

SENATE, No. 104

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes “Green Fund” in BPU to provide funding for energy reliability, resilience, and sustainability programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/11/2016)

1 **AN ACT** concerning funding for energy resilience and amending
2 P.L.1999, c.23.

3

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

6

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

18 "Board" means the New Jersey Board of Public Utilities or any
19 successor agency.

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

44 "Bondable stranded costs rate order" means one or more
45 irrevocable written orders issued by the board pursuant to P.L.1999,
46 c.23 (C.48:3-49 et al.) which determines the amount of bondable
47 stranded costs and the initial amount of transition bond charges

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

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

22 "British thermal unit" or "Btu" means the amount of heat
23 required to increase the temperature of one pound of water by one
24 degree Fahrenheit.

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

32 "Brownfield" means any former or current commercial or
33 industrial site that is currently vacant or underutilized and on which
34 there has been, or there is suspected to have been, a discharge of a
35 contaminant.

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

43 "Buyout" means an arrangement or arrangements involving the
44 buyer and seller in a given power purchase contract and, in some
45 cases third parties, for consideration to be given by the buyer in
46 order to effectuate a termination of **[such]** the power purchase
47 contract.

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

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

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

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

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

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

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

46 "Comprehensive resource analysis" means an analysis including,
47 but not limited to, an assessment of existing market barriers to the

1 implementation of energy efficiency and renewable technologies
2 that are not or cannot be delivered to customers through a
3 competitive marketplace.

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

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

28 "Customer account service" means metering, billing, or such
29 other administrative activity associated with maintaining a customer
30 account.

31 "Delivery year" or "DY" means the 12-month period from June
32 1st through May 31st, numbered according to the calendar year in
33 which it ends.

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

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

45 "Electric power generator" means an entity that proposes to
46 construct, own, lease, or operate, or currently owns, leases, or
47 operates, an electric power production facility that will sell or does

1 sell at least 90 percent of its output, either directly or through a
2 marketer, to a customer or customers located at sites that are not on
3 or contiguous to the site on which the facility will be located or is
4 located. The designation of an entity as an electric power generator
5 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
6 and of itself, affect the entity's status as an exempt wholesale
7 generator under the **【Public Utility Holding Company】** Energy
8 Policy Act of 【1935, 15 U.S.C. s.79 et seq.】 2005, Pub.L.109-58, or
9 its successor act.

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

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

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

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

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

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

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

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

5 "Energy reliability" means a reliance on energy that is generated
6 from consistent electrical output and meets expected peaks in
7 energy demand.

8 "Energy resilience" means ensuring energy robustness in the
9 electric public utility's infrastructure and operations in order to
10 avoid or minimize interruptions of service during disruptive events.

11 "Energy sustainability" means generating energy from non-
12 exhaustible resources that can provide current energy demand
13 without compromising future energy needs.

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

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

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

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

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

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

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

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

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

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

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

40 "Government energy aggregation program" means a program and
41 procedure pursuant to which a government aggregator enters into a
42 written contract for the provision of electric generation service or
43 gas supply service on behalf of business or residential customers
44 within its territorial jurisdiction.

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

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

6 "Historic fill" means generally large volumes of non-indigenous
7 material, no matter what date they were emplaced on the site, used
8 to raise the topographic elevation of a site, which were
9 contaminated prior to emplacement and are in no way connected
10 with the operations at the location of emplacement and which
11 include, but are not limited to, construction debris, dredge spoils,
12 incinerator residue, demolition debris, fly ash, and non-hazardous
13 solid waste. "Historic fill" shall not include any material which is
14 substantially chromate chemical production waste or any other
15 chemical production waste or waste from processing of metal or
16 mineral ores, residues, slags, or tailings.

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

22 "Infrastructure resilience" means: (1) reducing the magnitude or
23 duration of the impact of disruptive energy events through
24 anticipation, reaction, adaptation, and rapid recovery from the
25 event; (2) supplying electric demand and energy requirements of
26 electric public utility customers, while taking into account
27 unscheduled outages; and (3) withstanding sudden disturbances
28 such as unanticipated energy outages.

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

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

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

44 "Market transition charge" means a charge imposed pursuant to
45 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
46 utility, at a level determined by the board, on the electric public
47 utility customers for a limited duration transition period to recover

1 stranded costs created as a result of the introduction of electric
2 power supply competition pursuant to the provisions of P.L.1999,
3 c.23 (C.48:3-49 et al.).

