

ASSEMBLY, No. 1496

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman **JOHN J. BURZICHELLI**
District 3 (Cumberland, Gloucester and Salem)
Assemblyman **RAJ MUKHERJI**
District 33 (Hudson)
Assemblyman **GARY S. SCHAER**
District 36 (Bergen and Passaic)

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Assemblywoman **Chaparro** and Assemblyman **Karabinchak**

SYNOPSIS

Establishes approval process for proposed offshore wind energy projects and certain benefits to facilitate development of offshore wind energy.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 10/19/2018)

1 AN ACT concerning the development of offshore wind energy
2 projects, amending P.L.1999, c.23, and amending and
3 supplementing P.L.2012, c.57.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

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

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

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

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

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

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

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

41 "Basic generation service provider" or "provider" means a
42 provider of basic generation service **;**.

43 "Basic generation service transition costs" means the amount by
44 which the payments by an electric public utility for the procurement

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

20 "Board" means the New Jersey Board of Public Utilities or any
21 successor agency [;].

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

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

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

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

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

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

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

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

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

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

8 "Class II renewable energy" means electric energy produced at a
9 hydropower facility with a capacity of greater than three megawatts
10 or a resource recovery facility, provided that such facility is located
11 where retail competition is permitted and provided further that the
12 Commissioner of Environmental Protection has determined that
13 such facility meets the highest environmental standards and
14 minimizes any impacts to the environment and local communities
15 **【;】**.

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

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

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

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

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

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

1 that are not or cannot be delivered to customers through a
2 competitive marketplace [;].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "Energy efficiency portfolio standard" means a requirement to
47 procure a specified amount of energy efficiency or demand side

1 management resources as a means of managing and reducing energy
2 usage and demand by customers **【;】**.

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

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

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

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

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

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

36 "Gas public utility" means a public utility, as that term is defined
37 in R.S.48:2-13, that distributes gas to end users within this State
38 **【;】**.

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

46 "Gas supplier" means a person that is duly licensed pursuant to
47 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and

1 assume the contractual and legal obligation to provide gas supply
2 service to retail customers, and includes, but is not limited to,
3 marketers and brokers. A non-public utility affiliate of a public
4 utility holding company may be a gas supplier, but a gas public
5 utility or any subsidiary of a gas utility is not a gas supplier. In the
6 event that a gas public utility is not part of a holding company legal
7 structure, a related competitive business segment of that gas public
8 utility may be a gas supplier, provided that related competitive
9 business segment is structurally separated from the gas public
10 utility, and provided that the interactions between the gas public
11 utility and the related competitive business segment are subject to
12 the affiliate relations standards adopted by the board pursuant to
13 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58) **【;】**.

14 "Gas supply service" means the provision to customers of the
15 retail commodity of gas, but does not include any regulated
16 distribution service **【;】**.

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

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

34 "Governmental entity" means any federal, state, municipal, local
35 or other governmental department, commission, board, agency,
36 court, authority or instrumentality having competent jurisdiction
37 **【;】**.

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

43 "Historic fill" means generally large volumes of non-indigenous
44 material, no matter what date they were emplaced on the site, used
45 to raise the topographic elevation of a site, which were
46 contaminated prior to emplacement and are in no way connected
47 with the operations at the location of emplacement and which

1 include, but are not limited to, construction debris, dredge spoils,
2 incinerator residue, demolition debris, fly ash, and non-hazardous
3 solid waste. "Historic fill" shall not include any material which is
4 substantially chromate chemical production waste or any other
5 chemical production waste or waste from processing of metal or
6 mineral ores, residues, slags, or tailings **[;].**

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

12 "Leakage" means an increase in greenhouse gas emissions
13 related to generation sources located outside of the State that are not
14 subject to a state, interstate or regional greenhouse gas emissions
15 cap or standard that applies to generation sources located within the
16 State **[;].**

17 "Locational deliverability area" or "LDA" means one or more of
18 the zones within the PJM region which are used to evaluate area
19 transmission constraints and reliability issues including electric
20 public utility company zones, sub-zones, and combinations of zones
21 **[;].**

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

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

34 "Marketer" means a duly licensed electric power supplier that
35 takes title to electric energy and capacity, transmission and other
36 services from electric power generators and other wholesale
37 suppliers and then assumes the contractual and legal obligation to
38 provide electric generation service, and may include transmission
39 and other services, to an end-use retail customer or customers, or a
40 duly licensed gas supplier that takes title to gas and then assumes
41 the contractual and legal obligation to provide gas supply service to
42 an end-use customer or customers **[;].**

43 "Mid-merit electric power generation facility" means a
44 generation facility that operates at a capacity factor between
45 baseload generation facilities and peaker generation facilities **[;].**

46 "Net metering aggregation" means a procedure for calculating
47 the combination of the annual energy usage for all facilities owned

1 by a single customer where such customer is a State entity, school
2 district, county, county agency, county authority, municipality,
3 municipal agency, or municipal authority, and which are served by
4 a solar electric power generating facility as provided pursuant to
5 paragraph (4) of subsection e. of section 38 of P.L.1999, c.23
6 (C.48:3-87) **【;】**.

7 "Net proceeds" means proceeds less transaction and other related
8 costs as determined by the board **【;】**.

9 "Net revenues" means revenues less related expenses, including
10 applicable taxes, as determined by the board **【;】**.

11 "Offshore wind energy" means electric energy produced by a
12 qualified offshore wind project **【;】**.

13 "Offshore wind renewable energy certificate" or "OREC" means
14 a certificate, issued by the board or its designee, representing the
15 environmental attributes of one megawatt hour of electric
16 generation from a qualified offshore wind project **【;】**.

17 "Off-site end use thermal energy services customer" means an
18 end use customer that purchases thermal energy services from an
19 on-site generation facility, combined heat and power facility, or co-
20 generation facility, and that is located on property that is separated
21 from the property on which the on-site generation facility,
22 combined heat and power facility, or co-generation facility is
23 located by more than one easement, public thoroughfare, or
24 transportation or utility-owned right-of-way **【;】**.

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

43 "Person" means an individual, partnership, corporation,
44 association, trust, limited liability company, governmental entity or
45 other legal entity **【;】**.

46 "PJM Interconnection, L.L.C." or "PJM" means the privately-
47 held, limited liability corporation that is a FERC-approved Regional

1 Transmission Organization, or its successor, that manages the
2 regional, high-voltage electricity grid serving all or parts of 13
3 states including New Jersey and the District of Columbia, operates
4 the regional competitive wholesale electric market, manages the
5 regional transmission planning process, and establishes systems and
6 rules to ensure that the regional and in-State energy markets operate
7 fairly and efficiently **【;】**.

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

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

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

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

1 "Qualified offshore wind project" means a wind turbine
2 electricity generation facility in the Atlantic Ocean and connected
3 to the electric transmission system in this State, or connected to an
4 electric transmission facility in federal waters that is connected to
5 the electric transmission system in this State, and includes the
6 associated transmission-related interconnection facilities and
7 equipment, and approved by the board pursuant to section 3 of
8 P.L.2010, c.57 (C.48:3-87.1) **;**.

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

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

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

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

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

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

46 "Resource clearing price" or "RCP" means the clearing price
47 established for the applicable locational deliverability area by the

1 base residual auction or incremental auction, as determined by the
2 optimization algorithm for each auction, conducted by PJM as part
3 of PJM's reliability pricing model [;].

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

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

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

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 48:3-57), for the
45 purpose of promoting a competitive retail market for the supply of
46 electricity [;].

