

SENATE, No. 865

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

Sponsored by:

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District 17 (Middlesex and Somerset)

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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Senator Greenstein

SYNOPSIS

Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and amending P.L.1999, c.23.

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

7
8 1. (New section) As used in P.L. , c. (C.) (pending
9 before the Legislature as this bill):

10 “Alternative authorized food waste recycling method” means: (1)
11 recycling food waste at the site at which it is generated as
12 authorized by the Department of Environmental Protection; (2)
13 treating food waste at the site at which it is generated pursuant to a
14 permit issued by the department; (3) sending food waste for offsite
15 use for agricultural purposes, including as animal feed; (4) sending
16 food waste offsite for treatment with sewage sludge in an anaerobic
17 digester for renewable natural gas or biogas recovery as authorized
18 by the department; or (5) any other method of recycling or reuse of
19 food waste, as authorized by the department.

20 “Authorized food waste recycling facility” means a Class C
21 recycling center within the State authorized to accept, store,
22 process, or transfer food waste or compostable material, pursuant to
23 subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

24 “Department” means the Department of Environmental
25 Protection.

26 “Food waste” means food processing vegetative waste, food
27 processing residue generated from processing and packaging
28 operations, overripe produce, trimmings from food, food product
29 over-runs from food processing, soiled and unrecyclable paper
30 generated from food processing, and used cooking fats, oil, and
31 grease, but shall not include food donated by the generator for
32 human consumption , any waste generated by a consumer after the
33 generator issues or sells food to the consumer, or any waste
34 regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R.
35 s.94.5.

36 “Large food waste generator” means any commercial food
37 wholesaler, distributor, industrial food processor, supermarket,
38 resort, conference center, banquet hall, restaurant, educational or
39 religious institution, military installation, prison, hospital, medical
40 facility, or casino that produces at least 52 tons per year of food
41 waste; provided that "large food waste generator" shall not include
42 any interstate carrier conducting interstate transportation operations
43 in the post-security area of an international airport.

44 “Source separate” or “source separated” means the process by
45 which food waste is separated at the point of generation by the
46 generator thereof from other solid waste for the purpose of
47 recycling.

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 2. (New section) a. Beginning one year after the effective
2 date of P.L. , c. (C.)(pending before the Legislature as this
3 bill), each large food waste generator that is located within 25 road
4 miles of an authorized food waste recycling facility and that
5 generates an average projected volume of 52 or more tons per year
6 of food waste within 25 road miles of an authorized food waste
7 recycling facility shall:

8 (1) source separate its food waste from other solid waste; and
9 (2) send the source separated food waste to an authorized food
10 waste recycling facility that has available capacity and will accept
11 it.

12 b. Notwithstanding the provisions of subsection a. of this
13 section:

14 (1) If a large food waste generator is not located within 25 road
15 miles of an authorized food waste recycling facility, or the
16 authorized food waste recycling facility will not accept the
17 generator's food waste, the large food waste generator may send the
18 food waste for final disposal at a solid waste facility as provided in
19 the approved district solid waste management plan for the solid
20 waste management district in which the generator is located;

21 (2) Any large food waste generator that is obligated to source
22 separate and recycle its food waste pursuant to subsection a. of this
23 section shall be deemed to be in compliance with the provisions of
24 this section if the large food waste generator:

25 (a) performs enclosed on-site composting, or anaerobic or
26 aerobic digestion of its source separated food waste in accordance
27 with standards adopted by the department pursuant to subsection d.
28 of this section, or

29 (b) recycles food waste using an alternative authorized food
30 waste recycling method; and

31 (3) A large food waste generator may petition the Department of
32 Environmental Protection for a waiver of the requirements in
33 subsection a. of this section if the cost of transporting the food
34 waste plus the fee charged by an authorized food waste recycling
35 facility located within 25 road miles of the large food waste
36 generator is at least 10 percent more than the cost of transporting
37 the food waste for disposal as solid waste plus the disposal fee
38 charged for solid waste disposal in the State for noncontract
39 commercial waste by a properly licensed transfer station, sanitary
40 landfill facility, incinerator, or resource recovery facility located
41 within 25 road miles of the large food waste generator provided that
42 any authorized food waste recycling facility located within 25 road
43 miles of the large food waste generator seeking the waiver must be
44 given notice of the petition and an opportunity to participate in the
45 proceeding before the department.