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

13 "Mid-merit electric power generation facility" means a
14 generation facility that operates at a capacity factor between
15 baseload generation facilities and peaker generation facilities.

16 "Net metering aggregation" means a procedure for calculating
17 the combination of the annual energy usage for all facilities owned
18 by a single customer where **[such]** the customer is a State entity,
19 school district, county, county agency, county authority,
20 municipality, municipal agency, or municipal authority, and which
21 are served by a solar electric power generating facility as provided
22 pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999,
23 c.23 (C.48:3-87).

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

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

28 "Offshore wind energy" means electric energy produced by a
29 qualified offshore wind project.

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

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

42 "On-site generation facility" means a generation facility,
43 including, but not limited to, a generation facility that produces
44 Class I or Class II renewable energy, and equipment and services
45 appurtenant to electric sales by **[such]** that facility to the end use
46 customer located on the property or on property contiguous to the
47 property on which the end user is located. An on-site generation

1 facility shall not be considered a public utility. The property of the
2 end use customer and the property on which the on-site generation
3 facility is located shall be considered contiguous if they are
4 geographically located next to each other, but may be otherwise
5 separated by an easement, public thoroughfare, transportation or
6 utility-owned right-of-way, or if the end use customer is purchasing
7 thermal energy services produced by the on-site generation facility,
8 for use for heating or cooling, or both, regardless of whether the
9 customer is located on property that is separated from the property
10 on which the on-site generation facility is located by more than one
11 easement, public thoroughfare, or transportation or utility-owned
12 right-of-way.

13 "Person" means an individual, partnership, corporation,
14 association, trust, limited liability company, governmental entity, or
15 other legal entity.

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

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

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

34 "Properly closed sanitary landfill facility" means a sanitary
35 landfill facility, or a portion of a sanitary landfill facility, for which
36 performance is complete with respect to all activities associated
37 with the design, installation, purchase, or construction of all
38 measures, structures, or equipment required by the Department of
39 Environmental Protection, pursuant to law, in order to prevent,
40 minimize, or monitor pollution or health hazards resulting from a
41 sanitary landfill facility subsequent to the termination of operations
42 at any portion thereof, including, but not necessarily limited to, the
43 placement of earthen or vegetative cover, and the installation of
44 methane gas vents or monitors and leachate monitoring wells or
45 collection systems at the site of any sanitary landfill facility.

46 "Public utility holding company" means: (1) any company that,
47 directly or indirectly, owns, controls, or holds with power to vote,

1 10 percent or more of the outstanding voting securities of an
2 electric public utility or a gas public utility or of a company which
3 is a public utility holding company by virtue of this definition,
4 unless the Securities and Exchange Commission, or its successor,
5 by order declares **【such】** the company not to be a public utility
6 holding company under the **【Public Utility Holding Company】**
7 Energy Policy Act of **【1935, 15 U.S.C. s.79 et seq.】** 2005
8 Pub.L.109-58, or its successor act; or (2) any person that the
9 Securities and Exchange Commission, or its successor, determines,
10 after notice and opportunity for hearing, directly or indirectly, to
11 exercise, either alone or pursuant to an arrangement or
12 understanding with one or more other persons, such a controlling
13 influence over the management or policies of an electric public
14 utility or a gas public utility or public utility holding company as to
15 make it necessary or appropriate in the public interest or for the
16 protection of investors or consumers that **【such】** the person be
17 subject to the obligations, duties, and liabilities imposed in the
18 **【Public Utility Holding Company】** Energy Policy Act of **【1935, 15**
19 **U.S.C. s.79 et seq.】** 2005 Pub.L.109-58, or its successor act.

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

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

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

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

43 "Related competitive business segment of a public utility holding
44 company" means any business venture of a public utility holding
45 company, including, but not limited to, functionally separate
46 business units, joint ventures, and partnerships and subsidiaries, that
47 offers to provide or provides competitive services, but does not

1 include any related competitive business segments of an electric
2 public utility or gas public utility.

3 "Reliability pricing model" or "RPM" means PJM's capacity-
4 market model, and its successors, that secures capacity on behalf of
5 electric load serving entities to satisfy load obligations not satisfied
6 through the output of electric generation facilities owned by those
7 entities, or otherwise secured by those entities through bilateral
8 contracts.

