

[Fourth Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1925

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED MAY 17, 2012

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SYNOPSIS

Revises certain solar renewable energy programs and requirements; provides for aggregated net metering of electricity consumption related to properties owned by certain governmental bodies and school districts.

CURRENT VERSION OF TEXT

As amended by the Senate on June 25, 2012.

(Sponsorship Updated As Of: 6/26/2012)

1 AN ACT concerning ²**[net]** certain electric customer² metering and
2 solar renewable portfolio standards requirements and amending
3 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. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
9 as follows:

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted May 24, 2012.

² Assembly ATU committee amendments adopted June 7, 2012.

³ Assembly floor amendments adopted June 21, 2012.

⁴ Senate floor amendments adopted June 25, 2012.

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

22 "Board" means the New Jersey Board of Public Utilities or any
23 successor agency;

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

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

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

26 "British thermal unit" or "Btu" means the amount of heat
27 required to increase the temperature of one pound of water by one
28 degree Fahrenheit;

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

36 "Brownfield" means any former or current commercial or
37 industrial site that is currently vacant or underutilized and on which
38 there has been, or there is suspected to have been, a discharge of ³a³
39 contaminant ⁴[.]⁴ ³[as included in the "Brownfields
40 Redevelopment Task Force" inventory, developed pursuant to
41 section 5 of P.L.1997, c.278 (C.58:10B-23)]³;

42 "Buydown" means an arrangement or arrangements involving the
43 buyer and seller in a given power purchase contract and, in some
44 cases third parties, for consideration to be given by the buyer in
45 order to effectuate a reduction in the pricing, or the restructuring of
46 other terms to reduce the overall cost of the power contract, for the

1 remaining succeeding period of the purchased power arrangement
2 or arrangements;

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

7 "Class I renewable energy" means electric energy produced from
8 solar technologies, photovoltaic technologies, wind energy, fuel
9 cells, geothermal technologies, wave or tidal action, small scale
10 hydropower facilities with a capacity of three megawatts or less and
11 put into service after the effective date of P.L. , c. (C.)
12 (pending before the Legislature as this bill), and methane gas from
13 landfills or a biomass facility, provided that the biomass is
14 cultivated and harvested in a sustainable manner;

15 "Class II renewable energy" means electric energy produced at a
16 **[resource recovery facility or]** hydropower facility with a capacity
17 of greater than three megawatts or a resource recovery facility,
18 provided that such facility is located where retail competition is
19 permitted and provided further that the Commissioner of
20 Environmental Protection has determined that such facility meets
21 the highest environmental standards and minimizes any impacts to
22 the environment and local communities;

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

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

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

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

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

1 Margin Fund established pursuant to section 9 of P.L.1999, c.23
2 (C.48:3-57) and for which basic generation service is hourly-priced;
3 "Comprehensive resource analysis" means an analysis including,
4 but not limited to, an assessment of existing market barriers to the
5 implementation of energy efficiency and renewable technologies
6 that are not or cannot be delivered to customers through a
7 competitive marketplace;
8 "Connected to the distribution system" means, for a solar electric
9 power generation facility, ²that² the facility is: (1) connected to a
10 net metering customer's side of a meter, regardless of the voltage at
11 which that customer connects to the electric grid³ **[;]** ³ (2) an on-
12 site generation facility³ **[;]** ³ (3) qualified for ²**[virtual]**² net
13 metering aggregation as provided pursuant to paragraph (4) of
14 subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87)³ **[;]** ³ ²(4)
15 owned or operated by an electric public utility and approved by the
16 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1)² ³**[;**
17 or] ³ ²**[(4)]** (5)² directly connected to the electric grid at 69
18 kilovolts or less, regardless of how an electric public utility
19 classifies that portion of its electric grid, and is designated as
20 ³**[connected]** "connected³ to the distribution ³**[system]** system"³
21 by the board pursuant to subsections q. through s. of section 38 of
22 P.L.1999, c.23 (C.48:3-87), or ³(6)³ is certified by the board ⁴, in
23 consultation with the Department of Environmental Protection,⁴ as
24 being located on a brownfield ³**[²**, an existing or proposed
25 commercial, retail, industrial, municipal, professional, recreational,
26 transit, commuter, entertainment complex, multi-use, or mixed-use
27 parking lot with a capacity to park 350 or more vehicles where the
28 area to be utilized for the facility is paved, or is an impervious
29 surface,² or a properly closed sanitary landfill facility ², an existing
30 or proposed commercial, retail, industrial, municipal, professional,
31 recreational, transit, commuter, entertainment complex, multi-use,
32 or mixed-use parking lot with a capacity to park 350 or more
33 vehicles where the area to be utilized for the facility is paved, or is
34 an impervious surface,³ ⁴, on an area of historic fill,⁴ or ⁴on a⁴ a
35 properly closed sanitary landfill facility². Any solar electric power
36 generation facility, other than that of a net metering customer on the
37 customer's side of the meter, connected above 69 kilovolts ²**[;]**²
38 shall not be considered connected to the distribution system;
39 "Customer" means any person that is an end user and is
40 connected to any part of the transmission and distribution system
41 within an electric public utility's service territory or a gas public
42 utility's service territory within this State;
43 "Customer account service" means metering, billing, or such
44 other administrative activity associated with maintaining a customer
45 account;

