act” (“NJ TIDES Act”).

11
12 2. The Legislature finds and declares:

13 a. Three major storms, Hurricane Irene in August 2011, a
14 major snowstorm in October 2011, and Hurricane Sandy in October
15 2012, each resulted in extensive damage to the State’s electrical
16 infrastructure. Each storm left millions of customers in the State
17 and elsewhere in the region without power for a prolonged period
18 and caused significant economic losses on the State’s households
19 and businesses;

20 b. An August 9, 2012 report prepared for the New Jersey Board
21 of Public Utilities (board) identifies flooding of substations and
22 trees falling on aerial infrastructure as primary causes of damage to
23 critical electric infrastructure in the State from the two 2011 storms.
24 PJM Interconnection, L.L.C. (PJM), the region’s high-voltage grid
25 operator, reported that over 140 transmission lines or substations
26 were disabled by Hurricane Sandy and that New Jersey was the
27 hardest hit in PJM’s area, with many outages due to flooding in
28 substations in northern New Jersey;

29 c. Electric power transmission constraints in the State also are
30 a longstanding problem, resulting in higher energy costs and
31 reduced reliability of the electric grid. These issues will be
32 magnified by the retirement of the Oyster Creek nuclear power
33 facility, currently scheduled for 2019, leaving a 645 megawatt
34 (MW) gap in electric generation capacity in the State, including the
35 coastal region;

36 d. Southern New Jersey has the State’s largest, low-cost energy
37 resource at the Salem and Hope Creek nuclear power facilities,
38 while northern New Jersey has a large load and substantially
39 higher-cost electric generating plants. The expansion of north-
40 south transmission infrastructure in the State will allow the efficient
41 and cost-effective transmission of energy and capacity to
42 constrained areas, thereby reducing energy costs;

43 e. The State’s long-term capacity agreement pilot program,
44 established pursuant to P.L.2011, c.9 (C.48:3-98.2 et al.), supported
45 the construction of new, high-efficiency electric generating plants
46 in the State. New transmission capacity serving the State’s most
47 populous and constrained areas will strengthen the reliability of the

- 1 electric power grid. Offshore transmission infrastructure will help
2 deliver the new energy and capacity to constrained areas;
- 3 f. The “Offshore Wind Economic Development Act,”
4 P.L.2010, c.57 (C.48:3-87.1 et al.), encourages the development of
5 offshore wind power that delivers electricity into New Jersey to
6 promote economic development and clean energy. The siting and
7 permitting of electric transmission infrastructure is frequently a
8 difficult issue, and the long lead-time slows the development of
9 renewable energy projects. Having offshore transmission
10 infrastructure will speed the deployment of offshore wind turbines
11 through streamlined permitting and promote the formation of an
12 offshore wind industry in the State. In addition, offshore
13 transmission infrastructure will reduce the environmental impacts of
14 transmission line construction in the State’s coastal region;
- 15 g. The development of offshore transmission infrastructure will
16 benefit the State by providing transmission from offshore wind
17 generators to onshore ones, and north-south transmission of energy,
18 including offshore wind and will minimize congestion and to reduce
19 prices. Single-purpose radial transmission lines for offshore wind
20 turbines, on the other hand, are useful only when the wind farms are
21 producing energy, and otherwise provide no benefit to the State;
- 22 h. Offshore transmission infrastructure is buried and is less
23 likely to be impacted by natural disasters, severe weather, ice
24 storms, or falling trees and will therefore assist in ensuring faster
25 service restoration and continued transmission of electricity in the
26 event of local or regional disruption to the electric transmission
27 system;
- 28 i. The development of offshore transmission infrastructure will
29 create approximately 1,980 direct construction and operational jobs
30 in the State and help to catalyze the creation of thousands of jobs
31 that could be created in the State by an offshore wind industry;
- 32 j. The development of offshore transmission infrastructure
33 requires timely acquisition of federal offshore right-of-way,
34 coordination with offshore wind farm development, and fair cost
35 allocation on behalf of the State’s ratepayers;
- 36 k. To be built, offshore transmission infrastructure must be
37 approved by PJM and be included in PJM’s Regional Transmission
38 Expansion Plan (RTEP). PJM’s RTEP tariff filing provides for a
39 “State Agreement Approach” that will: (1) require states to
40 expressly request the inclusion in the PJM RTEP of transmission
41 projects designed to meet public policy requirements, including
42 offshore wind energy development policies; and (2) accept on
43 behalf of the requesting the State’s ratepayers cost responsibility for
44 the project; and
- 45 l. The Legislature therefore determines that, for all of the
46 above benefits to be realized, New Jersey must communicate to
47 PJM the State’s support for offshore transmission infrastructure
48 linking northern New Jersey to southern New Jersey as a project

