

[First Reprint]

SENATE, No. 3985

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 20, 2019

Sponsored by:

Senator BOB SMITH

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Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

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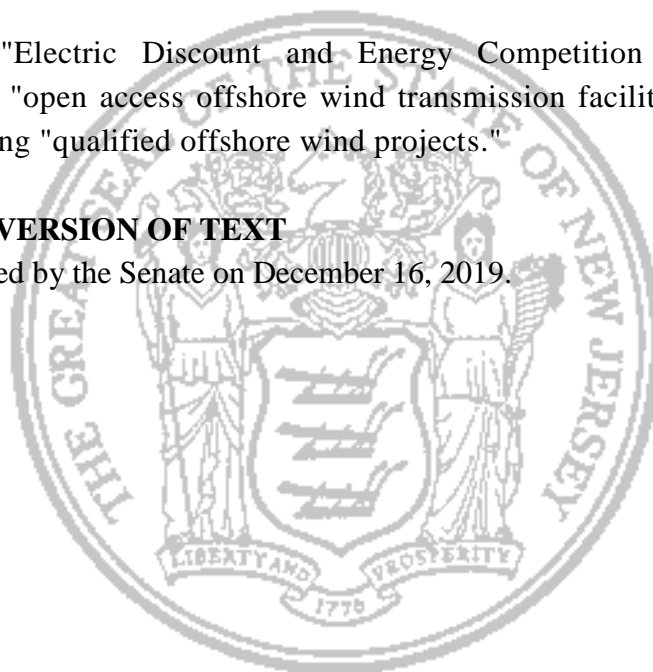
**Assemblymen Zwicker, Conaway, Calabrese, Assemblywoman Jasey and
Assemblyman Karabinchak**

SYNOPSIS

Amends "Electric Discount and Energy Competition Act" to add definition of "open access offshore wind transmission facility" and revises law concerning "qualified offshore wind projects."

CURRENT VERSION OF TEXT

As amended by the Senate on December 16, 2019.



(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning offshore wind projects, and amending
2 P.L.1999, c.23 and P.L.2010, c.57.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
8 as follows:

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted December 16, 2019.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 "Offshore wind renewable energy certificate" or "OREC" means
4 a certificate, issued by the board or its designee, representing the
5 environmental attributes ~~of~~ ¹equivalent to ~~of~~ ¹ one megawatt
6 hour of electric generation ¹or one megawatt of electric
7 transmission transfer capability¹ from a qualified offshore wind
8 project.

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

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

34 "Open access offshore wind transmission facility" means ¹[a
35 high voltage] an open access¹ transmission facility ¹[that conforms
36 to applicable FERC regulations and policies regarding open access
37 transmission, including but not limited to FERC regulations and
38 policies relating to allocation of transmission capacity and open
39 access, the provision of transmission and related transmission
40 interconnection services pursuant to a FERC-approved or FERC-
41 accepted Open Access Transmission Tariff, the justness and
42 reasonableness of rates for such transmission and related
43 interconnection services, the potential for undue preference or
44 discrimination, and affiliate dealings, if any] , located either in the
45 Atlantic Ocean or onshore, used to facilitate the collection of
46 offshore wind energy or its delivery to the electric transmission
47 system in this State¹ .

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

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

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

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

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

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

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

6 "Qualified offshore wind project" means ¹["(1)"] a wind
7 turbine electricity generation facility in the Atlantic Ocean and
8 connected to the electric transmission system in this State, [and
9 includes] ¹["which may also include"] and includes¹ the associated
10 transmission-related interconnection facilities and equipment, and
11 approved by the board pursuant to section 3 of P.L.2010, c.57
12 (C.48:3-87.1) ¹["; or (2) an open access offshore wind transmission
13 facility, including any associated interconnection facilities and
14 equipment, in the Atlantic Ocean and connected to the electric
15 transmission system in this State, that is connected with a wind
16 turbine electricity generation facility in the Atlantic Ocean, and
17 approved by the board pursuant to section 3 of P.L.2010, c.57
18 (C.48:3-87.1)"]¹.

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

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

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

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

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

1 entities, or otherwise secured by those entities through bilateral
2 contracts.

