SENATE, No. 771

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:
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District 17 (Middlesex and Somerset)
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SYNOPSIS
Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning food waste recycling and food waste-to-energy production, supplementing Title 13 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. (New section) a. Beginning January 1, 2017, each large food waste generator that is located within 35 miles of an authorized recycling facility and that generates an average projected volume of 104 or more tons per year of food waste shall: (1) source separate its food waste from other solid waste; and (2) send the source separated food waste to an authorized recycling facility that has available capacity and will accept it.

   b. Beginning January 1, 2020, each large food waste generator that is located within 35 miles of an authorized recycling facility and that generates an average projected volume of 52 or more tons per year of food waste, and which is not already subject to the provisions of subsection a. of this section, shall: (1) source separate its food waste from other solid waste; and (2) send the source separated food waste to an authorized recycling facility that has available capacity and will accept it.

   c. Notwithstanding the provisions of subsections a. and b. of this section:

      (1) If a large food waste generator is not located within 35 miles of an authorized recycling facility, or the authorized recycling facility will not accept the generator’s food waste, the large food waste generator may send the food waste for final disposal at a solid waste facility as provided in the approved solid waste management plan for the solid waste management district in which the generator is located;

      (2) Any large food waste generator that is obligated to source separate and recycle its food waste pursuant to subsection a. or b. of this section, and which performs enclosed on-site composting, or anaerobic digestion of its source separated food waste in accordance with standards adopted by the department pursuant to subsection e. of this section, shall be deemed to be in compliance with the provisions of this section; and

      (3) Any large food waste generator that is obligated to source separate and recycle its food waste pursuant to subsection a. or b. of this section, and that sends its solid waste to a facility that source separates food waste and provides for the recycling of that food waste and the proper recycling or disposal of the remainder of the solid waste, shall be deemed to be in compliance with the provisions of this section.

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.
d. Any person who violates this section, or any rule or regulation adopted pursuant thereto, shall be subject to a civil penalty of $250 for the first offense, $500 for the second offense, and $1,000 for the third and each subsequent offense, to be collected in a civil action by a summary proceeding under the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the “Penalty Enforcement Law of 1999” in connection with this subsection.

e. Within 180 days after the date of enactment of this act, the Department of Environmental Protection shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this section, including, but not limited to:

   (1) record keeping and reporting requirements for large food waste generators and authorized recycling facilities, as determined necessary by the department;

   (2) guidelines and procedures for businesses to follow to determine whether they are subject to the requirements of subsection a. or b. of this section, including food waste generation estimates and food waste audits or assessments;

   (3) a list of food waste products that must be source separated and recycled pursuant to subsection a. or b. of this section;

   (4) standards for the enclosed on-site composting, or anaerobic digestion of source separated food waste, including requirements for energy production and other sustainable uses of the byproducts of recycled food waste; and

   (5) a list of actions businesses may take to reduce the amount of food waste they generate to a level below the threshold amounts established in subsection a. and b. of this section.

f. The department shall publish on its Internet website the name, location, and contact information for each authorized recycling facility in the State.

g. As used in this section:

   “Authorized recycling facility” means a facility, authorized by the department pursuant to subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34), that collects source separated food waste or organic waste for the purpose of recycling.

   “Department” means the Department of Environmental Protection.

   “Food waste” means food processing vegetative waste, food processing residue generated from processing and packaging operations, overripe produce, trimmings from food, food product over-runs, soiled and unrecyclable paper, and used cooking fats, oil, and grease.
“Large food waste generator” means any commercial food wholesaler, distributor, industrial food processor, supermarket, resort, conference center, banquet hall, restaurant, educational or religious institution, military installation, prison, hospital, medical facility, or casino that produces at least 52 tons per year of food waste.

“Source separate” or “source separated” means the process by which food waste is separated at the point of generation by the generator thereof from other solid waste for the purpose of recycling.

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

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

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

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

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

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

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

"Basic generation service provider” or "provider” means a provider of basic generation service.

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

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

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

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

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

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

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

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

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

"Buyout" means an arrangement or arrangements involving the
buyer and seller in a given power purchase contract and, in some
cases third parties, for consideration to be given by the buyer in
order to effectuate a termination of such power purchase contract.
"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L.2012, c.24. [and] methane gas from landfills [or] methane gas from a biomass facility[.] provided that the biomass is cultivated and harvested in a sustainable manner [or] methane gas from a composting or anaerobic digestion facility that converts food waste or other organic waste to energy.

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

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

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

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

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

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

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

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid; (2) an on-site generation facility; (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87); (4) 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); (5) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-87); or (6) is 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. Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system.

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

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

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

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

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

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

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

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

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

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

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

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator.
"Energy efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Standard offer capacity agreement" or "SOCA" means a financially-settled transaction agreement, approved by board order, that provides for eligible generators to receive payments from the electric public utilities for a defined amount of electric capacity for a term to be determined by the board but not to exceed 15 years, and for such payments to be a fully non-bypassable charge, with such an order, once issued, being irrevocable.
"Standard offer capacity price" or "SOCP" means the capacity price that is fixed for the term of the SOCA and which is the price to be received by eligible generators under a board-approved SOCA.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. This act shall take effect immediately.

STATEMENT

This bill would require certain generators of solid waste to separate and recycle food waste, and amend the definition of “Class I renewable energy.”

Specifically, under the bill, beginning January 1, 2017, every large food waste generator that is located within 35 miles of an authorized recycling facility and that generates an average projected volume of 104 or more tons per year of food waste would be required to: (1) source separate that food waste; and (2) send the source separated food waste to an authorized recycling facility that has available capacity and will accept it. Beginning January 1, 2020, large food waste generators that produce an average projected volume of 52 or more tons per year of food waste would have to comply with these requirements.

Under the bill, if a large food waste generator is not located within 35 miles of an authorized recycling facility, or the facility will not accept the generator’s food waste, the generator may send
the food waste for final disposal at a solid waste management facility. In addition, a large food waste generator would be deemed to be in compliance with the bill if the generator: (1) performs enclosed, on-site composting or anaerobic digestion of its source separated food waste; or (2) sends its solid waste to a facility that source separates food waste and provides for the recycling of that food waste and the proper recycling or disposal of the remainder of the solid waste.

Any person who violates the bill would be subject to a civil penalty of $250 for the first offense, $500 for the second offense, and $1,000 for the third and subsequent offenses. If the violation is of a continuing nature, each day during which the violation continues would constitute a separate offense.

The Department of Environmental Protection (DEP) would be required to adopt regulations concerning: (1) record keeping and reporting requirements; (2) guidelines for businesses to follow to determine whether they are subject to the bill; (3) a list of food waste products that must be source separated and recycled; (4) standards for the enclosed, on-site composting or anaerobic digestion of food waste; and (5) a list of actions businesses may take to reduce the amount of food waste they generate. The DEP would publish on its Internet website the name, location, and contact information for each authorized food waste recycling facility in the State.

Finally, the bill would amend the definition of Class I renewable energy to include electric energy produced from methane gas from a composting or anaerobic digestion facility that converts food waste or other organic waste to energy.

It is the sponsor’s intent by this bill to incentivize the construction of more food waste-to-energy facilities in the State by ensuring a constant feedstock of source separated food waste.