46 c. Any person who violates this act, or any rule or regulation
47 adopted pursuant thereto, shall be subject to a civil penalty of \$250
48 for the first offense, \$500 for the second offense, and \$1,000 for the

1 third and each subsequent offense, to be collected in a civil action
2 by a summary proceeding under the “Penalty Enforcement Law of
3 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
4 continuing nature, each day during which it continues shall
5 constitute an additional, separate, and distinct offense. The Superior
6 Court and the municipal court shall have jurisdiction to enforce the
7 provisions of the “Penalty Enforcement Law of 1999,”
8 P.L.1999, c.274 (C.2A:58-10 et seq.) in connection with this
9 subsection.

10 d. The Department of Environmental Protection shall adopt,
11 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
12 (C.52:14B-1 et seq.), rules and regulations necessary to implement
13 this section, including, but not limited to:

14 (1) record keeping and reporting requirements for large food
15 waste generators and authorized food waste recycling facilities, as
16 determined necessary by the department;

17 (2) guidelines and procedures for businesses to follow to
18 determine whether they are subject to the requirements of this
19 section, including food waste generation estimates and food waste
20 audits or assessments;

21 (3) a list of food waste products that must be source separated
22 and recycled pursuant to this section;

23 (4) standards for the enclosed on-site composting, or anaerobic
24 or aerobic digestion of source separated food waste, including
25 requirements for energy production and other sustainable uses of
26 the byproducts of recycled food waste; and

27 (5) a list of actions businesses may take to reduce the amount of
28 food waste they generate to a level below the threshold amount
29 established in subsection a. of this section.

30 e. The department shall publish on its Internet website the
31 name, location, and contact information for each authorized food
32 waste recycling facility in the State.

33

34 3. (New section) a. Any municipality within which an
35 authorized food waste recycling facility is located, pursuant to an
36 adopted district solid waste management plan approved after the
37 effective date of P.L. , c. (C.)(pending before the
38 Legislature as this bill), shall be entitled to an economic benefit of
39 not less than the equivalent of \$0.50 per ton, to be paid and adjusted
40 quarterly, of all food waste accepted for processing at the
41 authorized food waste recycling facility during the 2019 calendar
42 year and each year thereafter. The owner or operator of the
43 authorized food waste recycling facility shall pay quarterly to the
44 municipality the full amount due under this subsection. The
45 municipality is authorized to anticipate this amount for the purposes
46 of preparing its annual budget.

47 b. For the purposes of calculating the payments, the owner or
48 operator of the authorized food waste recycling facility may, subject

1 to the prior agreement of the municipality and approval of the
2 Department of Environmental Protection, provide the municipality
3 with any of the following benefits in consideration for the use of
4 land within the municipality's boundaries as the location of the
5 authorized food waste recycling facility:

6 (1) quarterly payments of money in lieu of taxes on the land
7 used for the authorized food waste recycling center or other
8 authorized facility;

9 (2) exemption from all fees and charges for the acceptance of
10 food waste for composting, anaerobic or aerobic digestion, or other
11 processing, as approved by the department, of food waste generated
12 within the municipality's boundaries;

13 (3) quarterly lump sum cash payments; or

14 (4) any combination thereof.

15

16 4. (New section) a. There is established in the Department of
17 Environmental Protection a Food Waste Recycling Market
18 Development Council, which shall consist of 12 members. The
19 members shall include the Commissioner of Environmental
20 Protection, the President of the Board of Public Utilities, the
21 Commissioner of Transportation, the Secretary of Agriculture, the
22 State Treasurer, and the Attorney General, or their designees, who
23 shall serve ex officio; and six citizens of the State appointed by the
24 Governor. Of the appointed members: two shall be actively
25 engaged in the composting industry, of whom one shall be a
26 representative of the National Waste and Recycling Association and
27 one shall be a representative of the National Biosolids Partnership
28 or equivalent entities; two shall be actively engaged in the recycling
29 or solid waste collection industry, of whom one shall be a
30 representative of the Association of New Jersey Recyclers or
31 equivalent entities; and two shall represent the general public. The
32 Commissioner of Environmental Protection shall appoint the
33 chairperson and the vice-chairperson of the council from the citizen
34 members.