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

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

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

17 "Shopping credit" means an amount deducted from the bill of an
18 electric public utility customer to reflect the fact that such customer
19 has switched to an electric power supplier and no longer takes basic
20 generation service from the electric public utility **[;].**

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

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

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

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

44 "Solar alternative compliance payment" or "SACP" means a
45 payment of a certain dollar amount per megawatt hour (MWh)
46 which an electric power supplier or provider may submit to the

1 board in order to comply with the solar electric generation
2 requirements under section 38 of P.L.1999, c.23 (C.48:3-87) **【;】**.

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

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

15 "Standard offer capacity price" or "SOCP" means the capacity
16 price that is fixed for the term of the SOCA and which is the price
17 to be received by eligible generators under a board-approved SOCA
18 **【;】**.

19 "State entity" means a department, agency, or office of State
20 government, a State university or college, or an authority created by
21 the State **【;】**.

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

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

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

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

1 express written request of a customer shall not be deemed a
2 telemarketing sales call [;].

3 "Thermal efficiency" means the useful electric energy output of a
4 facility, plus the useful thermal energy output of the facility,
5 expressed as a percentage of the total energy input to the facility
6 [;].

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

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

25 "Transition period" means the period from August 1, 1999
26 through July 31, 2003 [;].

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

34 "Universal service" means any service approved by the board
35 with the purpose of assisting low-income residential customers in
36 obtaining or retaining electric generation or delivery service [;
37 and].

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

44 "Wind energy area" or "WEA" means the area of submerged
45 lands along the Atlantic coast designated by the Bureau of Ocean
46 Energy Management in the United States Department of the Interior
47 for the development of offshore wind energy, or the area which is

1 designated by the board for the development of offshore wind
2 energy.

3 (cf: P.L.2013, c.263, s.1)

4

5 2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
6 as follows:

7 38. a. The board shall require an electric power supplier or
8 basic generation service provider to disclose on a customer's bill or
9 on customer contracts or marketing materials, a uniform, common
10 set of information about the environmental characteristics of the
11 energy purchased by the customer, including, but not limited to:

12 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
13 solar, hydroelectric, wind and biomass, or a regional average
14 determined by the board;

15 (2) Its emissions, in pounds per megawatt hour, of sulfur
16 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
17 that the board may determine to pose an environmental or health
18 hazard, or an emissions default to be determined by the board; and

19 (3) Any discrete emission reduction retired pursuant to rules and
20 regulations adopted pursuant to P.L.1995, c.188.

21 b. Notwithstanding any provisions of the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
23 contrary, the board shall initiate a proceeding and shall adopt, in
24 consultation with the Department of Environmental Protection, after
25 notice and opportunity for public comment and public hearing,
26 interim standards to implement this disclosure requirement,
27 including, but not limited to:

28 (1) A methodology for disclosure of emissions based on output
29 pounds per megawatt hour;

30 (2) Benchmarks for all suppliers and basic generation service
31 providers to use in disclosing emissions that will enable consumers
32 to perform a meaningful comparison with a supplier's or basic
33 generation service provider's emission levels; and

34 (3) A uniform emissions disclosure format that is graphic in
35 nature and easily understandable by consumers. The board shall
36 periodically review the disclosure requirements to determine if
37 revisions to the environmental disclosure system as implemented
38 are necessary.

39 Such standards shall be effective as regulations immediately
40 upon filing with the Office of Administrative Law and shall be
41 effective for a period not to exceed 18 months, and may, thereafter,
42 be amended, adopted or readopted by the board in accordance with
43 the provisions of the **["Administrative Procedure Act."]**
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.).

46 c. (1) The board may adopt, in consultation with the
47 Department of Environmental Protection, after notice and
48 opportunity for public comment, an emissions portfolio standard

1 applicable to all electric power suppliers and basic generation
2 service providers, upon a finding that:

3 (a) The standard is necessary as part of a plan to enable the
4 State to meet federal Clean Air Act or State ambient air quality
5 standards; and

6 (b) Actions at the regional or federal level cannot reasonably be
7 expected to achieve the compliance with the federal standards.

8 (2) By July 1, 2009, the board shall adopt, pursuant to the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), a greenhouse gas emissions portfolio standard to mitigate
11 leakage or another regulatory mechanism to mitigate leakage
12 applicable to all electric power suppliers and basic generation
13 service providers that provide electricity to customers within the
14 State. The greenhouse gas emissions portfolio standard or any other
15 regulatory mechanism to mitigate leakage shall:

16 (a) Allow a transition period, either before or after the effective
17 date of the regulation to mitigate leakage, for a basic generation
18 service provider or electric power supplier to either meet the
19 emissions portfolio standard or other regulatory mechanism to
20 mitigate leakage, or to transfer any customer to a basic generation
21 service provider or electric power supplier that meets the emissions
22 portfolio standard or other regulatory mechanism to mitigate
23 leakage. If the transition period allowed pursuant to this
24 subparagraph occurs after the implementation of an emissions
25 portfolio standard or other regulatory mechanism to mitigate
26 leakage, the transition period shall be no longer than three years;
27 and

28 (b) Exempt the provision of basic generation service pursuant to
29 a basic generation service purchase and sale agreement effective
30 prior to the date of the regulation.

31 Unless the Attorney General or the Attorney General's designee
32 determines that a greenhouse gas emissions portfolio standard
33 would unconstitutionally burden interstate commerce or would be
34 preempted by federal law, the adoption by the board of an electric
35 energy efficiency portfolio standard pursuant to subsection g. of this
36 section, a gas energy efficiency portfolio standard pursuant to
37 subsection h. of this section, or any other enhanced energy
38 efficiency policies to mitigate leakage shall not be considered
39 sufficient to fulfill the requirement of this subsection for the
40 adoption of a greenhouse gas emissions portfolio standard or any
41 other regulatory mechanism to mitigate leakage.

42 d. Notwithstanding any provisions of the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
44 contrary, the board shall initiate a proceeding and shall adopt, after
45 notice, provision of the opportunity for comment, and public
46 hearing, renewable energy portfolio standards that shall require:

47 (1) that two and one-half percent of the kilowatt hours sold in
48 this State by each electric power supplier and each basic generation

1 service provider be from Class I or Class II renewable energy
2 sources;

3 (2) beginning on January 1, 2001, that one-half of one percent
4 of the kilowatt hours sold in this State by each electric power
5 supplier and each basic generation service provider be from Class I
6 renewable energy sources. The board shall increase the required
7 percentage for Class I renewable energy sources so that by January
8 1, 2006, one percent of the kilowatt hours sold in this State by each
9 electric power supplier and each basic generation service provider
10 shall be from Class I renewable energy sources and shall
11 additionally increase the required percentage for Class I renewable
12 energy sources by one-half of one percent each year until January 1,
13 2012, when four percent of the kilowatt hours sold in this State by
14 each electric power supplier and each basic generation service
15 provider shall be from Class I renewable energy sources.

