

[First Reprint]

ASSEMBLY, No. 1344

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Allows electric energy produced from biofuel to be eligible as Class II renewable energy.

CURRENT VERSION OF TEXT

As amended by the General Assembly on February 15, 2018.



(Sponsorship Updated As Of: 2/16/2018)

1 AN ACT concerning Class II renewable energy and amending
2 P.L.1999, c.23.

3

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

6

7 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
8 as 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,
14 c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public
15 utility 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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted February 15, 2018.

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

19 "Biofuel" means liquid or gaseous fuels produced from organic
20 sources, such as sustainably grown and harvested crops, including
21 native noninvasive energy crops, agricultural residues, and non-
22 recycled organic waste, including waste cooking oil, grease and
23 food wastes, sewage, and algae. ¹"Biofuel" shall not mean fossil
24 fuel.¹

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

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

1 and charges, or to assign, sell, or otherwise transfer bondable
2 transition property.

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

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

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

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

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

42 "Buydown" 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 reduction in the pricing, or the restructuring of
46 other terms to reduce the overall cost of the power contract, for the
47 remaining succeeding period of the purchased power arrangement
48 or arrangements.

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

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

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

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

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

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

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

44 "Commercial and industrial energy pricing class customer" or
45 "CIEP class customer" means that group of non-residential
46 customers with high peak demand, as determined by periodic board
47 order, which either is eligible or which would be eligible, as
48 determined by periodic board order, to receive funds from the Retail

1 Margin Fund established pursuant to section 9 of P.L.1999,
2 c.23 (C.48:3-57) and for which basic generation service is hourly-
3 priced.

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

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

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

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

36 "Delivery year" or "DY" means the 12-month period from June
37 1st through May 31st, numbered according to the calendar year in
38 which it ends.

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

45 "Electric generation service" means the provision of retail
46 electric energy and capacity which is generated off-site from the
47 location at which the consumption of such electric energy and

1 capacity is metered for retail billing purposes, including agreements
2 and arrangements related thereto.

3 "Electric power generator" means an entity that proposes to
4 construct, own, lease, or operate, or currently owns, leases, or
5 operates, an electric power production facility that will sell or does
6 sell at least 90 percent of its output, either directly or through a
7 marketer, to a customer or customers located at sites that are not on
8 or contiguous to the site on which the facility will be located or is
9 located. The designation of an entity as an electric power generator
10 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
11 and of itself, affect the entity's status as an exempt wholesale
12 generator under the Public Utility Holding Company Act of 1935,
13 15 U.S.C. s.79 et seq., or its successor act.

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

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

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

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

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

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

1 "Energy consumer" means a business or residential consumer of
2 electric generation service or gas supply service located within the
3 territorial jurisdiction of a government aggregator.

4 "Energy crop" means a crop grown exclusively for energy
5 production, including switchgrass and poplar.

6 "Energy efficiency portfolio standard" means a requirement to
7 procure a specified amount of energy efficiency or demand side
8 management resources as a means of managing and reducing energy
9 usage and demand by customers.

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

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

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

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

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

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

43 ¹"Fossil fuel" means any combustible organic material,
44 including, but not limited to, petroleum, coal, or natural gas, that is
45 non-renewable and is formed in the earth from the remains of living
46 organisms.¹

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

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

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

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

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

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

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

46 "Greenhouse gas emissions portfolio standard" means a
47 requirement that addresses or limits the amount of carbon dioxide
48 emissions indirectly resulting from the use of electricity as applied

1 to any electric power suppliers and basic generation service
2 providers of electricity.

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

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

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

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

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

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

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

1 the contractual and legal obligation to provide gas supply service to
2 an end-use customer or customers.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 "Public utility holding company" means: (1) any company that,
35 directly or indirectly, owns, controls, or holds with power to vote,
36 10 percent or more of the outstanding voting securities of an
37 electric public utility or a gas public utility or of a company which
38 is a public utility holding company by virtue of this definition,
39 unless the Securities and Exchange Commission, or its successor,
40 by order declares such company not to be a public utility holding
41 company under the Public Utility Holding Company Act of 1935,
42 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
43 Securities and Exchange Commission, or its successor, determines,
44 after notice and opportunity for hearing, directly or indirectly, to
45 exercise, either alone or pursuant to an arrangement or
46 understanding with one or more other persons, such a controlling
47 influence over the management or policies of an electric public
48 utility or a gas public utility or public utility holding company as to

1 make it necessary or appropriate in the public interest or for the
2 protection of investors or consumers that such person be subject to
3 the obligations, duties, and liabilities imposed in the Public Utility
4 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
5 successor act.

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

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

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

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

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

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

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

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

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

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

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

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

47 "Sales representative" means a person employed by, acting on
48 behalf of, or as an independent contractor for, an electric power

1 supplier, gas supplier, broker, energy agent, marketer, or private
2 aggregator who, by any means, solicits a potential residential
3 customer for the provision of electric generation service or gas
4 supply service.

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

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

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

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

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

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

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

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

47 "Solar renewable energy certificate" or "SREC" means a
48 certificate issued by the board or its designee, representing one

1 megawatt hour (MWh) of solar energy that is generated by a facility
2 connected to the distribution system in this State and has value
3 based upon, and driven by, the energy market.

4 "Standard offer capacity agreement" or "SOCA" means a
5 financially-settled transaction agreement, approved by board order,
6 that provides for eligible generators to receive payments from the
7 electric public utilities for a defined amount of electric capacity for
8 a term to be determined by the board but not to exceed 15 years,
9 and for such payments to be a fully non-bypassable charge, with
10 such an order, once issued, being irrevocable.

11 "Standard offer capacity price" or "SOCP" means the capacity
12 price that is fixed for the term of the SOCA and which is the price
13 to be received by eligible generators under a board-approved
14 SOCA.

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

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

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

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

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

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

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

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

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

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

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

31 "Unsolicited advertisement" means any advertising claims of the
32 commercial availability or quality of services provided by an
33 electric power supplier, gas supplier, broker, energy agent,
34 marketer, private aggregator, sales representative, or telemarketer
35 which is transmitted to a potential customer without that customer's
36 prior express invitation or permission.
37 (cf: P.L.2015, c.51, s.1)

38

39 2. This act shall take effect immediately.