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

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

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

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

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

44 "Retail margin" means an amount, reflecting differences in
45 prices that electric power suppliers and electric public utilities may
46 charge in providing electric generation service and basic generation
47 service, respectively, to retail customers, excluding residential
48 customers, which the board may authorize to be charged to

1 categories of basic generation service customers of electric public
2 utilities in this State, other than residential customers, under the
3 board's continuing regulation of basic generation service pursuant to
4 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
5 purpose of promoting a competitive retail market for the supply of
6 electricity.

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

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

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

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

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

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

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

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

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

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

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

21 "Standard offer capacity price" or "SOCP" means the capacity
22 price that is fixed for the term of the SOCA and which is the price
23 to be received by eligible generators under a board-approved
24 SOCA.

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

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

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

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

44 "Telemarketing sales call" means a telephone call made by a
45 telemarketer to a potential residential customer as part of a plan,
46 program, or campaign to encourage the customer to change the
47 customer's electric power supplier or gas supplier. A telephone call
48 made to an existing customer of an electric power supplier, gas

1 supplier, broker, energy agent, marketer, private aggregator, or
2 sales representative, for the sole purpose of collecting on accounts
3 or following up on contractual obligations, shall not be deemed a
4 telemarketing sales call. A telephone call made in response to an
5 express written request of a customer shall not be deemed a
6 telemarketing sales call.

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

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

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

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

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

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

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

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

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

3 3. a. An entity seeking to construct an offshore wind project
4 shall submit an application to the board for approval by the board as
5 a qualified offshore wind project, which shall include, but need not
6 be limited to, the following information:

7 (1) a detailed description of the project, including maps, surveys
8 and other visual aides. This description shall include, but need not
9 be limited to: the type, size and number of proposed turbines and
10 foundations '[. if applicable]' ; the history to-date of the same
11 type, size and manufacturer of installed turbines and foundations
12 globally '[. if applicable]' ; a detailed description of the
13 transmission facilities and interconnection facilities to be installed ;
14 and a detailed implementation plan that highlights key milestone
15 activities during the permitting, financing, design, equipment
16 solicitation, manufacturing, shipping, assembly, in-field
17 installation, testing, equipment commissioning and service start-up;

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

23 (3) the proposed method of financing the project, including
24 identification of equity investors, fixed income investors, and any
25 other sources of capital;

26 (4) documentation that the entity has applied for all eligible
27 federal funds and programs available to offset the cost of the project
28 or provide tax advantages;

29 (5) the projected electrical output '[or projected transmission
30 transfer capability]' and anticipated market prices over the
31 anticipated life of the project, including a forecast of electricity
32 revenues from the sale of energy derived from the project and
33 capacity, '[or from the sale of transmission transfer capability or
34 related services.]' as well as revenues anticipated by the sale of any
35 ORECs, RECs, air emission credits or offsets, or any tradable
36 environmental attributes created by the project;

37 (6) an operations and maintenance plan for the initial 20-year
38 operation of the project that: details routine, intermittent and
39 emergency protocols; identifies the primary risks to the built
40 infrastructure and how the potential risks, including but not limited
41 to hurricanes, lightning, fog, rogue wave occurrences, and exposed
42 cabling, shall be mitigated; and identifies specific and concrete
43 elements to ensure both construction and operational cost controls.
44 This operations and maintenance plan shall be integrated into the
45 financial analysis of the project, and shall identify the projected
46 plan for the subsequent 20 years, following conclusion of the initial

1 20-year operations, assuming any necessary federal lease
2 agreements are maintained and renewed;

3 (7) the anticipated carbon dioxide emissions impact of the
4 project;

5 (8) a decommissioning plan for the project including provisions
6 for financial assurance for decommissioning as required by the
7 applicable State and federal governmental entities;

8 (9) a list of all State and federal regulatory agency approvals,
9 permits, or other authorizations required pursuant to State and
10 federal law for the offshore wind project, and copies of all
11 submitted permit applications and any issued approvals and permits
12 for the offshore wind project;

13 (10) a cost-benefit analysis for the project including at a
14 minimum:

15 (a) a detailed input-output analysis of the impact of the project
16 on income, employment, wages, indirect business taxes, and output
17 in the State with particular emphasis on in-State manufacturing
18 employment;

19 (b) an explanation of the location, type and salary of
20 employment opportunities to be created by the project with job
21 totals expressed as full-time equivalent positions assuming 1,820
22 hours per year;

23 (c) an analysis of the anticipated environmental benefits and
24 environmental impacts of the project; and

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

28 (11) a proposed OREC pricing method and schedule for the
29 board to consider;

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

32 (13) a plan for interconnection, including engineering
33 specifications and costs; and

34 (14) any other information deemed necessary by the board in
35 order to conduct a thorough evaluation of the proposal. The board
36 may hire consultants or other experts if the board determines that
37 obtaining such outside expertise would be beneficial to the review
38 of the proposal.