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

4 "Demand side management" means the management of customer
5 demand for energy service through the implementation of cost-
6 effective energy efficiency technologies, including, but not limited
7 to, installed conservation, load management and energy efficiency
8 measures on and in the residential, commercial, industrial,
9 institutional and governmental premises and facilities in this State;

10 "Electric generation service" means the provision of retail
11 electric energy and capacity which is generated off-site from the
12 location at which the consumption of such electric energy and
13 capacity is metered for retail billing purposes, including agreements
14 and arrangements related thereto;

15 "Electric power generator" means an entity that proposes to
16 construct, own, lease or operate, or currently owns, leases or
17 operates, an electric power production facility that will sell or does
18 sell at least 90 percent of its output, either directly or through a
19 marketer, to a customer or customers located at sites that are not on
20 or contiguous to the site on which the facility will be located or is
21 located. The designation of an entity as an electric power generator
22 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
23 and of itself, affect the entity's status as an exempt wholesale
24 generator under the Public Utility Holding Company Act of 1935,
25 15 U.S.C. s.79 et seq., or its successor;

26 "Electric power supplier" means a person or entity that is duly
27 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
28 al.) to offer and to assume the contractual and legal responsibility to
29 provide electric generation service to retail customers, and includes
30 load serving entities, marketers and brokers that offer or provide
31 electric generation service to retail customers. The term excludes an
32 electric public utility that provides electric generation service only
33 as a basic generation service pursuant to section 9 of P.L.1999, c.23
34 (C.48:3-57);

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

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

45 "Electronic signature" means an electronic sound, symbol or
46 process, attached to, or logically associated with, a contract or other

1 record, and executed or adopted by a person with the intent to sign
2 the record;

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

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

14 "Energy consumer" means a business or residential consumer of
15 electric generation service or gas supply service located within the
16 territorial jurisdiction of a government aggregator;

17 "Energy efficiency portfolio standard" means a requirement to
18 procure a specified amount of energy efficiency or demand side
19 management resources as a means of managing and reducing energy
20 usage and demand by customers;

21 "Energy year" or "EY" means the 12-month period from June 1st
22 through May 31st, numbered according to the calendar year in
23 which it ends;

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

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

32 ⁴"Final remediation document" shall have the same meaning as
33 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);⁴

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

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

43 "Gas related service" means a service that is directly related to
44 the consumption of gas by an end user, including, but not limited to,
45 the installation of demand side management measures at the end
46 user's premises, the maintenance, repair or replacement of
47 appliances or other energy-consuming devices at the end user's

1 premises, and the provision of energy consumption measurement
2 and billing services;

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

18 "Gas supply service" means the provision to customers of the
19 retail commodity of gas, but does not include any regulated
20 distribution service;

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

33 "Government energy aggregation program" means a program and
34 procedure pursuant to which a government aggregator enters into a
35 written contract for the provision of electric generation service or
36 gas supply service on behalf of business or residential customers
37 within its territorial jurisdiction;

38 "Governmental entity" means any federal, state, municipal, local
39 or other governmental department, commission, board, agency,
40 court, authority or instrumentality having competent jurisdiction;

41 "Greenhouse gas emissions portfolio standard" means a
42 requirement that addresses or limits the amount of carbon dioxide
43 emissions indirectly resulting from the use of electricity as applied
44 to any electric power suppliers and basic generation service
45 providers of electricity;