1 that improves regional grid reliability, encourages efficient
2 transmission of electricity from State and regional generation
3 resources, and supports the State's offshore wind energy
4 development goals.

5

6 3. As used in P.L. , c. (C.) (pending before the
7 Legislature as this bill):

8 "Board" shall have the same meaning as provided in section 3 of
9 P.L.1999, c.23 (C.48:30-51).

10 "Electric public utility" shall have the same meaning as provided
11 in section 3 of P.L.1999, c.23 (C.48:30-51).

12 "FERC" shall have the same meaning as provided in section 3 of
13 P.L.1999, c.23 (C.48:30-51).

14 "Offshore transmission infrastructure" means an advanced high-
15 voltage electric transmission facility that, except for minimal
16 portions, will be entirely buried along its route and: a. connects
17 southern New Jersey in the area of Atlantic City, central coastal
18 New Jersey, and northern New Jersey in the area known as the PS-
19 North Locational Deliverability Area; b. is sited to serve New
20 Jersey's wind energy area and is designed to efficiently connect up
21 to 3,000 megawatts of offshore wind energy, while supporting the
22 delivery of other energy and capacity from one or more plants in the
23 State; and c. is part of a pending application filed at the Bureau of
24 Ocean Energy Management in the United States Department of the
25 Interior for a grant of offshore right-of-way and which the applicant
26 has been issued a "Determination of No Competitive Interest" by
27 the bureau prior to the date of the enactment of P.L. , c. (C.)
28 (pending before the Legislature as this bill).

29 "Offshore wind renewable energy certificate" shall have the
30 same meaning as provided in section 3 of P.L.1999, c.23 (C.48:30-
31 51).

32 "PJM Interconnection, L.L.C." or "PJM" shall have the same
33 meaning as provided in section 3 of P.L.1999, c.23 (C.48:30-51).

34 "Qualified offshore wind project" shall have the same meaning
35 as provided in section 3 of P.L.1999, c.23 (C.48:30-51).

36 "RTEP" means a Regional Transmission Expansion Plan as
37 established by PJM.

38

39 4. a. It is the policy of the State, of which PJM Interconnection,
40 L.L.C. shall take notice, that the State: (1) hereby requests
41 admission of offshore transmission infrastructure into the PJM
42 RTEP as a "State Agreement Approach" project that improves
43 regional grid reliability, enhances the efficient transmission of
44 electricity from State and regional generation resources, thereby
45 reducing the cost of delivered power by mitigating congestion, and
46 supports the State's offshore wind development goals; (2)
47 designates the entity, consistent with the definition of offshore
48 transmission infrastructure, that PJM determines is qualified to

1 build such project; and (3) accepts allocation of the costs of such
2 offshore transmission infrastructure pursuant to the applicable PJM
3 State Agreement Approach project tariff provisions approved by the
4 FERC. Without limiting the foregoing, the State reserves the right
5 to seek inclusion of offshore transmission infrastructure in the
6 RTEP under other applicable tariff provisions approved by the
7 FERC or to receive the benefits of any tariff provisions that would
8 allocate the costs of such offshore transmission infrastructure to all
9 beneficiaries consistent with federal law. PJM shall be deemed
10 notified of the State policy expressed herein immediately upon the
11 date of enactment of P.L. , c. (C.) (pending before the
12 Legislature as this bill), and the board shall also communicate with
13 PJM to effect the purposes of P.L. , c. (C.) (pending before
14 the Legislature as this bill) within 14 days of P.L. , c. (C.)
15 (pending before the Legislature as this bill).