35 b. Members of the council shall serve without compensation,
36 but shall be reimbursed for expenses incurred in attending meetings
37 and performing their duties to the extent funds are available
38 therefor.

39 c. Within 18 months after the date of enactment of this act, the
40 Food Waste Recycling Market Development Council shall prepare a
41 report on the existing markets for any products and energy produced
42 from food recycling facilities, food waste composting facilities, and
43 anaerobic and aerobic digestion facilities that accept food waste
44 material. The council shall investigate the feasibility of providing
45 preferences for products or energy produced from food recycling
46 facilities, food waste composting facilities, and anaerobic and
47 aerobic digestion facilities in the State procurement process,
48 including how to stimulate the use in public projects of compost or

1 soil amendment products derived from these facilities. The council
2 shall provide recommendations on changes needed to State laws or
3 rules or regulations to stimulate the market for products and energy
4 produced from food recycling facilities, food waste composting
5 facilities, and anaerobic and aerobic digestion facilities that accept
6 food waste material. The report shall be transmitted to the Governor
7 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
8 Legislature.

9
10 5. (New section) a. Every State department or agency that
11 engages in landscaping or construction activities on State land, or
12 for State projects or facilities, shall use, where technically feasible,
13 environmentally sound, and competitively priced, compost, mulch,
14 or other soil amendments produced from municipal solid waste,
15 food waste, sludge, yard waste, clean wood waste, or other organic
16 materials that the supplier has certified comply with applicable
17 project standards and specifications. Such compost, mulch, or soil
18 amendments shall be used in place of chemical fertilizers or soil
19 amendments.

20 b. In purchasing compost, mulch, or other soil amendments for
21 use by the various departments or agencies of State government, the
22 Director of the Division of Purchase and Property in the Department
23 of the Treasury, whenever the price is competitive and the quality
24 satisfactory for the purpose intended, shall make contracts available
25 for compost, mulch, or other soil amendments produced from
26 municipal solid waste, food waste, sludge, yard waste, clean wood
27 waste, or other organic materials.

28 c. As used in this section:

29 "Competitive" or "competitively priced" means a price of no
30 more than 10% above the price of products which are manufactured
31 or produced from virgin materials; except that the Director of the
32 Division of Purchase and Property, upon consultation with the
33 Department of Environmental Protection, may make contracts
34 available for compost, mulch, or other soil amendments produced
35 from municipal solid waste, food waste, sludge, yard waste, clean
36 wood waste, or other organic materials at a price no more than 15%
37 above the price of products manufactured or produced from virgin
38 materials whenever the director determines that a 15% price
39 differential is in the best interest of the State.

40 "Food waste" shall have the same meaning as provided in section
41 1 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43
44 6. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
45 as follows:

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

47 "Assignee" means a person to which an electric public utility or
48 another assignee assigns, sells, or transfers, other than as security,

1 all or a portion of its right to or interest in bondable transition
2 property. Except as specifically provided in
3 P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to
4 the public utility requirements of Title 48 or any rules or regulations
5 adopted pursuant thereto.

6 "Base load electric power generation facility" means an electric
7 power generation facility intended to be operated at a greater than
8 50 percent capacity factor including, but not limited to, a combined
9 cycle power facility and a combined heat and power facility.

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

14 "Basic gas supply service" means gas supply service that is
15 provided to any customer that has not chosen an alternative gas
16 supplier, whether or not the customer has received offers as to
17 competitive supply options, including, but not limited to, any
18 customer that cannot obtain such service for any reason, including
19 non-payment for services. Basic gas supply service is not a
20 competitive service and shall be fully regulated by the board.

21 "Basic generation service" or "BGS" means electric generation
22 service that is provided, to any customer that has not chosen an
23 alternative electric power supplier, whether or not the customer has
24 received offers for competitive supply options, including, but not
25 limited to, any customer that cannot obtain such service from an
26 electric power supplier for any reason, including non-payment for
27 services. Basic generation service is not a competitive service and
28 shall be fully regulated by the board.

