

# ASSEMBLY, No. 1003

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman KEVIN J. ROONEY**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**SYNOPSIS**

Permits run-of-the-river hydropower facilities to be eligible as Class I renewable energy.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning run-of-the-river hydropower facilities and  
2 amending 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 follow:

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 (C.48:3-  
14 49 et al.), an assignee shall not be subject to the public utility  
15 requirements of Title 48 or any rules or regulations adopted  
16 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 service for any reason, including  
30 non-payment for services. Basic gas supply service is not a  
31 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 the  
17 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 property, or both,  
32 including taxes, whose recovery period is modified by the effect of  
33 a stranded costs recovery order, a bondable stranded costs rate  
34 order, or both; and (3) the costs incurred to issue, service or  
35 refinance transition bonds, including interest, acquisition or  
36 redemption premium, and other financing costs, whether paid upon  
37 issuance or over the life of the transition bonds, including, but not  
38 limited to, credit enhancements, service charges,  
39 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  
48 authorized to be imposed to recover the bondable stranded costs,

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

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

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

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

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

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

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

46 "Class I renewable energy" means electric energy produced from  
47 solar technologies, photovoltaic technologies, wind energy, fuel  
48 cells, geothermal technologies, wave or tidal action, small scale

1 hydropower facilities with a capacity of three megawatts or less and  
2 put into service after the effective date of P.L.2012, c.24, run-of-  
3 the-river hydropower facilities, and methane gas from landfills or a  
4 biomass facility, provided that the biomass is cultivated and  
5 harvested in a sustainable manner.

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

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

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

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

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

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

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

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

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

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

28 "Delivery year" or "DY" means the 12-month period from June  
29 1st through May 31st, numbered according to the calendar year in  
30 which it ends.

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

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

42 "Electric power generator" means an entity that proposes to  
43 construct, own, lease, or operate, or currently owns, leases, or  
44 operates, an electric power production facility that will sell or does  
45 sell at least 90 percent of its output, either directly or through a  
46 marketer, to a customer or customers located at sites that are not on  
47 or contiguous to the site on which the facility will be located or is  
48 located. The designation of an entity as an electric power generator

1 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
2 and of itself, affect the entity's status as an exempt wholesale  
3 generator under the Public Utility Holding Company Act of 1935,  
4 15 U.S.C. s.79 et seq., or its successor act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 "Gas supplier" means a person that is duly licensed pursuant to  
41 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
42 assume the contractual and legal obligation to provide gas supply  
43 service to retail customers, and includes, but is not limited to,  
44 marketers and brokers. A non-public utility affiliate of a public  
45 utility holding company may be a gas supplier, but a gas public  
46 utility or any subsidiary of a gas utility is not a gas supplier. In the  
47 event that a gas public utility is not part of a holding company legal  
48 structure, a related competitive business segment of that gas public



1 utility may be a gas supplier, provided that related competitive  
2 business segment is structurally separated from the gas public  
3 utility, and provided that the interactions between the gas public  
4 utility and the related competitive business segment are subject to  
5 the affiliate relations standards adopted by the board pursuant to  
6 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

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

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

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

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

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

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

46 "Incremental auction" means an auction conducted by PJM, as  
47 part of PJM's reliability pricing model, prior to the start of the  
48 delivery year to secure electric capacity as necessary to satisfy the

1 capacity requirements for that delivery year, that is not otherwise  
2 provided for in the base residual auction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "Private aggregator" means a non-government aggregator that is  
47 a duly-organized business or non-profit organization authorized to  
48 do business in this State that enters into a contract with a duly

1 licensed electric power supplier for the purchase of electric energy  
2 and capacity, or with a duly licensed gas supplier for the purchase  
3 of gas supply service, on behalf of multiple end-use customers by  
4 combining the loads of those customers.

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

17 "Public utility holding company" means: (1) any company that,  
18 directly or indirectly, owns, controls, or holds with power to vote,  
19 10 percent or more of the outstanding voting securities of an  
20 electric public utility or a gas public utility or of a company which  
21 is a public utility holding company by virtue of this definition,  
22 unless the Securities and Exchange Commission, or its successor,  
23 by order declares such company not to be a public utility holding  
24 company under the Public Utility Holding Company Act of 1935,  
25 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
26 Securities and Exchange Commission, or its successor, determines,  
27 after notice and opportunity for hearing, directly or indirectly, to  
28 exercise, either alone or pursuant to an arrangement or  
29 understanding with one or more other persons, such a controlling  
30 influence over the management or policies of an electric public  
31 utility or a gas public utility or public utility holding company as to  
32 make it necessary or appropriate in the public interest or for the  
33 protection of investors or consumers that such person be subject to  
34 the obligations, duties, and liabilities imposed in the Public Utility  
35 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its  
36 successor act.