16 An electric power supplier or basic generation service provider
17 may satisfy the requirements of this subsection by participating in a
18 renewable energy trading program approved by the board in
19 consultation with the Department of Environmental Protection;

20 (3) that the board establish a multi-year schedule, applicable to
21 each electric power supplier or basic generation service provider in
22 this State, beginning with the one-year period commencing on June
23 1, 2010, and continuing for each subsequent one-year period up to
24 and including, the one-year period commencing on June 1, 2028,
25 that requires the following number or percentage, as the case may
26 be, of kilowatt-hours sold in this State by each electric power
27 supplier and each basic generation service provider to be from solar
28 electric power generators connected to the distribution system in
29 this State:

30	EY 2011	306 Gigawatthours (Gwhrs)
31	EY 2012	442 Gwhrs
32	EY 2013	596 Gwhrs
33	EY 2014	2.050%
34	EY 2015	2.450%
35	EY 2016	2.750%
36	EY 2017	3.000%
37	EY 2018	3.200%
38	EY 2019	3.290%
39	EY 2020	3.380%
40	EY 2021	3.470%
41	EY 2022	3.560%
42	EY 2023	3.650%
43	EY 2024	3.740%
44	EY 2025	3.830%
45	EY 2026	3.920%
46	EY 2027	4.010%

47 EY 2028 4.100%, and for every energy year thereafter, at least
48 4.100% per energy year to reflect an increasing number of kilowatt-

1 hours to be purchased by suppliers or providers from solar electric
2 power generators connected to the distribution system in this State,
3 and to establish a framework within which, of the electricity that the
4 generators sell in this State, suppliers and providers shall each
5 obtain at least 3.470% in the energy year 2021 and 4.100% in the
6 energy year 2028 from solar electric power generators connected to
7 the distribution system in this State, provided, however, that:

8 (a) The board shall determine an appropriate period of no less
9 than 120 days following the end of an energy year prior to which a
10 provider or supplier must demonstrate compliance for that energy
11 year with the annual renewable energy portfolio standard;

12 (b) No more than 24 months following the date of enactment of
13 P.L.2012, c.24, the board shall complete a proceeding to investigate
14 approaches to mitigate solar development volatility and prepare and
15 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
16 report to the Legislature, detailing its findings and
17 recommendations. As part of the proceeding, the board shall
18 evaluate other techniques used nationally and internationally;

19 (c) The solar renewable energy portfolio standards requirements
20 in this paragraph shall exempt those existing supply contracts which
21 are effective prior to the date of enactment of P.L.2012, c.24 from
22 any increase beyond the number of SRECs mandated by the solar
23 renewable energy portfolio standards requirements that were in
24 effect on the date that the providers executed their existing supply
25 contracts. This limited exemption for providers' existing supply
26 contracts shall not be construed to lower the Statewide solar
27 sourcing requirements set forth in this paragraph. Such incremental
28 requirements that would have otherwise been imposed on exempt
29 providers shall be distributed over the providers not subject to the
30 existing supply contract exemption until such time as existing
31 supply contracts expire and all providers are subject to the new
32 requirement in a manner that is competitively neutral among all
33 providers and suppliers. The board shall implement the provisions
34 of this subsection in a manner so as to prevent any subsidies
35 between suppliers and providers and to promote competition in the
36 electricity supply industry.

37 An electric power supplier or basic generation service provider
38 may satisfy the requirements of this subsection by participating in a
39 renewable energy trading program approved by the board in
40 consultation with the Department of Environmental Protection, or
41 compliance with the requirements of this subsection may be
42 demonstrated to the board by suppliers or providers through the
43 purchase of SRECs.

44 The renewable energy portfolio standards adopted by the board
45 pursuant to paragraphs (1) and (2) of this subsection shall be
46 effective as regulations immediately upon filing with the Office of
47 Administrative Law and shall be effective for a period not to exceed
48 18 months, and may, thereafter, be amended, adopted or readopted

1 by the board in accordance with the provisions of the
2 "Administrative Procedure Act."

3 The renewable energy portfolio standards adopted by the board
4 pursuant to this paragraph shall be effective as regulations
5 immediately upon filing with the Office of Administrative Law and
6 shall be effective for a period not to exceed 30 months after such
7 filing, and shall, thereafter, be amended, adopted or readopted by
8 the board in accordance with the "Administrative Procedure Act";
9 and

10 (4) notwithstanding the provisions of any other law, rule or
11 regulation to the contrary, within [180] 90 days after the date of
12 enactment of [P.L.2010, c.57 (C.48:3-87.1 et al.)]
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 that the board establish an offshore wind renewable energy
15 certificate program to require that a percentage of the kilowatt hours
16 [sold] delivered to the customers of each electric public utility in
17 this State [by each electric power supplier and each basic
18 generation service provider] be from offshore wind energy in order
19 to support at least 1,100 megawatts of generation from qualified
20 offshore wind projects.

21 The percentage established by the board pursuant to this
22 paragraph shall serve as an offset to the renewable energy portfolio
23 standard established pursuant to paragraphs (1) and (2) of this
24 subsection and shall reduce the corresponding Class I renewable
25 energy requirement for each electric power supplier and each basic
26 generation service provider. The board shall initiate a proceeding
27 to establish the procedure by which offshore wind renewable energy
28 certificates obtained by an electric public utility pursuant to this
29 paragraph shall be retired in order to allow for the offshore wind
30 renewable energy certificates to be included for the purposes of the
31 State's renewable energy portfolio standard. The board shall
32 include the offshore wind renewable certificates generated in each
33 energy year in any renewable energy annual report prepared by the
34 board to reflect the total amounts of Class I renewable energy usage
35 compared to the renewable energy portfolio standard established
36 pursuant to paragraphs (1) and (2) of this subsection.

37 The percentage established by the board pursuant to this
38 paragraph shall reflect the projected OREC production of each
39 qualified offshore wind project, approved by the board pursuant to
40 section 3 of P.L.2010, c.57 (C.48:3-87.1), for [twenty] 20 years
41 from the commercial operation start date of the qualified offshore
42 wind project which production projection and OREC purchase
43 requirement, once approved by the board, shall not be subject to
44 reduction.

45 [An] Upon selection of a qualified offshore wind project by the
46 board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1) an
47 electric [power supplier or basic generation service provider]

1 public utility shall comply with the OREC program established
2 pursuant to this paragraph through the purchase of offshore wind
3 renewable energy certificates at a price and for the time period
4 required by the board. **[In the event there are insufficient offshore**
5 **wind renewable energy certificates available, the electric power**
6 **supplier or basic generation service provider shall pay an offshore**
7 **wind alternative compliance payment established by the board.**
8 **Any offshore wind alternative compliance payments collected shall**
9 **be refunded directly to the ratepayers by the electric public**
10 **utilities.] The cost of the offshore wind renewable energy**
11 **certificates to the electric public utilities shall be calculated as the**
12 **difference between the offshore wind renewable energy certificate**
13 **price as approved by the board for the qualified offshore wind**
14 **project, minus the amount of revenue received by the qualified**
15 **offshore wind project from the sale of energy and capacity, as**
16 **described in section 3 of P.L.2010, c.57 (C.48:3-87.1). The board**
17 **shall permit each electric public utility to recover 102.75 percent of**
18 **the entire cost of the purchase of offshore wind renewable energy**
19 **certificates, as required by this paragraph, through a non-bypassable**
20 **charge imposed on all electric public utility customers.**

21 The rules established by the board pursuant to this paragraph
22 shall be effective as regulations immediately upon filing with the
23 Office of Administrative Law and shall be effective for a period not
24 to exceed **[18 months]** five years, and **[may]** shall, thereafter, be
25 amended **[, adopted]** or readopted by the board in accordance with
26 the provisions of the "Administrative Procedure Act," P.L.1968,
27 c.410 (C.52:14B-1 et seq.).