29 "Basic generation service provider" or "provider" means a
30 provider of basic generation service.

31 "Basic generation service transition costs" means the amount by
32 which the payments by an electric public utility for the procurement
33 of power for basic generation service and related ancillary and
34 administrative costs exceeds the net revenues from the basic
35 generation service charge established by the board pursuant to
36 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
37 together with interest on the balance at the board-approved rate, that
38 is reflected in a deferred balance account approved by the board in
39 an order addressing the electric public utility's unbundled rates,
40 stranded costs, and restructuring filings pursuant to
41 P.L.1999, c.23 (C.48:3-49 et al.). Basic generation service
42 transition costs shall include, but are not limited to, costs of
43 purchases from the spot market, bilateral contracts, contracts with
44 non-utility generators, parting contracts with the purchaser of the
45 electric public utility's divested generation assets, short-term
46 advance purchases, and financial instruments such as hedging,
47 forward contracts, and options. Basic generation service transition
48 costs shall also include the payments by an electric public utility

1 pursuant to a competitive procurement process for basic generation
2 service supply during the transition period, and costs of any such
3 process used to procure the basic generation service supply.

4 "Board" means the New Jersey Board of Public Utilities or any
5 successor agency.

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

30 "Bondable stranded costs rate order" means one or more
31 irrevocable written orders issued by the board pursuant to
32 P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of
33 bondable stranded costs and the initial amount of transition bond
34 charges authorized to be imposed to recover the bondable stranded
35 costs, including the costs to be financed from the proceeds of the
36 transition bonds, as well as on-going costs associated with servicing
37 and credit enhancing the transition bonds, and provides the electric
38 public utility specific authority to issue or cause to be issued,
39 directly or indirectly, transition bonds through a financing entity
40 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
41 which order shall become effective immediately upon the written
42 consent of the related electric public utility to the order as provided
43 in P.L.1999, c.23 (C.48:3-49 et al.).

44 "Bondable transition property" means the property consisting of
45 the irrevocable right to charge, collect, and receive, and be paid
46 from collections of, transition bond charges in the amount necessary
47 to provide for the full recovery of bondable stranded costs which
48 are determined to be recoverable in a bondable stranded costs rate

1 order, all rights of the related electric public utility under the
2 bondable stranded costs rate order including, without limitation, all
3 rights to obtain periodic adjustments of the related transition bond
4 charges pursuant to subsection b. of section 15 of
5 P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments,
6 money, and proceeds arising under, or with respect to, all of the
7 foregoing.

8 "British thermal unit" or "Btu" means the amount of heat
9 required to increase the temperature of one pound of water by one
10 degree Fahrenheit.

11 "Broker" means a duly licensed electric power supplier that
12 assumes the contractual and legal responsibility for the sale of
13 electric generation service, transmission, or other services to end-
14 use retail customers, but does not take title to any of the power sold,
15 or a duly licensed gas supplier that assumes the contractual and
16 legal obligation to provide gas supply service to end-use retail
17 customers, but does not take title to the gas.

18 "Brownfield" means any former or current commercial or
19 industrial site that is currently vacant or underutilized and on which
20 there has been, or there is suspected to have been, a discharge of a
21 contaminant.

22 "Buydown" means an arrangement or arrangements involving the
23 buyer and seller in a given power purchase contract and, in some
24 cases third parties, for consideration to be given by the buyer in
25 order to effectuate a reduction in the pricing, or the restructuring of
26 other terms to reduce the overall cost of the power contract, for the
27 remaining succeeding period of the purchased power arrangement
28 or arrangements.

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

33 "Class I renewable energy" means electric energy produced from
34 solar technologies, photovoltaic technologies, wind energy, fuel
35 cells, geothermal technologies, wave or tidal action, small scale
36 hydropower facilities with a capacity of three megawatts or less and
37 put into service after the effective date of P.L.2012, c.24, **[and]**
38 methane gas from landfills **[or], methane gas from** a biomass
39 facility**[,]** provided that the biomass is cultivated and harvested in a
40 sustainable manner, or methane gas from a composting or anaerobic
41 or aerobic digestion facility that converts food waste or other
42 organic waste to energy.