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

43 "Registration program" means an administrative process  
44 developed by the board pursuant to subsection u. of section 38 of  
45 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric  
46 power generation facilities connected to the distribution system that  
47 intend to generate SRECs, to file with the board documents

1 detailing the size, location, interconnection plan, land use, and other  
2 project information as required by the board.

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

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

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

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

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

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

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

44 "Restructuring related costs" means reasonably incurred costs  
45 directly related to the restructuring of the electric power industry,  
46 including the closure, sale, functional separation, and divestiture of  
47 generation and other competitive utility assets by a public utility, or  
48 the provision of competitive services as those costs are determined

1 by the board, and which are not stranded costs as defined in  
2 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited  
3 to, investments in management information systems, and which  
4 shall include expenses related to employees affected by  
5 restructuring which result in efficiencies and which result in  
6 benefits to ratepayers, such as training or retraining at the level  
7 equivalent to one year's training at a vocational or technical school  
8 or county community college, the provision of severance pay of two  
9 weeks of base pay for each year of full-time employment, and a  
10 maximum of 24 months' continued health care coverage. Except as  
11 to expenses related to employees affected by restructuring,  
12 "restructuring related costs" shall not include going forward costs.

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

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

30 "Run-of-the-river hydropower facility" means a hydropower  
31 electric generation facility located within this State: 1) that is  
32 connected to the distribution system; 2) that diverts flowing water  
33 from a river through a canal or penstock to spin a turbine; and 3)  
34 where electric generation is subject to the natural, seasonal flows and  
35 elevation drops of the river.

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

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

44 "School district" means a local or regional school district  
45 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
46 New Jersey Statutes, a county special services school district  
47 established pursuant to article 8 of chapter 46 of Title 18A of the  
48 New Jersey Statutes, a county vocational school district established

1 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey  
2 Statutes, and a district under full State intervention pursuant to  
3 P.L.1987, c.399 (C.18A:7A-34 et al.).

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

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

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

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

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

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

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

42 "Standard offer capacity agreement" or "SOCA" means a  
43 financially-settled transaction agreement, approved by board order,  
44 that provides for eligible generators to receive payments from the  
45 electric public utilities for a defined amount of electric capacity for  
46 a term to be determined by the board but not to exceed 15 years,  
47 and for such payments to be a fully non-bypassable charge, with  
48 such an order, once issued, being irrevocable.

1 "Standard offer capacity price" or "SOCP" means the capacity  
2 price that is fixed for the term of the SOCA and which is the price  
3 to be received by eligible generators under a board-approved  
4 SOCA.

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

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

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

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

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

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

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

43 "Transition bonds" means bonds, notes, certificates of  
44 participation, beneficial interest, or other evidences of indebtedness  
45 or ownership issued pursuant to an indenture, contract, or other  
46 agreement of an electric public utility or a financing entity, the  
47 proceeds of which are used, directly or indirectly, to recover,  
48 finance or refinance bondable stranded costs and which are, directly



1 or indirectly, secured by or payable from bondable transition  
2 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
3 principal, interest, and acquisition or redemption premium with  
4 respect to transition bonds which are issued in the form of  
5 certificates of participation or beneficial interest or other evidences  
6 of ownership shall refer to the comparable payments on such  
7 securities.

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

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

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

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

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

27

28 2. This act shall take effect immediately.

29

30

31

## STATEMENT

32

33 This bill adds electric energy produced from a "run-of-the-river  
34 hydropower facility" to the definition of "Class I renewable energy,"  
35 thereby making that electric energy eligible for participation in the  
36 State's renewable energy certificate program.

37 Under the bill, a "run-of-the-river hydropower facility" is defined  
38 as a hydropower electric generation facility located within this State:  
39 1) that is connected to the distribution system; 2) that diverts flowing  
40 water from a river through a canal or penstock to spin a turbine; and 3)  
41 where electric generation is subject to the natural, seasonal flows and  
42 elevation drops of the river.