16 b. The board shall coordinate with PJM and any other affected
17 parties, as appropriate, to facilitate the purposes of P.L. , c. (C.)
18 (pending before the Legislature as this bill), which coordination
19 shall include, but not be limited to, the following:

20 (1) ensuring that the transmission capacity rights on the offshore
21 transmission infrastructure are preserved for the benefit of the
22 State's ratepayers and that offshore wind energy and conventional
23 energy resource dispatch procedures are coordinated with PJM
24 using that transmission capacity to minimize energy costs for the
25 State's ratepayers;

26 (2) making such filings at the FERC as may be necessary to
27 ensure that the allocation of the costs of the offshore transmission
28 infrastructure appropriately and fairly reflect the reliability, market
29 efficiency, and public policy benefits of a project, consistent with
30 federal law;

31 (3) supporting a determination by the FERC of cost allocation
32 for offshore transmission infrastructure;

33 (4) enabling the offshore transmission infrastructure to be
34 admitted into the RTEP by June 30, 2013, regardless of whether all
35 coordination activities are complete by that date; and

36 (5) establishing procedures for assignment and collection by
37 PJM of the offshore transmission infrastructure revenue
38 requirement, as regulated by the FERC, through the PJM tariff. The
39 board, on behalf of the State, shall require that the share of such
40 revenue requirement allocable to the State's ratepayers be allocated
41 proportionately to each load-serving entity in the State based on
42 PJM transmission charges to such load-serving entities.

43

44 5. a. The board shall conduct a study of the benefits and
45 ratepayer impact of offshore transmission infrastructure to the State
46 and the region to ensure that PJM appropriately and fairly reflects
47 those benefits in its cost allocation determination and that any
48 ratepayer impact is minimized. If, at a future date, the board

1 determines that, due to the cost allocation method proposed by
2 PJM, changed offshore wind industry conditions, or otherwise, that
3 offshore transmission infrastructure ceases to advance the goals of
4 the State's energy master plan adopted pursuant to section 12 of
5 P.L.1977, c.146 (C.52:27F-14), the board shall submit a report to
6 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
7 19.1), recommending that the PJM State Agreement Approach
8 project be cancelled by PJM and withdrawn from the RTEP, as
9 appropriate.

10 b. The entity proposing to build an offshore transmission
11 infrastructure project shall fund an account pursuant to an escrow
12 agreement with the board to pay the cost of the benefits and
13 ratepayer impact study, upon acceptance of such project into the
14 PJM RTEP, up to an amount not to exceed \$750,000. Any amount
15 in the escrow fund in excess of the cost of the study shall be
16 returned to the entity upon completion of the study.

17
18 6. a. The board shall instruct an entity seeking to construct an
19 offshore wind project pursuant to section 3 of P.L.2010, c.57
20 (C.48:3-87.1) that the entity may provide two bids for an offshore
21 wind renewable energy certificate: (1) one bid related to an offshore
22 transmission infrastructure; and (2) one bid using single-purpose
23 radial transmission. A wind turbine electricity generation facility in
24 the Atlantic Ocean that is connected to offshore transmission
25 infrastructure and connected to the electric transmission system in
26 this State shall be deemed a qualified offshore wind project.