28 e. Notwithstanding any provisions of the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
30 contrary, the board shall initiate a proceeding and shall adopt, after
31 notice, provision of the opportunity for comment, and public
32 hearing:

33 (1) net metering standards for electric power suppliers and basic
34 generation service providers. The standards shall require electric
35 power suppliers and basic generation service providers to offer net
36 metering at non-discriminatory rates to industrial, large
37 commercial, residential and small commercial customers, as those
38 customers are classified or defined by the board, that generate
39 electricity, on the customer's side of the meter, using a Class I
40 renewable energy source, for the net amount of electricity supplied
41 by the electric power supplier or basic generation service provider
42 over an annualized period. Systems of any sized capacity, as
43 measured in watts, are eligible for net metering. If the amount of
44 electricity generated by the customer-generator, plus any kilowatt
45 hour credits held over from the previous billing periods, exceeds the
46 electricity supplied by the electric power supplier or basic
47 generation service provider, then the electric power supplier or
48 basic generation service provider, as the case may be, shall credit

1 the customer-generator for the excess kilowatt hours until the end of
2 the annualized period at which point the customer-generator will be
3 compensated for any remaining credits or, if the customer-generator
4 chooses, credit the customer-generator on a real-time basis, at the
5 electric power supplier's or basic generation service provider's
6 avoided cost of wholesale power or the PJM electric power pool's
7 real-time locational marginal pricing rate, adjusted for losses, for
8 the respective zone in the PJM electric power pool. Alternatively,
9 the customer-generator may execute a bilateral agreement with an
10 electric power supplier or basic generation service provider for the
11 sale and purchase of the customer-generator's excess generation.
12 The customer-generator may be credited on a real-time basis, so
13 long as the customer-generator follows applicable rules prescribed
14 by the PJM electric power pool for its capacity requirements for the
15 net amount of electricity supplied by the electric power supplier or
16 basic generation service provider. The board may authorize an
17 electric power supplier or basic generation service provider to cease
18 offering net metering whenever the total rated generating capacity
19 owned and operated by net metering customer-generators Statewide
20 equals 2.5 percent of the State's peak electricity demand;

21 (2) safety and power quality interconnection standards for Class
22 I renewable energy source systems used by a customer-generator
23 that shall be eligible for net metering.

24 Such standards or rules shall take into consideration the goals of
25 the New Jersey Energy Master Plan, applicable industry standards,
26 and the standards of other states and the Institute of Electrical and
27 Electronic Engineers. The board shall allow electric public utilities
28 to recover the costs of any new net meters, upgraded net meters,
29 system reinforcements or upgrades, and interconnection costs
30 through either their regulated rates or from the net metering
31 customer-generator;

32 (3) credit or other incentive rules for generators using Class I
33 renewable energy generation systems that connect to New Jersey's
34 electric public utilities' distribution system but who do not net
35 meter; and

36 (4) net metering aggregation standards to require electric public
37 utilities to provide net metering aggregation to single electric public
38 utility customers that operate a solar electric power generation
39 system installed at one of the customer's facilities or on property
40 owned by the customer, provided that any such customer is a State
41 entity, school district, county, county agency, county authority,
42 municipality, municipal agency, or municipal authority. The
43 standards shall provide that, in order to qualify for net metering
44 aggregation, the customer must operate a solar electric power
45 generation system using a net metering billing account, which
46 system is located on property owned by the customer, provided that:
47 (a) the property is not land that has been actively devoted to
48 agricultural or horticultural use and that is valued, assessed, and

1 taxed pursuant to the "Farmland Assessment Act of 1964,"
2 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
3 period prior to the effective date of P.L.2012, c.24, provided,
4 however, that the municipal planning board of a municipality in
5 which a solar electric power generation system is located may
6 waive the requirement of this subparagraph (a), (b) the system is not
7 an on-site generation facility, (c) all of the facilities of the single
8 customer combined for the purpose of net metering aggregation are
9 facilities owned or operated by the single customer and are located
10 within its territorial jurisdiction except that all of the facilities of a
11 State entity engaged in net metering aggregation shall be located
12 within five miles of one another, and (d) all of those facilities are
13 within the service territory of a single electric public utility and are
14 all served by the same basic generation service provider or by the
15 same electric power supplier. The standards shall provide that in
16 order to qualify for net metering aggregation, the customer's solar
17 electric power generation system shall be sized so that its annual
18 generation does not exceed the combined metered annual energy
19 usage of the qualified customer facilities, and the qualified
20 customer facilities shall all be in the same customer rate class under
21 the applicable electric public utility tariff. For the customer's
22 facility or property on which the solar electric generation system is
23 installed, the electricity generated from the customer's solar electric
24 generation system shall be accounted for pursuant to the provisions
25 of paragraph (1) of this subsection to provide that the electricity
26 generated in excess of the electricity supplied by the electric power
27 supplier or the basic generation service provider, as the case may
28 be, for the customer's facility on which the solar electric generation
29 system is installed, over the annualized period, is credited at the
30 electric power supplier's or the basic generation service provider's
31 avoided cost of wholesale power or the PJM electric power pool
32 real-time locational marginal pricing rate. All electricity used by
33 the customer's qualified facilities, with the exception of the facility
34 or property on which the solar electric power generation system is
35 installed, shall be billed at the full retail rate pursuant to the electric
36 public utility tariff applicable to the customer class of the customer
37 using the electricity. A customer may contract with a third party to
38 operate a solar electric power generation system, for the purpose of
39 net metering aggregation. Any contractual relationship entered into
40 for operation of a solar electric power generation system related to
41 net metering aggregation shall include contractual protections that
42 provide for adequate performance and provision for construction
43 and operation for the term of the contract, including any appropriate
44 bonding or escrow requirements. Any incremental cost to an
45 electric public utility for net metering aggregation shall be fully and
46 timely recovered in a manner to be determined by the board. The
47 board shall adopt net metering aggregation standards within 270
48 days after the effective date of P.L.2012, c.24.

1 Such rules shall require the board or its designee to issue a credit
2 or other incentive to those generators that do not use a net meter but
3 otherwise generate electricity derived from a Class I renewable
4 energy source and to issue an enhanced credit or other incentive,
5 including, but not limited to, a solar renewable energy credit, to
6 those generators that generate electricity derived from solar
7 technologies.

8 Such standards or rules shall be effective as regulations
9 immediately upon filing with the Office of Administrative Law and
10 shall be effective for a period not to exceed 18 months, and may,
11 thereafter, be amended, adopted or readopted by the board in
12 accordance with the provisions of the **["Administrative Procedure**
13 **Act."]** "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
14 1 et seq.).

15 f. The board may assess, by written order and after notice and
16 opportunity for comment, a separate fee to cover the cost of
17 implementing and overseeing an emission disclosure system or
18 emission portfolio standard, which fee shall be assessed based on an
19 electric power supplier's or basic generation service provider's share
20 of the retail electricity supply market. The board shall not impose a
21 fee for the cost of implementing and overseeing a greenhouse gas
22 emissions portfolio standard adopted pursuant to paragraph (2) of
23 subsection c. of this section, the electric energy efficiency portfolio
24 standard adopted pursuant to subsection g. of this section, or the gas
25 energy efficiency portfolio standard adopted pursuant to subsection
26 h. of this section.

27 g. The board may adopt, pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
29 energy efficiency portfolio standard that may require each electric
30 public utility to implement energy efficiency measures that reduce
31 electricity usage in the State by 2020 to a level that is 20 percent
32 below the usage projected by the board in the absence of such a
33 standard. Nothing in this section shall be construed to prevent an
34 electric public utility from meeting the requirements of this section
35 by contracting with another entity for the performance of the
36 requirements.

37 h. The board may adopt, pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
39 efficiency portfolio standard that may require each gas public utility
40 to implement energy efficiency measures that reduce natural gas
41 usage for heating in the State by 2020 to a level that is 20 percent
42 below the usage projected by the board in the absence of such a
43 standard. Nothing in this section shall be construed to prevent a gas
44 public utility from meeting the requirements of this section by
45 contracting with another entity for the performance of the
46 requirements.