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

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

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

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

44 "Retail choice" means the ability of retail customers to shop for
45 electric generation or gas supply service from electric power or gas
46 suppliers, or opt to receive basic generation service or basic gas
47 service, and the ability of an electric power or gas supplier to offer

1 electric generation service or gas supply service to retail customers,
2 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

3 "Retail margin" means an amount, reflecting differences in
4 prices that electric power suppliers and electric public utilities may
5 charge in providing electric generation service and basic generation
6 service, respectively, to retail customers, excluding residential
7 customers, which the board may authorize to be charged to
8 categories of basic generation service customers of electric public
9 utilities in this State, other than residential customers, under the
10 board's continuing regulation of basic generation service pursuant to
11 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and C.48:3-57), for
12 the purpose of promoting a competitive retail market for the supply
13 of electricity.

14 "Sales representative" means a person employed by, acting on
15 behalf of, or as an independent contractor for, an electric power
16 supplier, gas supplier, broker, energy agent, marketer, or private
17 aggregator who, by any means, solicits a potential residential
18 customer for the provision of electric generation service or gas
19 supply service.

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

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

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

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

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

45 "Social program" means a program implemented with board
46 approval to provide assistance to a group of disadvantaged
47 customers, to provide protection to consumers, or to accomplish a

1 particular societal goal, and includes, but is not limited to, the
2 winter moratorium program, utility practices concerning "bad debt"
3 customers, low income assistance, deferred payment plans,
4 weatherization programs, and late payment and deposit policies, but
5 does not include any demand side management program or any
6 environmental requirements or controls.

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

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

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

20 "Standard offer capacity agreement" or "SOCA" means a
21 financially-settled transaction agreement, approved by board order,
22 that provides for eligible generators to receive payments from the
23 electric public utilities for a defined amount of electric capacity for
24 a term to be determined by the board but not to exceed 15 years,
25 and for **[such]** the payments to be a fully non-bypassable charge,
26 with **[such]** the an order, once issued, being irrevocable.

27 "Standard offer capacity price" or "SOCP" means the capacity
28 price that is fixed for the term of the SOCA and which is the price
29 to be received by eligible generators under a board-approved
30 SOCA.

31 "State entity" means a department, agency, or office of State
32 government, a State university or college, or an authority created by
33 the State.

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

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

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

3 "Telemarketing sales call" means a telephone call made by a
4 telemarketer to a potential residential customer as part of a plan,
5 program, or campaign to encourage the customer to change the
6 customer's electric power supplier or gas supplier. A telephone call
7 made to an existing customer of an electric power supplier, gas
8 supplier, broker, energy agent, marketer, private aggregator, or
9 sales representative, for the sole purpose of collecting on accounts
10 or following up on contractual obligations, shall not be deemed a
11 telemarketing sales call. A telephone call made in response to an
12 express written request of a customer shall not be deemed a
13 telemarketing sales call.

14 "Thermal efficiency" means the useful electric energy output of a
15 facility, plus the useful thermal energy output of the facility,
16 expressed as a percentage of the total energy input to the facility.

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

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

35 "Transition period" means the period from August 1, 1999
36 through July 31, 2003.

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

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

1 "Unsolicited advertisement" means any advertising claims of the
2 commercial availability or quality of services provided by an
3 electric power supplier, gas supplier, broker, energy agent,
4 marketer, private aggregator, sales representative, or telemarketer
5 which is transmitted to a potential customer without that customer's
6 prior express invitation or permission.

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

8
9 2. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read
10 as follows:

11 12. a. Simultaneously with the starting date for the
12 implementation of retail choice as determined by the board pursuant
13 to subsection a. of section 5 of **[this act]** P.L.1999, c.23 (C.48:3-
14 53), the board shall permit each electric public utility and gas public
15 utility to recover some or all of the following costs through a
16 societal benefits charge that shall be collected as a non-bypassable
17 charge imposed on all electric public utility customers and gas
18 public utility customers, as appropriate:

