AN ACT concerning electric power net metering and amending
P.L.1999, c.23.

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

1. 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
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, 2028, that requires 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>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2011</td>
<td>306 Gigawatthours (Gwhrs)</td>
</tr>
<tr>
<td>EY 2012</td>
<td>442 Gwhrs</td>
</tr>
<tr>
<td>EY 2013</td>
<td>596 Gwhrs</td>
</tr>
<tr>
<td>EY 2014</td>
<td>2.050%</td>
</tr>
<tr>
<td>EY 2015</td>
<td>2.450%</td>
</tr>
<tr>
<td>EY 2016</td>
<td>2.750%</td>
</tr>
<tr>
<td>EY 2017</td>
<td>3.000%</td>
</tr>
<tr>
<td>EY 2018</td>
<td>3.200%</td>
</tr>
<tr>
<td>EY 2019</td>
<td>3.290%</td>
</tr>
<tr>
<td>EY 2020</td>
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<tr>
<td>EY 2021</td>
<td>3.470%</td>
</tr>
<tr>
<td>EY 2022</td>
<td>3.560%</td>
</tr>
<tr>
<td>EY 2023</td>
<td>3.650%</td>
</tr>
<tr>
<td>EY 2024</td>
<td>3.740%</td>
</tr>
</tbody>
</table>
EY 2025  3.830%
EY 2026  3.920%
EY 2027  4.010%
EY 2028  4.100%, and for every energy year thereafter, at least
4.100% 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 each
obtain at least 3.470% in the energy year 2021 and 4.100% in the
energy year 2028 from solar electric power generators connected to
the distribution system in this State, provided, however, that:
(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.2012, c.24, 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.2012, c.24 from any
increase beyond the number of SRECs 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 requirements that
would have otherwise been imposed on exempt providers shall be
distributed over the providers not subject to the existing supply
contract exemption until such time as existing supply contracts
expire and all providers are subject to the new requirement in a
manner that is competitively neutral among all providers and
suppliers. The board shall implement the provisions of this
subsection in a manner so as to prevent any subsidies between
suppliers and providers and to promote competition in the
electricity supply industry.
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 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

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. 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 to customers that are not already net metered whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals \[2.5\] \(\frac{7.5}{4}\) \(\frac{2.9}{2}\) percent of the State's peak electricity demand.\] total annual kilowatt-hours sold in this State by each
electric power supplier and each basic generation service provider
during the prior one-year period¹;

(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;

(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; and

(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority. The standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system using a net metering billing account, which system is located on property owned by the customer, provided that:

(a) the property is not land that has been actively devoted to agricultural or horticultural use and 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.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, provided, however, that the municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement of this subparagraph (a), (b) the system is not an on-site generation facility, (c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another, and (d) all of those facilities are within the service territory of a single electric public utility and are all served by the same basic generation service provider or by the same electric power supplier. The standards shall provide that in order to qualify for net metering aggregation, the customer's solar electric power generation system shall be sized so that its annual generation does not exceed the combined metered annual energy
usage of the qualified customer facilities, and the qualified
customer facilities shall all be in the same customer rate class
under the applicable electric public utility tariff. For the customer's
facility or property on which the solar electric generation system is
installed, the electricity generated from the customer's solar electric
generation system shall be accounted for pursuant to the provisions
of paragraph (1) of this subsection to provide that the electricity
generated in excess of the electricity supplied by the electric power
supplier or the basic generation service provider, as the case may
be, for the customer's facility on which the solar electric generation
system is installed, over the annualized period, is credited at the
electric power supplier's or the basic generation service provider's
avoided cost of wholesale power or the PJM electric power pool
real-time locational marginal pricing rate. All electricity used by
the customer's qualified facilities, with the exception of the facility
or property on which the solar electric power generation system is
installed, shall be billed at the full retail rate pursuant to the electric
public utility tariff applicable to the customer class of the customer
using the electricity. A customer may contract with a third party to
operate a solar electric power generation system, for the purpose of
net metering aggregation. Any contractual relationship entered into
for operation of a solar electric power generation system related to
net metering aggregation shall include contractual protections that
provide for adequate performance and provision for construction
and operation for the term of the contract, including any appropriate
bonding or escrow requirements. Any incremental cost to an
electric public utility for net metering aggregation shall be fully and
timely recovered in a manner to be determined by the board. The
board shall adopt net metering aggregation standards within 270
days after the effective date of P.L.2012, c.24.

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>SACP</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2014</td>
<td>$339</td>
</tr>
<tr>
<td>EY 2015</td>
<td>$331</td>
</tr>
<tr>
<td>EY 2016</td>
<td>$323</td>
</tr>
<tr>
<td>EY 2017</td>
<td>$315</td>
</tr>
<tr>
<td>EY 2018</td>
<td>$308</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. If the board allows the offering of contracts pursuant to this subsection, the board may establish a process, after hearing, and opportunity for public comment, to provide that a designated segment of the contracts approved pursuant to this subsection shall be contracts involving solar electric power generation facility projects with a capacity of up to 250 kilowatts.