43 "Class II renewable energy" means electric energy produced at a
44 hydropower facility with a capacity of greater than three megawatts,
45 but less than 30 megawatts, or a resource recovery facility, provided
46 that the facility is located where retail competition is permitted and
47 provided further that the Commissioner of Environmental
48 Protection has determined that the facility meets the highest

1 environmental standards and minimizes any impacts to the
2 environment and local communities. Class II renewable energy
3 shall not include electric energy produced at a hydropower facility
4 with a capacity of greater than 30 megawatts on or after the
5 effective date of P.L.2015, c.51.

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

9 "Combined cycle power facility" means a generation facility that
10 combines two or more thermodynamic cycles, by producing electric
11 power via the combustion of fuel and then routing the resulting
12 waste heat by-product to a conventional boiler or to a heat recovery
13 steam generator for use by a steam turbine to produce electric
14 power, thereby increasing the overall efficiency of the generating
15 facility.

16 "Combined heat and power facility" or "co-generation facility"
17 means a generation facility which produces electric energy and
18 steam or other forms of useful energy such as heat, which are used
19 for industrial or commercial heating or cooling purposes. A
20 combined heat and power facility or co-generation facility shall not
21 be considered a public utility.

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

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

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

40 "Connected to the distribution system" means, for a solar electric
41 power generation facility, that the facility is: (1) connected to a net
42 metering customer's side of a meter, regardless of the voltage at
43 which that customer connects to the electric grid; (2) an on-site
44 generation facility; (3) qualified for net metering aggregation as
45 provided pursuant to paragraph (4) of subsection e. of section 38 of
46 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
47 public utility and approved by the board pursuant to section 13 of
48 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric

1 grid at 69 kilovolts or less, regardless of how an electric public
2 utility classifies that portion of its electric grid, and is designated as
3 "connected to the distribution system" by the board pursuant to
4 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
5 87); or (6) is certified by the board, in consultation with the
6 Department of Environmental Protection, as being located on a
7 brownfield, on an area of historic fill, or on a properly closed
8 sanitary landfill facility. Any solar electric power generation
9 facility, other than that of a net metering customer on the customer's
10 side of the meter, connected above 69 kilovolts shall not be
11 considered connected to the distribution system.

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

16 "Customer account service" means metering, billing, or such
17 other administrative activity associated with maintaining a customer
18 account.

19 "Delivery year" or "DY" means the 12-month period from June
20 1st through May 31st, numbered according to the calendar year in
21 which it ends.

22 "Demand side management" means the management of customer
23 demand for energy service through the implementation of cost-
24 effective energy efficiency technologies, including, but not limited
25 to, installed conservation, load management, and energy efficiency
26 measures on and in the residential, commercial, industrial,
27 institutional, and governmental premises and facilities in this State.

28 "Electric generation service" means the provision of retail
29 electric energy and capacity which is generated off-site from the
30 location at which the consumption of such electric energy and
31 capacity is metered for retail billing purposes, including agreements
32 and arrangements related thereto.

33 "Electric power generator" means an entity that proposes to
34 construct, own, lease, or operate, or currently owns, leases, or
35 operates, an electric power production facility that will sell or does
36 sell at least 90 percent of its output, either directly or through a
37 marketer, to a customer or customers located at sites that are not on
38 or contiguous to the site on which the facility will be located or is
39 located. The designation of an entity as an electric power generator
40 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
41 and of itself, affect the entity's status as an exempt wholesale
42 generator under the Public Utility Holding Company Act of 1935,
43 15 U.S.C. s.79 et seq., or its successor act.

44 "Electric power supplier" means a person or entity that is duly
45 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
46 al.) to offer and to assume the contractual and legal responsibility to
47 provide electric generation service to retail customers, and includes
48 load serving entities, marketers, and brokers that offer or provide

1 electric generation service to retail customers. The term excludes an
2 electric public utility that provides electric generation service only
3 as a basic generation service pursuant to section 9 of
4 P.L.1999, c.23 (C.48:3-57).