27 b. An entity that owns and operates an offshore transmission
28 infrastructure serving the State shall be:

29 (1) considered a multi-jurisdictional project;

30 (2) designated as reasonably necessary for the service,
31 convenience, and welfare of the public;

32 (3) deemed a "public utility" for purposes of the "Municipal
33 Land Use Law," P.L.1976, c.291 (C.40:55D-1 et seq.);

34 (4) authorized to use State, county, and municipal rights-of-way,
35 including highway roadbed access;

36 (5) deemed to hold the necessary electric public utility franchise
37 for transmission service only, subject to provisions applicable to
38 compensation for use of rights-of-way for the placement of electric
39 public utility infrastructure generally applicable to an electric public
40 utility; and

41 (6) required by the board to construct, operate, and maintain the
42 offshore transmission infrastructure in conformity with safety
43 requirements applicable to high-voltage electrical infrastructure
44 projects.

45
46 7. This act shall take effect immediately.

STATEMENT

This bill establishes the State policy directing PJM Interconnection, L.L.C. (PJM) to admit an offshore electric transmission infrastructure, commonly referred to as the “Offshore Electric Transmission Backbone,” linking northern New Jersey to southern New Jersey as a project in PJM’s Regional Transmission Expansion Plan (RTEP).

The bill directs the Board of Public Utilities (BPU) to coordinate with PJM and other parties, as appropriate, so that admission into the RTEP may be accomplished by June 30, 2013, to timely address New Jersey’s reliability and market efficiency transmission needs and to facilitate New Jersey’s planned offshore wind energy developments. The BPU’s coordination with PJM shall include: (1) ensuring that the transmission capacity rights on the offshore transmission infrastructure are preserved for the benefit of the State’s ratepayers and that offshore wind energy and conventional energy resource dispatch procedures are coordinated with PJM using transmission capacity to minimize energy costs for the State’s ratepayers; and (2) ensuring that PJM makes a determination of cost allocation for the offshore transmission backbone consistent with PJM’s Federal Energy Regulatory Commission (FERC) approved tariff. The bill requires the BPU to consult with PJM regarding the assignment and collection of transmission line revenue requirements, as regulated by the FERC, through the PJM tariff.

The bill provides that the State accepts the allocation of offshore transmission infrastructure costs pursuant to PJM’s FERC approved tariff and reserves the right to seek the benefits of any PJM cost allocation tariff provisions which require cost allocation to beneficiaries consistent with federal law. The BPU is directed to conduct a study of the benefits and ratepayer impact of offshore transmission infrastructure to the State and the region to ensure that PJM appropriately and fairly reflects those benefits in its cost allocation determination and that ratepayer impact is minimized. The bill protects ratepayer interests and requires the BPU to report to the Legislature with its recommendation regarding necessary changes to the project’s configuration or a recommendation to cancel the project and remove the project from the RTEP if, due to the cost allocation method proposed by PJM, future changed offshore wind industry conditions, or otherwise, the offshore transmission infrastructure ceases to advance the goals of the State’s Energy Master Plan.

To simplify the siting of this State-wide transmission project using buried cable, and to eliminate the possibility of a federal override of State siting authority, the bill provides that an entity that owns and operates offshore transmission infrastructure shall be classified by the BPU as a “public utility” for purposes of the State’s “Municipal Land Use Law” and public right-of-way,

1 including highway roadbed access, and also shall be deemed to hold
2 an electric public utility franchise for transmission service only,
3 subject to such provisions applicable to compensation for use of
4 rights-of-way for the placement of utility infrastructure generally
5 applicable to electric public utilities. Further, the entity that owns
6 and operates offshore transmission infrastructure shall be required
7 by the BPU to construct, operate, and maintain the offshore
8 transmission infrastructure in conformity with applicable safety
9 requirements.

10 Finally, the bill directs the BPU to indicate to developers of
11 offshore wind projects that they may include the use of an offshore
12 transmission infrastructure and an alternative use of single-purpose
13 radial transmission in the developers' applications for offshore wind
14 renewable energy certificates (ORECs) under the BPU's OREC
15 program.