39 b. (1) In considering an application for a qualified offshore
40 wind project, submitted pursuant to subsection a. of this section, the
41 board shall determine that the application satisfies the following
42 conditions:

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

46 (b) the cost-benefit analysis, submitted pursuant to paragraph
47 (10) of subsection a. of this section, demonstrates positive
48 economic and environmental net benefits to the State;

1 (c) the financing mechanism is based upon the actual electrical
2 output of ¹the project, fairly balances the risks and rewards of the project between
3 ratepayers and shareholders, and ensures that any costs of non-
4 performance, in either the construction or operational phase of the
5 project, shall be borne by shareholders; and

7 (d) the entity proposing the project demonstrates financial
8 integrity and sufficient access to capital to allow for a reasonable
9 expectation of completion of construction of the project.

10 (2) In considering an application for a qualified offshore wind
11 project, submitted pursuant to subsection a. of this section, the
12 board shall also consider:

13 (a) the total level of subsidies to be paid by ratepayers for
14 qualified offshore wind projects over the life of the project; and

15 (b) any other elements the board deems appropriate in
16 conjunction with the application.

17 c. An order issued by the board to approve an application for a
18 qualified offshore wind project pursuant to this section shall, at a
19 minimum, include conditions to ensure the following:

20 (1) no OREC shall be paid until electricity is produced by the
21 qualified ¹qualified offshore wind project ¹turbine electricity
22 generation facility or the open access offshore wind transmission
23 facility demonstrates its ability to transmit electricity generated by
24 interconnected offshore wind turbine electricity generation facilities
25 in the Atlantic Ocean to the transmission system in the State
26 project¹ ;

27 (2) ORECs shall be paid on the actual electrical output ¹of¹
28 the project that is ¹an offshore wind turbine electricity
29 generation facility¹ delivered into the transmission system of the
30 State ¹or transmission transfer capability of an open access
31 offshore transmission facility into the transmission system of the
32 State¹ ;

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

35 (4) the applicant will reimburse the board and the State for all
36 reasonable costs incurred for regulatory review of the project,
37 including but not limited to consulting services, oversight,
38 inspections, and audits.

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

41 An order issued by the board pursuant to this subsection shall not
42 be modified by subsequent board orders, unless the modifications
43 are jointly agreed to by the parties.

44 d. The board shall review and approve, conditionally approve,
45 or deny an application submitted pursuant to this section within 180
46 days after the date a complete application is submitted to the board.

1 e. (1) Notwithstanding any provision of P.L.2010, c.57
2 (C.48:3-87.1 et al.) to the contrary, the board ¹["shall"] may¹ conduct
3 one or more competitive solicitations for open access offshore wind
4 transmission facilities ¹["and related interconnection facilities. A
5 competitive solicitation pursuant to this paragraph shall be
6 conducted separately from any other solicitation for offshore wine
7 turbine electricity generation facilities.

8 (2) After conducting a competitive solicitation pursuant to
9 paragraph (1) of this subsection, in considering an application for a
10 qualified offshore wind project submitted pursuant to subsection a.
11 of this section, the board shall evaluate the proposed open access
12 offshore wind transmission facility and related interconnection
13 facility separately from any proposed offshore wind turbine
14 electricity generation facility. After evaluation, the board may issue
15 an order approving an application for a qualified offshore wind
16 project that consists of:

17 (a) an offshore wind turbine electricity generation facility only;

18 (b) an open access offshore wind transmission facility, including
19 related interconnection facilities, only; or

20 (c) a combination of an offshore wind turbine electricity
21 generation facility and open access offshore wind transmission
22 facility, including related interconnection facilities.

23 (3) Nothing in this subsection shall impact any board order
24 approving an application for a qualified offshore wind project
25 issued prior to the date of enactment of P.L. , c. (pending before
26 the Legislature as this bill)] designed to facilitate the collection of
27 offshore wind energy from qualified offshore wind projects or its
28 delivery to the electric transmission system in this State¹ .

29 (cf: P.L.2010, c.57, s.3)

30
31 3. This act shall take effect immediately.