46 ⁴"Historic fill" means generally large volumes of non-indigenous
47 material, no matter what date they were emplaced on the site, used

1 to raise the topographic elevation of a site, which were
2 contaminated prior to emplacement and are in no way connected
3 with the operations at the location of emplacement and which
4 include, but are not limited to, construction debris, dredge spoils,
5 incinerator residue, demolition debris, fly ash, and non-hazardous
6 solid waste. "Historic fill" shall not include any material which is
7 substantially chromate chemical production waste or any other
8 chemical production waste or waste from processing of metal or
9 mineral ores, residues, slags, or tailings;⁴

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

15 "Leakage" means an increase in greenhouse gas emissions
16 related to generation sources located outside of the State that are not
17 subject to a state, interstate or regional greenhouse gas emissions
18 cap or standard that applies to generation sources located within the
19 State;

20 "Locational deliverability area" or "LDA" means one or more of
21 the zones within the PJM region which are used to evaluate area
22 transmission constraints and reliability issues including electric
23 public utility company zones, sub-zones, and combinations of
24 zones;

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

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

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

1 "Mid-merit electric power generation facility" means a
2 generation facility that operates at a capacity factor between
3 baseload generation facilities and peaker generation facilities;

4 ²"Net metering aggregation" means a procedure for calculating
5 the combination of the annual energy usage for all ³[solar electric
6 power generating]³ facilities owned by a single customer where
7 such customer is a State entity, school district, county, county
8 agency, county authority, municipality, municipal agency, or
9 municipal authority, ³and which are served by a solar electric power
10 generating facility³ as provided pursuant to paragraph (4) of
11 subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87)^{2 3:3}

12 "Net proceeds" means proceeds less transaction and other related
13 costs as determined by the board;

14 "Net revenues" means revenues less related expenses, including
15 applicable taxes, as determined by the board;

16 "Offshore wind energy" means electric energy produced by a
17 qualified offshore wind project;

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

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

30 "On-site generation facility" means a generation facility,
31 including, but not limited to, a generation facility that produces
32 Class I or Class II renewable energy, and equipment and services
33 appurtenant to electric sales by such facility to the end use customer
34 located on the property or on property contiguous to the property on
35 which the end user is located ²[for the specific purpose of
36 supplying generation to the end use customer's property. The total
37 output of the on-site generation facility shall be used to serve the
38 load of the on-site end use customer]^{2 1} [unless the customer is
39 eligible for and engaged in virtual net metering aggregation]¹ . An
40 on-site generation facility shall not be considered a public utility.
41 The property of the end use customer and the property on which the
42 on-site generation facility is located shall be considered contiguous
43 if they are geographically located next to each other, but may be
44 otherwise separated by an easement, public thoroughfare,
45 transportation or utility-owned right-of-way, or if the end use
46 customer is purchasing thermal energy services produced by the on-
47 site generation facility, for use for heating or cooling, or both,

1 regardless of whether the customer is located on property that is
2 separated from the property on which the on-site generation facility
3 is located by more than one easement, public thoroughfare, or
4 transportation or utility-owned right-of-way;

5 "Person" means an individual, partnership, corporation,
6 association, trust, limited liability company, governmental entity or
7 other legal entity;

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

17 ⁴"Preliminary assessment" shall have the same meaning as
18 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);⁴

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

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

38 "Public utility holding company" means: (1) any company that,
39 directly or indirectly, owns, controls, or holds with power to vote,
40 ten percent or more of the outstanding voting securities of an
41 electric public utility or a gas public utility or of a company which
42 is a public utility holding company by virtue of this definition,
43 unless the Securities and Exchange Commission, or its successor,
44 by order declares such company not to be a public utility holding
45 company under the Public Utility Holding Company Act of 1935,
46 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
47 Securities and Exchange Commission, or its successor, determines,

1 after notice and opportunity for hearing, directly or indirectly, to
2 exercise, either alone or pursuant to an arrangement or
3 understanding with one or more other persons, such a controlling
4 influence over the management or policies of an electric public
5 utility or a gas public utility or public utility holding company as to
6 make it necessary or appropriate in the public interest or for the
7 protection of investors or consumers that such person be subject to
8 the obligations, duties, and liabilities imposed in the Public Utility
9 Holding Company Act of 1935 or its successor;

