

ASSEMBLY, No. 3101

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Permits electric public utilities, electric power suppliers, and basic generation service providers to enter into certain agreements with building owners for use of solar electric systems at owners' buildings.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning solar electric system agreements involving
2 electric public utilities, electric power suppliers, and basic
3 generation service providers and amending and supplementing
4 P.L.1999, c.23.

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

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

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

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

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

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

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

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

42 "Basic generation service provider" or "provider" means a
43 provider of basic generation service.

44 "Basic generation service transition costs" means the amount by
45 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, basic generation service transition cost
33 recovery, or the transfer or financing of the bondable transition
34 property, or both, including taxes, whose recovery period is
35 modified by the effect of a stranded costs recovery order, a
36 bondable stranded costs rate order, or both; and (3) the costs
37 incurred to issue, service or refinance transition bonds, including
38 interest, acquisition or redemption premium, and other financing
39 costs, whether paid upon issuance or over the life of the transition
40 bonds, including, but not limited to, credit enhancements, service
41 charges, overcollateralization, interest rate cap, swap or collar, yield
42 maintenance, maturity guarantee or other hedging agreements,
43 equity investments, operating costs, and other related fees, costs,
44 and charges, or to assign, sell, or otherwise transfer bondable
45 transition property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "Comprehensive resource analysis" means an analysis including,
47 but not limited to, an assessment of existing market barriers to the
48 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 electric
12 grid at 69 kilovolts or less, regardless of how an electric public
13 utility classifies that portion of its electric grid, and is designated as
14 "connected to the distribution system" by the board pursuant to
15 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
16 87); or (6) is certified by the board, in consultation with the
17 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 "Electric generation service" means the provision of retail
40 electric energy and capacity which is generated off-site from the
41 location at which the consumption of **such** the electric energy and
42 capacity is metered for retail billing purposes, including agreements
43 and arrangements related thereto.

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

1 or contiguous to the site on which the facility will be located or is
2 located. The designation of an entity as an electric power generator
3 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
4 and of itself, affect the entity's status as an exempt wholesale
5 generator under the **【Public Utility Holding Company】** Energy
6 Policy Act of 【1935, 15 U.S.C. s.79 et seq.】 2005, Pub.L.109-58, or
7 its successor act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 utility or any subsidiary of a gas utility is not a gas supplier. In the
2 event that a gas public utility is not part of a holding company legal
3 structure, a related competitive business segment of that gas public
4 utility may be a gas supplier, provided that related competitive
5 business segment is structurally separated from the gas public
6 utility, and provided that the interactions between the gas public
7 utility and the related competitive business segment are subject to
8 the affiliate relations standards adopted by the board pursuant to
9 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 "Public utility holding company" means: (1) any company that,
23 directly or indirectly, owns, controls, or holds with power to vote,
24 10 percent or more of the outstanding voting securities of an
25 electric public utility or a gas public utility or of a company which
26 is a public utility holding company by virtue of this definition,
27 unless the Securities and Exchange Commission, or its successor,
28 by order declares **[such]** the company not to be a public utility
29 holding company under the **[Public Utility Holding Company]**
30 Energy Policy Act of **[1935, 15 U.S.C. s.79 et seq.]** 2005
31 Pub.L.109-58, or its successor act; or (2) any person that the
32 Securities and Exchange Commission, or its successor, determines,
33 after notice and opportunity for hearing, directly or indirectly, to
34 exercise, either alone or pursuant to an arrangement or
35 understanding with one or more other persons, such a controlling
36 influence over the management or policies of an electric public
37 utility or a gas public utility or public utility holding company as to
38 make it necessary or appropriate in the public interest or for the
39 protection of investors or consumers that **[such]** the person be
40 subject to the obligations, duties, and liabilities imposed in the
41 **[Public Utility Holding Company]** Energy Policy Act of **[1935, 15**
42 **U.S.C. s.79 et seq.]** 2005 Pub.L.109-58, or its successor act.

43 "Qualified offshore wind project" means a wind turbine
44 electricity generation facility in the Atlantic Ocean and connected
45 to the electric transmission system in this State, and includes the
46 associated transmission-related interconnection facilities and

1 equipment, and approved by the board pursuant to section 3 of
2 P.L.2010, c.57 (C.48:3-87.1).

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

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

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

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

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

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

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

44 "Resource recovery facility" means a solid waste facility
45 constructed and operated for the incineration of solid waste for
46 energy production and the recovery of metals and other materials
47 for reuse, which the Department of Environmental Protection has
48 determined to be in compliance with current environmental

1 standards, including, but not limited to, all applicable requirements
2 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

37 "Solar electric system" means any system which produces
38 electric energy derived from solar photovoltaic technologies to
39 provide all or a portion of the heating, cooling, or general energy
40 needs of a building.

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

46 "Standard offer capacity agreement" or "SOCA" means a
47 financially-settled transaction agreement, approved by board order,
48 that provides for eligible generators to receive payments from the

1 electric public utilities for a defined amount of electric capacity for
2 a term to be determined by the board but not to exceed 15 years,
3 and for **such** the payments to be a fully non-bypassable charge,
4 with such an order, once issued, being irrevocable.

5 "Standard offer capacity price" or "SOCP" means the capacity
6 price that is fixed for the term of the SOCA and which is the price
7 to be received by eligible generators under a board-approved
8 SOCA.

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

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

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

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

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

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

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

47 "Transition bonds" means bonds, notes, certificates of
48 participation, beneficial interest, or other evidences of indebtedness

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

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

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

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

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

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

31

32 2. (New section) Notwithstanding the provisions of any law,
33 rule, regulation, or order to the contrary, an electric public utility,
34 electric power supplier, or basic generation service provider may
35 enter into an agreement with a building owner to install or
36 otherwise provide to the building owner a solar electric system to
37 be used for the building, in exchange for financial compensation
38 from the owner, or with respect to the solar renewable energy
39 certificates allowed under section 38 of P.L.1999, c.23 (C.48:3-87),
40 that may be derived from the production of solar renewable energy
41 by the solar electric system, pursuant to the agreement entered into
42 with the owner under this section, for the installation or the
43 provision of the solar electric system.

44

45 3. This act shall take effect immediately.

STATEMENT

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This bill permits an electric public utility, electric power supplier, or basic generation service provider to enter into an agreement with a building owner to install or otherwise provide to the building owner a “solar electric system,” as defined in the bill, to be used for the building, in exchange for financial compensation from the owner, or with respect to the solar renewable energy certificates allowed under section 38 of P.L.1999, c.23 (N.J.S.A.48:3-87), that may be derived from the production of solar renewable energy by the solar electric system, pursuant to the agreement entered into with the owner under this section, for the installation or the provision of the solar electric system. The purpose of the bill is to create an incentive to electric public utilities and suppliers to encourage more building owners to use solar electric systems for their buildings. This incentive will help meet the State’s goal of increasing the use of solar electric power, which is a renewable form of energy.