47 i. After the board establishes a schedule of solar kilowatt-hour
48 sale or purchase requirements pursuant to paragraph (3) of

1 subsection d. of this section, the board may initiate subsequent
 2 proceedings and adopt, after appropriate notice and opportunity for
 3 public comment and public hearing, increased minimum solar
 4 kilowatt-hour sale or purchase requirements, provided that the
 5 board shall not reduce previously established minimum solar
 6 kilowatt-hour sale or purchase requirements, or otherwise impose
 7 constraints that reduce the requirements by any means.

8 j. The board shall determine an appropriate level of solar
 9 alternative compliance payment, and permit each supplier or
 10 provider to submit an SACP to comply with the solar electric
 11 generation requirements of paragraph (3) of subsection d. of this
 12 section. The value of the SACP for each Energy Year, for Energy
 13 Years 2014 through 2028 per megawatt hour from solar electric
 14 generation required pursuant to this section, shall be:

15	EY 2014	\$339
16	EY 2015	\$331
17	EY 2016	\$323
18	EY 2017	\$315
19	EY 2018	\$308
20	EY 2019	\$300
21	EY 2020	\$293
22	EY 2021	\$286
23	EY 2022	\$279
24	EY 2023	\$272
25	EY 2024	\$266
26	EY 2025	\$260
27	EY 2026	\$253
28	EY 2027	\$250
29	EY 2028	\$239.

30 The board may initiate subsequent proceedings and adopt, after
 31 appropriate notice and opportunity for public comment and public
 32 hearing, an increase in solar alternative compliance payments,
 33 provided that the board shall not reduce previously established
 34 levels of solar alternative compliance payments, nor shall the board
 35 provide relief from the obligation of payment of the SACP by the
 36 electric power suppliers or basic generation service providers in any
 37 form. Any SACP payments collected shall be refunded directly to
 38 the ratepayers by the electric public utilities.

39 k. The board may allow electric public utilities to offer long-
 40 term contracts through a competitive process, direct electric public
 41 utility investment and other means of financing, including but not
 42 limited to loans, for the purchase of SRECs and the resale of SRECs
 43 to suppliers or providers or others, provided that after such
 44 contracts have been approved by the board, the board's approvals
 45 shall not be modified by subsequent board orders. If the board
 46 allows the offering of contracts pursuant to this subsection, the
 47 board may establish a process, after hearing, and opportunity for
 48 public comment, to provide that a designated segment of the

- 1 contracts approved pursuant to this subsection shall be contracts
2 involving solar electric power generation facility projects with a
3 capacity of up to 250 kilowatts.
- 4 1. The board shall implement its responsibilities under the
5 provisions of this section in such a manner as to:
- 6 (1) place greater reliance on competitive markets, with the
7 explicit goal of encouraging and ensuring the emergence of new
8 entrants that can foster innovations and price competition;
- 9 (2) maintain adequate regulatory authority over non-competitive
10 public utility services;
- 11 (3) consider alternative forms of regulation in order to address
12 changes in the technology and structure of electric public utilities;
- 13 (4) promote energy efficiency and Class I renewable energy
14 market development, taking into consideration environmental
15 benefits and market barriers;
- 16 (5) make energy services more affordable for low and moderate
17 income customers;
- 18 (6) attempt to transform the renewable energy market into one
19 that can move forward without subsidies from the State or public
20 utilities;
- 21 (7) achieve the goals put forth under the renewable energy
22 portfolio standards;
- 23 (8) promote the lowest cost to ratepayers; and
- 24 (9) allow all market segments to participate.
- 25 m. The board shall ensure the availability of financial incentives
26 under its jurisdiction, including, but not limited to, long-term
27 contracts, loans, SRECs, or other financial support, to ensure
28 market diversity, competition, and appropriate coverage across all
29 ratepayer segments, including, but not limited to, residential,
30 commercial, industrial, non-profit, farms, schools, and public entity
31 customers.
- 32 n. For projects which are owned, or directly invested in, by a
33 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
34 98.1), the board shall determine the number of SRECs with which
35 such projects shall be credited; and in determining such number the
36 board shall ensure that the market for SRECs does not detrimentally
37 affect the development of non-utility solar projects and shall
38 consider how its determination may impact the ratepayers.
- 39 o. The board, in consultation with the Department of
40 Environmental Protection, electric public utilities, the Division of
41 Rate Counsel in, but not of, the Department of the Treasury,
42 affected members of the solar energy industry, and relevant
43 stakeholders, shall periodically consider increasing the renewable
44 energy portfolio standards beyond the minimum amounts set forth
45 in subsection d. of this section, taking into account the cost impacts
46 and public benefits of such increases including, but not limited to:
- 47 (1) reductions in air pollution, water pollution, land disturbance,
48 and greenhouse gas emissions;

1 (2) reductions in peak demand for electricity and natural gas,
2 and the overall impact on the costs to customers of electricity and
3 natural gas;

4 (3) increases in renewable energy development, manufacturing,
5 investment, and job creation opportunities in this State; and

6 (4) reductions in State and national dependence on the use of
7 fossil fuels.

8 p. Class I RECs and ORECs shall be eligible for use in
9 renewable energy portfolio standards compliance in the energy year
10 in which they are generated, and for the following two energy years.
11 SRECs shall be eligible for use in renewable energy portfolio
12 standards compliance in the energy year in which they are
13 generated, and for the following four energy years.

14 q. (1) During the energy years of 2014, 2015, and 2016, a solar
15 electric power generation facility project that is not: (a) net
16 metered; (b) an on-site generation facility; (c) qualified for net
17 metering aggregation; or (d) certified as being located on a
18 brownfield, on an area of historic fill or on a properly closed
19 sanitary landfill facility, as provided pursuant to subsection t. of this
20 section may file an application with the board for approval of a
21 designation pursuant to this subsection that the facility is connected
22 to the distribution system. An application filed pursuant to this
23 subsection shall include a notice escrow of \$40,000 per megawatt of
24 the proposed capacity of the facility. The board shall approve the
25 designation if: the facility has filed a notice in writing with the
26 board applying for designation pursuant to this subsection, together
27 with the notice escrow; and the capacity of the facility, when added
28 to the capacity of other facilities that have been previously
29 approved for designation prior to the facility's filing under this
30 subsection, does not exceed 80 megawatts in the aggregate for each
31 year. The capacity of any one solar electric power supply project
32 approved pursuant to this subsection shall not exceed 10 megawatts.
33 No more than 90 days after its receipt of a completed application
34 for designation pursuant to this subsection, the board shall approve,
35 conditionally approve, or disapprove the application. The notice
36 escrow shall be reimbursed to the facility in full upon either
37 rejection by the board or the facility entering commercial operation,
38 or shall be forfeited to the State if the facility is designated pursuant
39 to this subsection but does not enter commercial operation pursuant
40 to paragraph (2) of this subsection.

41 (2) If the proposed solar electric power generation facility does
42 not commence commercial operations within two years following
43 the date of the designation by the board pursuant to this subsection,
44 the designation of the facility shall be deemed to be null and void,
45 and the facility shall not be considered connected to the distribution
46 system thereafter.