19 (1) The costs for the social programs for which rate recovery
20 was approved by the board prior to April 30, 1997. For the purpose
21 of establishing initial unbundled rates pursuant to section 4 of **[this**
22 **act]** P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall
23 be set to recover the same level of social program costs as is being
24 collected in the bundled rates of the electric public utility on the
25 effective date of **[this act]** P.L.1999, c.23 (C.48:3-49 et al.). The
26 board may subsequently order, pursuant to its rules and regulations,
27 an increase or decrease in the societal benefits charge to reflect
28 changes in the costs to the utility of administering existing social
29 programs. Nothing in **[this act]** P.L.1999, c.23 (C.48:3-49 et al.)
30 shall be construed to abolish or change any social program required
31 by statute **[or]**, board order **[or]**, rule, or regulation to be provided
32 by an electric public utility. Any **[such]** social program approved
33 by the board shall continue to be provided by the electric public
34 utility until otherwise provided by law, unless the board determines
35 that it is no longer appropriate for the electric public utility to
36 provide the program, or the board chooses to modify the program;

37 (2) Nuclear plant decommissioning costs;

38 (3) The costs of demand side management programs that were
39 approved by the board pursuant to its demand side management
40 regulations prior to April 30, 1997. For the purpose of establishing
41 initial unbundled rates pursuant to section 4 of **[this act]** P.L.1999,
42 c.23 (C.48:3-52), the societal benefits charge shall be set to recover
43 the same level of demand side management program costs as is
44 being collected in the bundled rates of the electric public utility on
45 the effective date of **[this act]** P.L.1999, c.23 (C.48:3-49 et al.).

46 Within four months of the effective date of **[this act]** P.L.1999,

1 c.23 (C.48:3-49 et al.), and every four years thereafter, the board
2 shall initiate a proceeding and cause to be undertaken a
3 comprehensive resource analysis of energy programs, and within
4 eight months of initiating **such** the proceeding and after notice,
5 provision of the opportunity for public comment, and public
6 hearing, the board, in consultation with the Department of
7 Environmental Protection, shall determine the appropriate level of
8 funding for energy efficiency and Class I renewable energy
9 programs that provide environmental benefits above and beyond
10 those provided by standard offer or similar programs in effect as of
11 the effective date of **this act** P.L.1999, c.23 (C.48:3-49 et al.);
12 provided that the funding for **such** these programs be no less than
13 **50%** 50 percent of the total Statewide amount being collected in
14 **public** electric and gas public utility rates for demand side
15 management programs on the effective date of **this act** P.L.1999,
16 c.23 (C.48:3-49 et al.) for an initial period of four years from the
17 issuance of the first comprehensive resource analysis following the
18 effective date of **this act** P.L.1999, c.23 (C.48:3-49 et al.), and
19 provided that **25%** 25 percent of this amount shall be used to
20 provide funding for Class I renewable energy projects in the State.
21 In each of the following fifth through eighth years, the Statewide
22 funding for **such** these programs shall be no less than 50 percent
23 of the total Statewide amount being collected in **public** electric
24 and gas public utility rates for demand side management programs
25 on the effective date of **this act** P.L.1999, c.23 (C.48:3-49 et al.),
26 except that as additional funds are made available as a result of the
27 expiration of past standard offer or similar commitments, the
28 minimum amount of funding for **such** these programs shall
29 increase by an additional amount equal to 50 percent of the
30 additional funds made available, until the minimum amount of
31 funding dedicated to **such** these programs reaches \$140,000,000
32 total. After the eighth year the board shall make a determination as
33 to the appropriate level of funding for these programs. **Such** The
34 programs shall include a program to provide financial incentives for
35 the installation of Class I renewable energy projects in the State,
36 and the board, in consultation with the Department of
37 Environmental Protection, shall determine the level and total
38 amount of **such** incentives as well as the renewable technologies
39 eligible for **such** incentives which shall include, at a minimum,
40 photovoltaic, wind, and fuel cells. The board shall simultaneously
41 determine, as a result of the comprehensive resource analysis, the
42 programs to be funded by the societal benefits charge, the level of
43 cost recovery and performance incentives for old and new programs
44 and whether the recovery of demand side management programs'
45 costs currently approved by the board may be reduced or extended
46 over a longer period of time. The board shall make these

1 determinations taking into consideration existing market barriers
2 and environmental benefits, with the objective of transforming
3 markets, capturing lost opportunities, making energy services more
4 affordable for low income customers, and eliminating subsidies for
5 programs that can be delivered in the marketplace without electric
6 public utility and gas public utility customer funding;