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

16 "Registration program" means an administrative process
17 developed by the board pursuant to subsection u. of section 38 of
18 ²[P.L.1999, c.12] P.L.1999, c.23² (C.48:3-87) that requires all
19 owners of solar electric power generation facilities connected to the
20 distribution system that intend to generate SRECs, to file with the
21 board documents detailing the size, location, interconnection plan,
22 land use, and other project information as required by the board;

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

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

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

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

46 "Renewable energy certificate" or "REC" means a certificate
47 representing the environmental benefits or attributes of one

1 megawatt-hour of generation from a generating facility that
2 produces Class I or Class II renewable energy, but shall not include
3 a solar renewable energy certificate or an offshore wind renewable
4 energy certificate;

5 "Resource clearing price" or "RCP" means the clearing price
6 established for the applicable locational deliverability area by the
7 base residual auction or incremental auction, as determined by the
8 optimization algorithm for each auction, conducted by PJM as part
9 of PJM's reliability pricing model;

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

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

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

40 "Retail margin" means an amount, reflecting differences in
41 prices that electric power suppliers and electric public utilities may
42 charge in providing electric generation service and basic generation
43 service, respectively, to retail customers, excluding residential
44 customers, which the board may authorize to be charged to
45 categories of basic generation service customers of electric public
46 utilities in this State, other than residential customers, under the
47 board's continuing regulation of basic generation service pursuant to

1 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
2 purpose of promoting a competitive retail market for the supply of
3 electricity;

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

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

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

18 ⁴"Site investigation" shall have the same meaning as provided in
19 section 3 of P.L.1976, c.141 (C.58:10-23.11b);⁴

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

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

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

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

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

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

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

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

15 ² ³ **["State entity"]** "State entity"³ means a department, agency,
16 or office of State government, a State university or college, or an
17 authority created by the State;²

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

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

32 "Thermal efficiency" means the useful electric energy output of a
33 facility, plus the useful thermal energy output of the facility,
34 expressed as a percentage of the total energy input to the facility;

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

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

1 principal, interest, and acquisition or redemption premium with
2 respect to transition bonds which are issued in the form of
3 certificates of participation or beneficial interest or other evidences
4 of ownership shall refer to the comparable payments on such
5 securities;

6 "Transition period" means the period from August 1, 1999
7 through July 31, 2003;

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

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

18 ²["Virtual net metering aggregation" means a procedure for
19 calculating the combination of the annual energy usage for all
20 facilities owned or leased by a single customer and that customer is
21 a school district, county, county agency, county authority,
22 municipality, municipal agency, or municipal authority, as provided
23 pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999,
24 c.23 (C.48:3-87).]²

25 (cf: P.L.2011, c.9, s.2)

26

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

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

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

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

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

43 b. Notwithstanding any provisions of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
45 contrary, the board shall initiate a proceeding and shall adopt, in
46 consultation with the Department of Environmental Protection, after
47 notice and opportunity for public comment and public hearing,

1 interim standards to implement this disclosure requirement,
2 including, but not limited to:

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

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

9 (3) A uniform emissions disclosure format that is graphic in
10 nature and easily understandable by consumers. The board shall
11 periodically review the disclosure requirements to determine if
12 revisions to the environmental disclosure system as implemented
13 are necessary.

14 Such standards shall be effective as regulations immediately
15 upon filing with the Office of Administrative Law and shall be
16 effective for a period not to exceed 18 months, and may, thereafter,
17 be amended, adopted or readopted by the board in accordance with
18 the provisions of the "Administrative Procedure Act."

19 c. (1) The board may adopt, in consultation with the Department
20 of Environmental Protection, after notice and opportunity for public
21 comment, an emissions portfolio standard applicable to all electric
22 power suppliers and basic generation service providers, upon a
23 finding that:

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

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

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

37 (a) Allow a transition period, either before or after the effective
38 date of the regulation to mitigate leakage, for a basic generation
39 service provider or electric power supplier to either meet the
40 emissions portfolio standard or other regulatory mechanism to
41 mitigate leakage, or to transfer any customer to a basic generation
42 service provider or electric power supplier that meets the emissions
43 portfolio standard or other regulatory mechanism to mitigate
44 leakage. If the transition period allowed pursuant to this
45 subparagraph occurs after the implementation of an emissions
46 portfolio standard or other regulatory mechanism to mitigate

1 leakage, the transition period shall be no longer than three years;
2 and

3 (b) Exempt the provision of basic generation service pursuant to
4 a basic generation service purchase and sale agreement effective
5 prior to the date of the regulation.