47 r. (1) For all proposed solar electric power generation facility
48 projects except for those solar electric power generation facility

1 projects approved pursuant to subsection q. of this section, and for
2 all projects proposed in each energy year following energy year
3 2016, a proposed solar electric power generation facility that is
4 neither net metered nor an on-site generation facility, may be
5 considered "connected to the distribution system" only upon
6 designation as such by the board, after notice to the public and
7 opportunity for public comment or hearing. A proposed solar
8 power electric generation facility seeking board designation as
9 "connected to the distribution system" shall submit an application to
10 the board that includes for the proposed facility: the nameplate
11 capacity; the estimated energy and number of SRECs to be
12 produced and sold per year; the estimated annual rate impact on
13 ratepayers; the estimated capacity of the generator as defined by
14 PJM for sale in the PJM capacity market; the point of
15 interconnection; the total project acreage and location; the current
16 land use designation of the property; the type of solar technology to
17 be used; and such other information as the board shall require.

18 (2) The board shall approve the designation of the proposed
19 solar power electric generation facility as "connected to the
20 distribution system" if the board determines that:

21 (a) the SRECs forecasted to be produced by the facility do not
22 have a detrimental impact on the SREC market or on the
23 appropriate development of solar power in the State;

24 (b) the approval of the designation of the proposed facility
25 would not significantly impact the preservation of open space in
26 this State;

27 (c) the impact of the designation on electric rates and economic
28 development is beneficial; and

29 (d) there will be no impingement on the ability of an electric
30 public utility to maintain its property and equipment in such a
31 condition as to enable it to provide safe, adequate, and proper
32 service to each of its customers.

33 (3) The board shall act within 90 days of its receipt of a
34 completed application for designation of a solar power electric
35 generation facility as "connected to the distribution system," to
36 either approve, conditionally approve, or disapprove the
37 application. If the proposed solar electric power generation facility
38 does not commence commercial operations within two years
39 following the date of the designation by the board pursuant to this
40 subsection, the designation of the facility as "connected to the
41 distribution system" shall be deemed to be null and void, and the
42 facility shall thereafter be considered not "connected to the
43 distribution system."

44 s. In addition to any other requirements of P.L.1999, c.23 or
45 any other law, rule, regulation or order, a solar electric power
46 generation facility that is not net metered or an on-site generation
47 facility and which is located on land that has been actively devoted
48 to agricultural or horticultural use that is valued, assessed, and

1 taxed pursuant to the "Farmland Assessment Act of 1964,"
2 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
3 period prior to the effective date of P.L.2012, c.24, shall only be
4 considered "connected to the distribution system" if (1) the board
5 approves the facility's designation pursuant to subsection q. of this
6 section; or (2) (a) PJM issued a System Impact Study for the facility
7 on or before June 30, 2011, (b) the facility files a notice with the
8 board within 60 days of the effective date of P.L.2012, c.24,
9 indicating its intent to qualify under this subsection, and (c) the
10 facility has been approved as "connected to the distribution system"
11 by the board. Nothing in this subsection shall limit the board's
12 authority concerning the review and oversight of facilities, unless
13 such facilities are exempt from such review as a result of having
14 been approved pursuant to subsection q. of this section.

15 t. (1) No more than 180 days after the date of enactment of
16 P.L.2012, c.24, the board shall, in consultation with the Department
17 of Environmental Protection and the New Jersey Economic
18 Development Authority, and, after notice and opportunity for public
19 comment and public hearing, complete a proceeding to establish a
20 program to provide SRECs to owners of solar electric power
21 generation facility projects certified by the board, in consultation
22 with the Department of Environmental Protection, as being located
23 on a brownfield, on an area of historic fill or on a properly closed
24 sanitary landfill facility, including those owned or operated by an
25 electric public utility and approved pursuant to section 13 of
26 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
27 subsection shall be considered "connected to the distribution
28 system", shall not require such designation by the board, and shall
29 not be subject to board review required pursuant to subsections q.
30 and r. of this section. Notwithstanding the provisions of section 3
31 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
32 order to the contrary, for projects certified under this subsection, the
33 board shall establish a financial incentive that is designed to
34 supplement the SRECs generated by the facility in order to cover
35 the additional cost of constructing and operating a solar electric
36 power generation facility on a brownfield, on an area of historic fill
37 or on a properly closed sanitary landfill facility. Any financial
38 benefit realized in relation to a project owned or operated by an
39 electric public utility and approved by the board pursuant to section
40 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
41 financial incentive established by the board pursuant to this
42 subsection, shall be credited to ratepayers. The issuance of SRECs
43 for all solar electric power generation facility projects pursuant to
44 this subsection shall be deemed "Board of Public Utilities financial
45 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
46 29.47).

47 (2) Notwithstanding the provisions of the "Spill Compensation
48 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any

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

21 (a) the person acquired or leased the real property after the
22 discharge of that hazardous substance at the real property;

23 (b) the person did not discharge the hazardous substance, is not
24 in any way responsible for the hazardous substance, and is not a
25 successor to the discharger or to any person in any way responsible
26 for the hazardous substance or to anyone liable for cleanup and
27 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
28 23.11g);

29 (c) the person, within 30 days after acquisition of the property,
30 gave notice of the discharge to the Department of Environmental
31 Protection in a manner the Department of Environmental Protection
32 prescribes;

33 (d) the person does not disrupt or change, without prior written
34 permission from the Department of Environmental Protection, any
35 engineering or institutional control that is part of a remedial action
36 for the contaminated site or any landfill closure or post-closure
37 requirement;

38 (e) the person does not exacerbate the contamination at the
39 property;

40 (f) the person does not interfere with any necessary remediation
41 of the property;

42 (g) the person complies with any regulations and any permit the
43 Department of Environmental Protection issues pursuant to section
44 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
45 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

46 (h) with respect to an area of historic fill, the person has
47 demonstrated pursuant to a preliminary assessment and site

1 investigation, that hazardous substances have not been discharged;
2 and

3 (i) with respect to a properly closed sanitary landfill facility, no
4 person who owns or controls the facility receives, has received, or
5 will receive, with respect to such facility, any funds from any post-
6 closure escrow account established pursuant to section 10 of
7 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
8 the facility.

9 Only the person who is liable to clean up and remove the
10 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
11 23.11g) and who does not have a defense to liability pursuant to
12 subsection d. of that section shall be liable for cleanup and removal
13 costs.

14 u. No more than 180 days after the date of enactment of
15 P.L.2012, c.24, the board shall complete a proceeding to establish a
16 registration program. The registration program shall require the
17 owners of solar electric power generation facility projects
18 connected to the distribution system to make periodic milestone
19 filings with the board in a manner and at such times as determined
20 by the board to provide full disclosure and transparency regarding
21 the overall level of development and construction activity of those
22 projects Statewide.

23 v. The issuance of SRECs for all solar electric power
24 generation facility projects pursuant to this section, for projects
25 connected to the distribution system with a capacity of one
26 megawatt or greater, shall be deemed "Board of Public Utilities
27 financial assistance" as provided pursuant to section 1 of P.L.2009,
28 c.89 (C.48:2-29.47).

29 w. No more than 270 days after the date of enactment of
30 P.L.2012, c.24, the board shall, after notice and opportunity for
31 public comment and public hearing, complete a proceeding to
32 consider whether to establish a program to provide, to owners of
33 solar electric power generation facility projects certified by the
34 board as being three megawatts or greater in capacity and being net
35 metered, including facilities which are owned or operated by an
36 electric public utility and approved by the board pursuant to section
37 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
38 designed to supplement the SRECs generated by the facility to
39 further the goal of improving the economic competitiveness of
40 commercial and industrial customers taking power from such
41 projects. If the board determines to establish such a program
42 pursuant to this subsection, the board may establish a financial
43 incentive to provide that the board shall issue one SREC for no less
44 than every 750 kilowatt-hours of solar energy generated by the
45 certified projects. Any financial benefit realized in relation to a
46 project owned or operated by an electric public utility and approved
47 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
48 98.1), as a result of the provisions of a financial incentive

1 established by the board pursuant to this subsection, shall be
2 credited to ratepayers.