7 (4) Manufactured gas plant remediation costs, which shall be
8 determined initially in a manner consistent with mechanisms in the
9 remediation adjustment clauses for the electric public utility and gas
10 public utility adopted by the board; and

11 (5) The cost, of consumer education, as determined by the
12 board, which shall be in an amount that, together with the consumer
13 education surcharge imposed on electric power supplier license fees
14 pursuant to subsection h. of section 29 of **[this act]** P.L.1999, c.23
15 (C.48:3-78) and the consumer education surcharge imposed on gas
16 supplier license fees pursuant to subsection g. of section 30 of **[this**
17 **act]** P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the
18 consumer education program established pursuant to section 36 of
19 **[this act]** P.L.1999, c.23 (C.48:3-85).

20 b. There is established in the **[Board of Public Utilities]** board
21 a nonlapsing fund to be known as the "Universal Service Fund."
22 The board shall determine: the level of funding and the appropriate
23 administration of the fund; the purposes and programs to be funded
24 with monies from the fund; which social programs shall be provided
25 by an electric public utility as part of the provision of its regulated
26 services which provide a public benefit; whether the funds
27 appropriated to fund the "Lifeline Credit Program" established
28 pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants'
29 Lifeline Assistance Program" established pursuant to P.L.1981,
30 c.210 **[(C.48:2-29.31 et seq.)]** (C.48:2-29.30 et seq.), the funds
31 received pursuant to the Low Income Home Energy Assistance
32 Program established pursuant to 42 U.S.C. s.8621 et seq., and funds
33 collected by electric and **[natural]** gas public utilities, as authorized
34 by the board, to offset uncollectible **[electricity]** electric and
35 **[natural]** gas public utility bills should be deposited in the fund;
36 and whether new charges should be imposed to fund new or
37 expanded social programs.

38 c. (1) There is established in the board a special, nonlapsing fund
39 to be known as the "Green Fund." The board shall determine the
40 level of funding and appropriate administration of the "Green Fund"
41 and deposit monies therein from the societal benefits charge
42 established pursuant to section 12 of P.L.1999, c.23 (C.48:3-60).
43 Monies in the "Green Fund" shall be dedicated and shall only be
44 used to carry out the purposes specified in paragraph (2) of this
45 subsection.

46 (2) Within four months of the effective date of P.L. _____,
47 c. (C. _____) (pending before the Legislature as this bill), and every

1 four years thereafter, the board shall initiate a proceeding and
2 undertake a comprehensive resource analysis of energy programs.
3 Within eight months of initiating the proceeding and after notice,
4 provision of the opportunity for public comment, and public
5 hearing, the board, in consultation with the Department of
6 Environmental Protection, shall determine the appropriate level of
7 funding for the “Green Fund,” established pursuant to paragraph (1)
8 of this subsection. The board shall use monies from the “Green
9 Fund” to provide funding for energy reliability, infrastructure
10 resilience, and energy sustainability through energy efficiency and
11 energy conservation programs, as determined by the board.
12 (cf: P.L.1999, c.23, s.12)

13
14 3. This act shall take effect immediately.

15
16
17 STATEMENT
18

19 This bill provides that the New Jersey Board of Public Utilities
20 (board), in consultation with the Department of Environmental
21 Protection, is to determine the appropriate level of funding for the
22 “Green Fund,” a nonlapsing fund established under the bill with
23 monies collected from the societal benefits charge, to achieve
24 energy reliability, infrastructure resilience, and energy
25 sustainability through energy efficiency and energy conservation
26 programs, as determined by the board.

27 Under the bill, “energy reliability” is defined as a reliance on
28 energy that is generated from consistent electrical output and meets
29 expected peaks in energy demand. “Energy resilience” is defined as
30 ensuring energy robustness in the electric public utility’s
31 infrastructure and operations in order to avoid or minimize
32 interruptions of service during disruptive events. “Energy
33 sustainability” is defined as generating energy from non-exhaustible
34 resources that can provide current energy demand without
35 compromising future energy needs. Finally, “infrastructure
36 resilience” is defined as: (1) reducing the magnitude or duration of
37 the impact of disruptive energy events through anticipation,
38 reaction, adaptation, and rapid recovery from the event; (2)
39 supplying electric demand and energy requirements of electric
40 public utility customers, while taking into account unscheduled
41 outages; and (3) withstanding sudden disturbances such as
42 unanticipated energy outages.