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 shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.
q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a
brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this section may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of $40,000 per megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed a notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility's filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project approved pursuant to this subsection shall not exceed 10 megawatts.

No more than 90 days after its receipt of a completed application for designation pursuant to this subsection, the board shall approve, conditionally approve, or disapprove the application. The notice escrow shall be reimbursed to the facility in full upon either rejection by the board or the facility entering commercial operation, or shall be forfeited to the State if the facility is designated pursuant to this subsection but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar electric power 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 shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in each energy year following energy year 2016, a proposed solar electric power 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 project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other 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 approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;
(c) the impact of the designation on electric rates and economic development is beneficial; and
(d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.

(3) The board shall act within 90 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 electric power 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. In addition to any other requirements of P.L.1999, c.23 or any other law, rule, regulation or order, a solar electric power generation facility that is not net metered or an on-site generation facility and which is located on land that has been 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.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, shall only be considered "connected to the distribution system" if (1) the board approves the facility's designation pursuant to subsection q. of this section; or (2) (a) PJM issued a System Impact Study for the facility on or before June 30, 2011, (b) the facility files a notice with the board within 60 days of the effective date of P.L.2012, c.24, indicating its intent to qualify under this subsection, and (c) the facility has been approved as "connected to the distribution system" by the board. Nothing in this subsection shall limit the board's authority concerning the review and oversight of facilities, unless such facilities are exempt from such review as a result of having been approved pursuant to subsection q. of this section.

t. (1) No more than 180 days after the date of enactment of P.L.2012, c.24, 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 electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, including those owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1). Projects certified under this subsection shall be considered "connected to the distribution system", shall not require such designation by the board, and shall not be subject to board review required pursuant to subsections q. and r. of this section. Notwithstanding the provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or order to the contrary, for projects certified under this subsection, the board shall establish a financial incentive that is designed to supplement the SRECs generated by the facility in order to cover the additional cost of constructing and operating a solar electric power generation facility on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers. The issuance of SRECs for all solar electric power 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).

(2) Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any other law, rule, regulation, or order to the contrary, the board, in consultation with the Department of Environmental Protection, may find that a person who operates a solar electric power generation facility project that has commenced operation on or after the effective date of P.L.2012, c.24, which project is certified by the board, in consultation with the Department of Environmental Protection pursuant to paragraph (1) of this subsection, as being located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility, which projects shall include, but not be limited to projects located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), or a person who owns property acquired on or after the effective date of P.L.2012, c.24 on which such a solar electric power generation facility project is constructed.
and operated, shall not be liable for cleanup and removal costs to the Department of Environmental Protection or to any other person for the discharge of a hazardous substance provided that:

(a) the person acquired or leased the real property after the discharge of that hazardous substance at the real property;
(b) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g);
(c) the person, within 30 days after acquisition of the property, gave notice of the discharge to the Department of Environmental Protection in a manner the Department of Environmental Protection prescribes;
(d) the person does not disrupt or change, without prior written permission from the Department of Environmental Protection, any engineering or institutional control that is part of a remedial action for the contaminated site or any landfill closure or post-closure requirement;
(e) the person does not exacerbate the contamination at the property;
(f) the person does not interfere with any necessary remediation of the property;
(g) the person complies with any regulations and any permit the Department of Environmental Protection issues pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6);
(h) with respect to an area of historic fill, the person has demonstrated pursuant to a preliminary assessment and site investigation, that hazardous substances have not been discharged; and
(i) with respect to a properly closed sanitary landfill facility, no person who owns or controls the facility receives, has received, or will receive, with respect to such facility, any funds from any post-closure escrow account established pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of the facility.

Only the person who is liable to clean up and remove the contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g) and who does not have a defense to liability pursuant to subsection d. of that section shall be liable for cleanup and removal costs.

u. No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to establish a registration program. The registration program shall require the owners of solar electric power 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 electric power 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 section 1 of P.L.2009, c.89 (C.48:2-29.47).

w. No more than 270 days after the date of enactment of P.L.2012, c.24, the board shall, after notice and opportunity for public comment and public hearing, complete a proceeding to consider whether to establish a program to provide, to owners of solar electric power generation facility projects certified by the board as being three megawatts or greater in capacity and being net metered, including facilities which are owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is designed to supplement the SRECs generated by the facility to further the goal of improving the economic competitiveness of commercial and industrial customers taking power from such projects. If the board determines to establish such a program pursuant to this subsection, the board may establish a financial incentive to provide that the board shall issue one SREC for no less than every 750 kilowatt-hours of solar energy generated by the certified projects. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provisions of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers.

x. Solar electric power generation facility projects that are located on an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved, or an impervious surface may be owned or operated by an electric public utility and may be approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

(cf: P.L.2012, c.24, s.2)

2. This act shall take effect immediately.

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Increases electric power net metering capacity threshold to 2.9 percent of total annual kilowatt-hours sold in State.