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

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

12

13 3. (New section) The Legislature finds and declares that it is in
14 the public interest to facilitate the development of offshore wind
15 projects that demonstrate positive economic and environmental net
16 benefits in order to:

17 a. position the State to take advantage of the economic
18 development benefits of the emerging offshore wind industry;

19 b. promote the development of renewable energy sources that
20 increase the nation's energy independence from foreign sources of
21 fossil fuels; and

22 c. reduce the adverse environmental and health impacts of
23 traditional fossil fuel energy sources and provide long term
24 protection against volatile fossil fuel prices.

25

26 4. Section 3 of P.L.2010, c.57 (C.48:3-87.1) is amended to read
27 as follows:

28 3. a. An entity seeking to construct an offshore wind project
29 shall submit an application in response to the [board] board's
30 solicitation, pursuant to subsection a. of this section, for approval
31 by the board as a qualified offshore wind project, which shall
32 include, but need not be limited to, the following information:

33 (1) a detailed description of the project, including maps, surveys
34 and other visual aides. This description shall include, but need not
35 be limited to: the type, size and number of proposed turbines and
36 foundations; the history to-date of the same type, size and
37 manufacturer of installed turbines and foundations globally; and a
38 detailed implementation plan that highlights key milestone
39 activities during the permitting, financing, design, equipment
40 solicitation, manufacturing, shipping, assembly, in-field
41 installation, testing, equipment commissioning and service start-up;

42 (2) a completed financial analysis of the project including pro
43 forma income statements, balance sheets, and cash flow projections
44 for a 20-year period, including the internal rate of return, and a
45 description and estimate of any State or federal tax benefits that
46 may be associated with the project;

- 1 (3) the proposed method of financing the project, including
2 identification of equity investors, fixed income investors, and any
3 other sources of capital;
- 4 (4) documentation that the entity has applied for all eligible
5 federal funds and programs available to offset the cost of the project
6 or provide tax advantages;
- 7 (5) the projected electrical output and anticipated market prices
8 over the anticipated life of the project, including a forecast of
9 electricity revenues from the sale of energy derived from the project
10 and capacity, as well as revenues anticipated by the sale of any
11 ORECs, RECs, air emission credits or offsets, or any tradable
12 environmental attributes created by the project;
- 13 (6) an operations and maintenance plan for the initial 20-year
14 operation of the project that: details routine, intermittent and
15 emergency protocols; identifies the primary risks to the built
16 infrastructure and how the potential risks, including but not limited
17 to hurricanes, lightning, fog, rogue wave occurrences, and exposed
18 cabling, shall be mitigated; and identifies specific and concrete
19 elements to ensure both construction and operational cost controls.
20 This operations and maintenance plan shall be integrated into the
21 financial analysis of the project, and shall identify the projected
22 plan for the subsequent 20 years, following conclusion of the initial
23 20-year operations, assuming any necessary federal lease
24 agreements are maintained and renewed;
- 25 (7) the anticipated carbon dioxide emissions impact of the
26 project;
- 27 (8) a decommissioning plan for the project including provisions
28 for financial assurance for decommissioning as required by the
29 applicable State and federal governmental entities;
- 30 (9) a list of all State and federal regulatory agency approvals,
31 permits, or other authorizations required pursuant to State and
32 federal law for the offshore wind project, and copies of all
33 submitted permit applications and any issued approvals and permits
34 for the offshore wind project;
- 35 (10) a cost-benefit analysis for the project, using the criteria for
36 economic and environmental benefits provided by the board in its
37 solicitation, as provided for in subsection b. of this section,
38 including at a minimum:
 - 39 (a) a detailed input-output analysis of the impact of the project
40 on income, employment , wages, indirect business taxes, and output
41 in the State with particular emphasis on in-State manufacturing
42 employment;
 - 43 (b) an explanation of the location, type and salary of
44 employment opportunities to be created by the project with job
45 totals expressed as full-time equivalent positions assuming 1,820
46 hours per year;
 - 47 (c) an analysis of the anticipated environmental benefits and
48 environmental impacts of the project; and

1 (d) an analysis of the potential impacts on residential and
2 industrial ratepayers of electricity rates over the life of the project
3 that may be caused by incorporating any State subsidy into rates;

4 (11) a proposed OREC ~~【pricing method and】~~ price which
5 reflects the total revenue per megawatt-hour generated to which the
6 developer is entitled in order to construct and operate the project,
7 and method by which the qualified offshore wind project shall sell
8 energy and capacity in a wholesale market, with the proceeds of the
9 sale reducing the amount that is required to be collected by the
10 electric public utility through the non-bypassable charge imposed
11 pursuant to paragraph (4) of subsection b. of section 38 of
12 P.L.1999 , c.23 (C.48:3-87) (pending before the Legislature as this
13 bill), as well as a production schedule for the board to consider;

14 (12) a timeline for the permitting, licensing and construction of
15 the proposed offshore wind project;

16 (13) a plan for interconnection, including engineering
17 specifications and costs; and

18 (14) any other information deemed necessary by the board in
19 order to conduct a thorough evaluation of the proposal. The board
20 may hire consultants or other experts if the board determines that
21 obtaining such outside expertise would be beneficial to the review
22 of the proposal.

23 b. (1) In considering ~~【an application】~~ applications for ~~【a】~~
24 qualified offshore wind 【project】 projects, submitted pursuant to
25 subsection a. of this section, the board shall first determine ~~【that~~
26 ~~the】~~ whether each application satisfies the following threshold
27 conditions:

28 (a) the filing is consistent with the New Jersey energy master
29 plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-
30 14), in effect at the time the board is considering the application;

31 (b) the cost-benefit analysis, submitted pursuant to paragraph
32 (10) of subsection a. of this section, using the criteria for economic
33 and environmental benefits provided by the board in its solicitation,
34 demonstrates positive economic and environmental net benefits to
35 the State. The board's determination of economic and
36 environmental net benefits shall be based on the net present value
37 of the proposed project's benefits over its entire useful life
38 compared to the net present value of the net cost to ratepayers of the
39 OREC revenues requested in the applicant's proposal. A project
40 shall be determined to have net positive economic and
41 environmental benefits if the net present value of the benefits over
42 its useful life is greater than or equal to the net present value of the
43 OREC revenues requested in the applicant's proposal. The board's
44 assessment of a project's benefits shall include, but not be limited
45 to, the net present value of a reasonable assessment of the
46 following:

- 1 (i) economic development, accounting for the direct, indirect,
2 and induced effects of the project on the State's economy, including
3 but not limited to, income, employment, wages, indirect business
4 taxes, and output;
- 5 (ii) environmental improvements, accounting for the value of
6 reduced emissions caused by the project, the health benefits for
7 residents of the State resulting from reduced emissions, the cost of
8 other environmental programs avoided as a result of the project, and
9 other environmental benefits as may be reasonably attributed to the
10 project;
- 11 (iii) wholesale electric market savings, including the full value of
12 price suppression reasonably attributable to the project over its
13 entire useful life;
- 14 (iv) long term price certainty, based on the value of the
15 protection from volatile fossil-fuel prices provided by the project;
16 and
- 17 (v) any other benefit reasonably attributable to the project;
- 18 (c) the **【financing】** proposed pricing mechanism 【is】 shall be
19 based upon the actual electrical output of the project, which fairly
20 balances the risks and rewards of the project between ratepayers
21 and shareholders, and ensures that any costs of non-performance, in
22 either the construction or operational phase of the project, shall be
23 borne by shareholders; and
- 24 (d) from those applications that satisfy the threshold conditions,
25 the board shall select one or more qualified offshore wind projects
26 based on whether the entity proposing the project demonstrates
27 sufficient professional qualifications, financial integrity, and
28 **【sufficient】** access to capital to allow for a reasonable expectation
29 of completion of construction and successful operation of the
30 project, and the achievement level of economic development
31 projected by the project.
- 32 (2) In considering an application for a qualified offshore wind
33 project, submitted pursuant to subsection **【a.】** c. of this section, the
34 board shall also consider:
- 35 (a) the total **【level】** net present value of subsidies to be paid by
36 ratepayers for qualified offshore wind projects over the life of the
37 project relative to the total net present value of the project benefits,
38 including, but not limited to, economic development, environmental
39 improvement, wholesale electric market savings, and long term
40 price certainty provided to the State by each qualified offshore wind
41 project; and
- 42 (b) any other elements the board deems appropriate in
43 conjunction with the application.
- 44 c. An order issued by the board to approve an application for a
45 qualified offshore wind project pursuant to this section shall, at a
46 minimum, include conditions to ensure the following:
- 47 (1) no OREC shall be paid until electricity is produced by the
48 qualified offshore wind project;

1 (2) ORECs shall be paid on the actual electrical output of the
2 project that is delivered into the transmission system of the State
3 directly or delivered into a transmission facility in federal waters
4 that is connected to the electric transmission system of the State;

5 (3) ratepayers and the State shall be held harmless for any cost
6 overruns associated with the project; and

7 (4) the applicant will reimburse the board and the State for all
8 reasonable costs incurred for regulatory review of the project,
9 including but not limited to consulting services, oversight,
10 inspections, and audits.

11 An order issued by the board pursuant to this subsection shall
12 specify the value of the OREC and the term of the order.

13 **【**An order issued by the board pursuant to this subsection shall
14 not be modified by subsequent board orders, unless the
15 modifications are jointly agreed to by the parties.**】** Notwithstanding
16 any other law, rule, regulation, or order to the contrary, each order
17 issued by the board pursuant to this subsection shall become
18 irrevocable upon issuance. Neither the board nor any other
19 governmental entity shall have the authority, directly or indirectly,
20 legally or equitably: to rescind, alter, repeal, modify, or amend an
21 order issued by the board pursuant to this subsection; to revalue, re-
22 evaluate, or revise the amount of OREC; to determine the amount of
23 the OREC or the revenues required to recover the entire cost of the
24 purchase of offshore wind certificates are unjust or unreasonable; or
25 in any way to reduce or impair the value of the OREC unless the
26 modification is agreed to by all parties involved in the contested
27 matter. The board order shall constitute a vested, presently existing
28 property right, of the offshore wind project and of the electric
29 public utilities upon approval and issuance by the board.

30 d. The board shall review and approve, conditionally approve,
31 or deny an application submitted pursuant to this section within 180
32 days after the date a complete application is submitted to the board.
33 (cf: P.L.2010, c.57, s.3)

34

35 5. (New section) To effectuate the Legislature's findings and
36 declarations pursuant to section 3 of P.L. , c. (C.) (pending
37 before the Legislature as this bill), the Board of Public Utilities
38 shall:

39 a. designate each developer of a qualified offshore wind
40 project approved by the board pursuant to section 3 of P.L.2010,
41 c.57 (C.48:3-87.1), as a preferred developer of an offshore wind
42 energy project approved by the board for the State;

43 b. coordinate with the Bureau of Ocean Energy Management in
44 the United States Department of the Interior for the bureau's leasing
45 of the wind energy area (WEA) in order to encourage the selection
46 of one or more board approved qualified offshore wind projects for
47 a lease award;

- 1 c. cooperate with the Bureau of Ocean Energy Management
2 and any other affected parties, as appropriate, to facilitate the
3 implementation of federal regulations that are necessary to
4 effectuate the purposes of P.L. , c. (C.) (pending before the
5 Legislature as this bill), including, but not limited to, the timely
6 leasing of the WEA to preferred developers of board approved
7 qualified offshore wind projects;
- 8 d. for a five-year period after the effective date of P.L. ,
9 c. (C.) (pending before the Legislature as this bill), solicit
10 proposals for qualified offshore wind projects from offshore wind
11 project developers once per year, with the first solicitation being
12 within 180 days after the effective date of P.L. ,
13 c. (C.) (pending before the Legislature as this bill);
- 14 e. select a reasonable method, as determined by the board, of
15 soliciting qualified offshore wind project proposals from
16 developers, which shall include a public solicitation process, and
17 which may be followed by individual negotiations;
- 18 f. state the criteria to be used by the board to evaluate the
19 economic and environmental benefits of the project in the board's
20 solicitation of proposals, as provided for in subsection d. of this
21 section;
- 22 g. approve a proposal for one or more qualified offshore wind
23 projects with a capacity of at least 1,100 megawatts of generation,
24 within the WEA or in adjacent federal waters, provided that the
25 board deems that the proposal is reasonable and demonstrates
26 positive net economic and environmental benefits as provided for in
27 subsection d. of this section; and
- 28 h. solicit and approve additional proposals for qualified
29 offshore wind projects that demonstrate net positive economic and
30 environmental benefits.

31
32 6. Nothing in P.L. , c. (C.) (pending before the
33 Legislature as this bill) shall be construed to establish responsibility
34 or jurisdiction to the board with respect to qualified offshore wind
35 projects located in federal waters or over any matters within the
36 responsibility and jurisdiction of the federal government, including
37 the design, fabrication, installation, and decommissioning of each
38 qualified offshore wind project.

39
40 7. This act shall take effect immediately.

41
42

43 STATEMENT

44
45 This bill facilitates the development of qualified offshore wind
46 energy projects, to create private sector jobs, stabilize energy costs,
47 promote energy security, improve air quality, and establish New

1 Jersey as the national leader in the growing global offshore wind
2 industry.

3 The bill requires each electric public utility to purchase offshore
4 wind renewable energy certificates (ORECs) pursuant to the Board
5 of Public Utilities' (board) OREC program. Under the OREC
6 program, a percentage of the energy delivered by each electric
7 public utility in this State is to be from energy generated by
8 qualified offshore wind energy projects located on the State's
9 Atlantic coast. An OREC is a certificate issued by the board,
10 representing the environmental attributes of one megawatt hour of
11 electric generation from a qualified offshore wind project. The
12 board is to permit each public utility to recover 102.75 percent of
13 the cost incurred to purchase ORECs through the imposition of a
14 new, non-bypassable charge on the customers of each electric
15 public utility.

16 Further, the bill requires the board to solicit proposals for the
17 development of qualified offshore wind projects which are subject
18 to the approval of the board, provided that the proposals meet
19 certain criteria and demonstrate positive net economic and
20 environmental benefits. The bill requires the board to permit
21 ratepayer participation in the financing of approved, qualified
22 offshore wind projects.

23 Under the bill, the board is required to coordinate with the
24 Bureau of Ocean Energy Management (BOEM) in the United States
25 Department of the Interior for leasing areas designated by the
26 BOEM for development of offshore wind energy, and to cooperate
27 with the BOEM and any other affected parties to facilitate the
28 implementation of federal regulations that are necessary to
29 effectuate the purposes of this bill.

30 The bill requires the board to: designate each qualified offshore
31 wind project approved by the board as a preferred developer of
32 offshore wind energy for the State; support the preferred developer
33 of offshore wind in obtaining necessary federal, State, and local
34 government permits and approvals; and advocate on behalf of the
35 preferred developer of offshore wind energy with federal and State
36 agencies.