6 Unless the Attorney General or the Attorney General's designee
7 determines that a greenhouse gas emissions portfolio standard
8 would unconstitutionally burden interstate commerce or would be
9 preempted by federal law, the adoption by the board of an electric
10 energy efficiency portfolio standard pursuant to subsection g. of this
11 section, a gas energy efficiency portfolio standard pursuant to
12 subsection h. of this section, or any other enhanced energy
13 efficiency policies to mitigate leakage shall not be considered
14 sufficient to fulfill the requirement of this subsection for the
15 adoption of a greenhouse gas emissions portfolio standard or any
16 other regulatory mechanism to mitigate leakage.

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

22 (1) that two and one-half percent of the kilowatt hours sold in
23 this State by each electric power supplier and each basic generation
24 service provider be from Class I or Class II renewable energy
25 sources;

26 (2) beginning on January 1, 2001, that one-half of one percent
27 of the kilowatt hours sold in this State by each electric power
28 supplier and each basic generation service provider be from Class I
29 renewable energy sources. The board shall increase the required
30 percentage for Class I renewable energy sources so that by January
31 1, 2006, one percent of the kilowatt hours sold in this State by each
32 electric power supplier and each basic generation service provider
33 shall be from Class I renewable energy sources and shall
34 additionally increase the required percentage for Class I renewable
35 energy sources by one-half of one percent each year until January 1,
36 2012, when four percent of the kilowatt hours sold in this State by
37 each electric power supplier and each basic generation service
38 provider shall be from Class I renewable energy sources.

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

43 (3) that the board establish a multi-year schedule, applicable to
44 each electric power supplier or basic generation service provider in
45 this State, beginning with the one-year period commencing on June
46 1, 2010, and continuing for each subsequent one-year period up to
47 and including, the one-year period commencing on **June 1, 2025**]

1 June 1, 2028, that requires **[**suppliers or providers to purchase at
 2 **least]** the following number or percentage, as the case may be, of
 3 kilowatt-hours sold in this State by each electric power supplier and
 4 each basic generation service provider to be from solar electric
 5 power generators connected to the distribution system in this State:

6	EY 2011	306 Gigawatthours (Gwhrs)
7	EY 2012	442 Gwhrs
8	EY 2013	² [596 Gwhrs] ³ [0.752%²] <u>596 Gwhrs³</u>
9	EY 2014	[772 Gwhrs] ² [2.184%] <u>2.050%²</u>
10	EY 2015	[965 Gwhrs] ² [2.543%] <u>2.450%²</u>
11	EY 2016	[1,150 Gwhrs] ² [2.549%] <u>2.750%²</u>
12	EY 2017	[1,357 Gwhrs] ² [2.788%] <u>3.000%²</u>
13	EY 2018	[1,591 Gwhrs] ² [3.023%] <u>3.200%²</u>
14	EY 2019	[1,858 Gwhrs] ² [3.255%] <u>3.290%²</u>
15	EY 2020	[2,164 Gwhrs] ² [3.486%] <u>3.380%²</u>
16	EY 2021	[2,518 Gwhrs] ² [3.722%] <u>3.470%²</u>
17	EY 2022	[2,928 Gwhrs] ² [3.865%] <u>3.560%²</u>
18	EY 2023	[3,433 Gwhrs] ² [4.002%] <u>3.650%²</u>
19	EY 2024	[3,989 Gwhrs] ² [4.078%] <u>3.740 %²</u>
20	EY 2025	[4,610 Gwhrs] ² [4.147%] <u>3.830 %²</u>
21	EY 2026	[5,316 Gwhrs] ² [4.180%] <u>3.920%²</u>
22	EY 2027	² [4.204%] <u>4.010%²</u>

23 EY 2028 ²**[4.227%]** 4.100%², and for every energy year thereafter,
 24 at least **[5,316 Gwhrs]** ²**[4.227%]** 4.100%² per energy year to
 25 reflect an increasing number of kilowatt-hours to be purchased by
 26 suppliers or providers from solar electric power generators
 27 connected to the distribution system in this State, and to establish a
 28 framework within which, of the electricity that the generators sell in
 29 this State, suppliers and providers shall **[purchase]** each obtain at
 30 least **[2,518 Gwhrs]** ²**[3.722%]** 3.470%² in the energy year 2021
 31 and **[5,316 Gwhrs]** ²**[4.227%]** 4.100%² in the energy year **[2026]**
 32 2028 from solar electric power generators connected to the
 33 distribution system in this State, provided, however, that