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

8 "Electric related service" means a service that is directly related
9 to the consumption of electricity by an end user, including, but not
10 limited to, the installation of demand side management measures at
11 the end user's premises, the maintenance, repair, or replacement of
12 appliances, lighting, motors, or other energy-consuming devices at
13 the end user's premises, and the provision of energy consumption
14 measurement and billing services.

15 "Electronic signature" means an electronic sound, symbol, or
16 process, attached to, or logically associated with, a contract or other
17 record, and executed or adopted by a person with the intent to sign
18 the record.

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

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

30 "Energy consumer" means a business or residential consumer of
31 electric generation service or gas supply service located within the
32 territorial jurisdiction of a government aggregator.

33 "Energy efficiency portfolio standard" means a requirement to
34 procure a specified amount of energy efficiency or demand side
35 management resources as a means of managing and reducing energy
36 usage and demand by customers.

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

40 "Existing business relationship" means a relationship formed by
41 a voluntary two-way communication between an electric power
42 supplier, gas supplier, broker, energy agent, marketer, private
43 aggregator, sales representative, or telemarketer and a customer,
44 regardless of an exchange of consideration, on the basis of an
45 inquiry, application, purchase, or transaction initiated by the
46 customer regarding products or services offered by the electric
47 power supplier, gas supplier, broker, energy agent, marketer,

1 private aggregator, sales representative, or telemarketer; however, a
2 consumer's use of electric generation service or gas supply service
3 through the consumer's electric public utility or gas public utility
4 shall not constitute or establish an existing business relationship for
5 the purpose of P.L.2013, c.263.

6 "Farmland" means land actively devoted to agricultural or
7 horticultural use that is valued, assessed, and taxed pursuant to the
8 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
9 23.1 et seq.).

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

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

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

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

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

32 "Gas supplier" means a person that is duly licensed pursuant to
33 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
34 assume the contractual and legal obligation to provide gas supply
35 service to retail customers, and includes, but is not limited to,
36 marketers and brokers. A non-public utility affiliate of a public
37 utility holding company may be a gas supplier, but a gas public
38 utility or any subsidiary of a gas utility is not a gas supplier. In the
39 event that a gas public utility is not part of a holding company legal
40 structure, a related competitive business segment of that gas public
41 utility may be a gas supplier, provided that related competitive
42 business segment is structurally separated from the gas public
43 utility, and provided that the interactions between the gas public
44 utility and the related competitive business segment are subject to
45 the affiliate relations standards adopted by the board pursuant to
46 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

1 "Gas supply service" means the provision to customers of the
2 retail commodity of gas, but does not include any regulated
3 distribution service.

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

16 "Government energy aggregation program" means a program and
17 procedure pursuant to which a government aggregator enters into a
18 written contract for the provision of electric generation service or
19 gas supply service on behalf of business or residential customers
20 within its territorial jurisdiction.

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

24 "Greenhouse gas emissions portfolio standard" means a
25 requirement that addresses or limits the amount of carbon dioxide
26 emissions indirectly resulting from the use of electricity as applied
27 to any electric power suppliers and basic generation service
28 providers of electricity.

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

40 "Incremental auction" means an auction conducted by PJM, as
41 part of PJM's reliability pricing model, prior to the start of the
42 delivery year to secure electric capacity as necessary to satisfy the
43 capacity requirements for that delivery year, that is not otherwise
44 provided for in the base residual auction.

45 "Leakage" means an increase in greenhouse gas emissions
46 related to generation sources located outside of the State that are not
47 subject to a state, interstate, or regional greenhouse gas emissions

1 cap or standard that applies to generation sources located within the
2 State.

3 "Locational deliverability area" or "LDA" means one or more of
4 the zones within the PJM region which are used to evaluate area
5 transmission constraints and reliability issues including electric
6 public utility company zones, sub-zones, and combinations of
7 zones.

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

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

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

29 "Mid-merit electric power generation facility" means a
30 generation facility that operates at a capacity factor between
31 baseload generation facilities and peaker generation facilities.

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

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

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

44 "Offshore wind energy" means electric energy produced by a
45 qualified offshore wind project.

46 "Offshore wind renewable energy certificate" or "OREC" means
47 a certificate, issued by the board or its designee, representing the

1 environmental attributes of one megawatt hour of electric
2 generation from a qualified offshore wind project.

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

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

28 "Person" means an individual, partnership, corporation,
29 association, trust, limited liability company, governmental entity, or
30 other legal entity.

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

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

42 "Private aggregator" means a non-government aggregator that is
43 a duly-organized business or non-profit organization authorized to
44 do business in this State that enters into a contract with a duly
45 licensed electric power supplier for the purchase of electric energy

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

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

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

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

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

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

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

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

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

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

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

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

42 "Restructuring related costs" means reasonably incurred costs
43 directly related to the restructuring of the electric power industry,
44 including the closure, sale, functional separation, and divestiture of
45 generation and other competitive utility assets by a public utility, or
46 the provision of competitive services as those costs are determined
47 by the board, and which are not stranded costs as defined in
48 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited

1 to, investments in management information systems, and which
2 shall include expenses related to employees affected by
3 restructuring which result in efficiencies and which result in
4 benefits to ratepayers, such as training or retraining at the level
5 equivalent to one year's training at a vocational or technical school
6 or county community college, the provision of severance pay of two
7 weeks of base pay for each year of full-time employment, and a
8 maximum of 24 months' continued health care coverage. Except as
9 to expenses related to employees affected by restructuring,
10 "restructuring related costs" shall not include going forward costs.

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

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

28 "Sales representative" means a person employed by, acting on
29 behalf of, or as an independent contractor for, an electric power
30 supplier, gas supplier, broker, energy agent, marketer, or private
31 aggregator who, by any means, solicits a potential residential
32 customer for the provision of electric generation service or gas
33 supply service.

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

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

44 "Shopping credit" means an amount deducted from the bill of an
45 electric public utility customer to reflect the fact that the customer
46 has switched to an electric power supplier and no longer takes basic
47 generation service from the electric public utility.

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

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

12 "Social program" means a program implemented with board
13 approval to provide assistance to a group of disadvantaged
14 customers, to provide protection to consumers, or to accomplish a
15 particular societal goal, and includes, but is not limited to, the
16 winter moratorium program, utility practices concerning "bad debt"
17 customers, low income assistance, deferred payment plans,
18 weatherization programs, and late payment and deposit policies, but
19 does not include any demand side management program or any
20 environmental requirements or controls.

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

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

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

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

41 "Standard offer capacity price" or "SOCP" means the capacity
42 price that is fixed for the term of the SOCA and which is the price
43 to be received by eligible generators under a board-approved
44 SOCA.

45 "State entity" means a department, agency, or office of State
46 government, a State university or college, or an authority created by
47 the State.

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

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

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

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

28 "Thermal efficiency" means the useful electric energy output of a
29 facility, plus the useful thermal energy output of the facility,
30 expressed as a percentage of the total energy input to the facility.

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

36 "Transition bonds" means bonds, notes, certificates of
37 participation, beneficial interest, or other evidences of indebtedness
38 or ownership issued pursuant to an indenture, contract, or other
39 agreement of an electric public utility or a financing entity, the
40 proceeds of which are used, directly or indirectly, to recover,
41 finance or refinance bondable stranded costs and which are, directly
42 or indirectly, secured by or payable from bondable transition
43 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
44 principal, interest, and acquisition or redemption premium with
45 respect to transition bonds which are issued in the form of
46 certificates of participation or beneficial interest or other evidences
47 of ownership shall refer to the comparable payments on such
48 securities.

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

3 "Transmission and distribution system" means, with respect to an
4 electric public utility, any facility or equipment that is used for the
5 transmission, distribution, or delivery of electricity to the customers
6 of the electric public utility including, but not limited to, the land,
7 structures, meters, lines, switches, and all other appurtenances
8 thereof and thereto, owned or controlled by the electric public
9 utility within this State.

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

13 "Unsolicited advertisement" means any advertising claims of the
14 commercial availability or quality of services provided by an
15 electric power supplier, gas supplier, broker, energy agent,
16 marketer, private aggregator, sales representative, or telemarketer
17 which is transmitted to a potential customer without that customer's
18 prior express invitation or permission.

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

20

21 7. This act shall take effect immediately.

22

23

24 STATEMENT

25

26 This bill would require certain generators of solid waste to
27 separate and recycle food waste, and amend the definition of "Class
28 I renewable energy."

29 Specifically, beginning one year after the effective date of the
30 bill, every large food waste generator that is located within 25 road
31 miles of an authorized food waste recycling facility and that
32 generates an average projected volume of 52 or more tons per year
33 of food waste would be required to: (1) source separate its food
34 waste from other solid waste; and (2) send that source separated
35 food waste to an authorized food waste recycling facility that has
36 available capacity and will accept it.

37 Under the bill, if a large food waste generator is not located
38 within 25 road miles of an authorized food waste recycling facility,
39 or the facility will not accept the generator's food waste, the
40 generator may send the food waste for final disposal at a solid waste
41 facility as provided in the approved district solid waste management
42 plan for the solid waste management district in which the generator
43 is located. In addition, a large food waste generator would be
44 deemed in compliance with the bill if the generator: (1) performs
45 enclosed on-site composting, or anaerobic or aerobic digestion of its
46 source separated food waste in accordance with standards adopted
47 by the department; or (2) recycles food waste using an alternative
48 authorized food waste recycling method.

1 The bill would authorize a large food waste generator to petition
2 the Department of Environmental Protection (DEP) for a waiver of
3 the recycling requirement if the cost of transporting the food waste
4 plus the fee charged by an authorized food waste recycling facility
5 located within 25 road miles of the large food waste generator is at
6 least 10 percent more than the cost of transporting the food waste
7 for disposal as solid waste plus the disposal fee charged for solid
8 waste disposal in the State for noncontract commercial waste by a
9 properly licensed transfer station, sanitary landfill facility,
10 incinerator, or resource recovery facility located within 25 road
11 miles of the large food waste generator. The bill would require that
12 any authorized food waste recycling facility located within 25 road
13 miles of the large food waste generator seeking the waiver be given
14 notice of the petition and an opportunity to participate in the
15 proceeding before the DEP.

16 Any person who violates the bill would be subject to a civil
17 penalty of \$250 for the first offense, \$500 for the second offense,
18 and \$1,000 for the third and subsequent offenses. If the violation is
19 of a continuing nature, each day during which the violation
20 continues would constitute a separate offense.

21 The DEP would be required to adopt regulations to implement
22 the bill, including: (1) record keeping and reporting requirements
23 for large food waste generators and authorized food waste recycling
24 facilities; (2) guidelines and procedures for businesses to follow to
25 determine whether they are subject to the requirements of the bill,
26 including food waste generation estimates and food waste audits or
27 assessments; (3) a list of food waste products that must be source
28 separated and recycled; (4) standards for the enclosed on-site
29 composting, or anaerobic or aerobic digestion of source separated
30 food waste, including requirements for energy production and other
31 sustainable uses of the byproducts of recycled food waste; and (5) a
32 list of actions businesses may take to reduce the amount of food
33 waste they generate to a level below the threshold amount
34 established in the bill. The DEP would publish on its Internet
35 website the name, location, and contact information for each
36 authorized food waste recycling facility in the State.

37 Under the bill, any municipality within which an authorized food
38 waste recycling facility is located, pursuant to an adopted district
39 solid waste management plan approved after the effective date of
40 the bill would be entitled to an economic benefit. The bill would
41 also establish the Food Waste Recycling Market Development
42 Council. The bill would require State departments and agencies to
43 use, where technically feasible, environmentally sound, and
44 competitively priced, compost, mulch, or other soil amendments
45 produced from municipal solid waste, food waste, sludge, yard
46 waste, clean wood waste, or other similar materials that the supplier

1 has certified comply with applicable project standards and
2 specifications. Finally, the bill would amend the definition of
3 “Class I renewable energy” to include electric energy produced
4 from methane gas from a composting or anaerobic or aerobic
5 digestion facility that converts food waste or other organic waste to
6 energy.