34 **[**the number of solar kilowatt-hours required to be purchased by
 35 each supplier or provider, when expressed as a percentage of the
 36 total number of solar kilowatt-hours purchased in this State, shall be
 37 equivalent to each supplier's or provider's proportionate share of the
 38 total number of kilowatt-hours sold in this State by all suppliers and
 39 providers.**]** :

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

44 (b) No more than 24 months following the date of enactment of
 45 P.L. , c. (C.) (pending before the Legislature as this bill),

1 the board shall complete a proceeding to investigate approaches to
2 mitigate solar development volatility and prepare and submit,
3 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to
4 the Legislature, detailing its findings and recommendations. As
5 part of the proceeding, the board shall evaluate other techniques
6 used nationally and internationally;

7 (c) The solar renewable portfolio standards requirements in this
8 paragraph shall exempt those existing supply contracts which are
9 effective prior to the date of enactment of P.L. , c. (C.)
10 (pending before the Legislature as this bill) from any increase
11 beyond the number of SRECs ³[that exceeds the number]³
12 mandated by the solar renewable portfolio standards requirements
13 that were in effect on the date that the providers executed their
14 existing supply contracts. This limited exemption for providers'
15 existing supply contracts shall not be construed to lower the
16 Statewide solar sourcing requirements set forth in this paragraph.
17 Such incremental ³[new]³ requirements ³that would have otherwise
18 been imposed on exempt providers³ shall be distributed over the
19 ³[electric power suppliers and]³ providers not subject to the
20 existing supply contract exemption until such time as existing
21 supply contracts expire and all ³[suppliers] providers³ are subject
22 to the new requirement in a manner that is competitively neutral
23 among all providers and suppliers³]. such that non-exempt
24 providers are assigned the requirements that would have otherwise
25 been assigned to the exempt providers]³. ³The board shall
26 implement the provisions of this subsection in a manner so as to
27 prevent any subsidies between suppliers and providers and to
28 promote competition in the electricity supply industry.³

29 ²[The solar renewable portfolio standards requirements in
30 paragraph (3) of this subsection shall automatically increase by 20%
31 for the remainder of the schedule in the event that the following two
32 conditions are met: (a) the number of SRECs generated meets or
33 exceeds the requirement for three consecutive reporting years,
34 starting with energy year 2013; and (b) the average SREC price for
35 all SRECs purchased by entities with renewable energy portfolio
36 standards obligations has decreased in the same three consecutive
37 reporting years; and

38 The board shall exempt providers' existing supply contracts that
39 are: (a) effective prior to the date of P.L.2009, c.289; or (b)
40 effective prior to any future increase in the solar renewable
41 portfolio standard beyond the multi-year schedule established in
42 paragraph (3) of this subsection. This exemption shall apply to the
43 number of SRECs that exceeds the number mandated by the solar
44 renewable portfolio standards requirements that were in effect on
45 the date that the providers executed their existing supply contracts.
46 This limited exemption for providers' existing supply contracts shall
47 not be construed to lower the Statewide solar purchase requirements

1 set forth in paragraph (3) of this subsection. Such incremental new
2 requirements shall be distributed over the electric power suppliers
3 and providers not subject to the existing supply contract exemption
4 until such time as existing supply contracts expire and all suppliers
5 are subject to the new requirement.】

6 ³【(d) The solar renewable portfolio standards requirements in
7 this paragraph shall automatically increase by 20% for the
8 remainder of the schedule in the event that the following two
9 conditions are met: (i) the number of SRECs generated meets or
10 exceeds the requirement for three consecutive reporting years,
11 starting with energy year 2014; and (ii) the average current market
12 SREC price for SRECs purchased by entities with renewable energy
13 portfolio standards obligations in each of the same three
14 consecutive reporting years is less than the average current market
15 SREC price in the year prior to the three consecutive reporting
16 years; and

17 (e) The board shall exempt providers' supply contracts that are
18 effective prior to the date of any such increase. This exemption
19 shall apply to the number of SRECs that exceeds the number
20 mandated by the solar renewable portfolio standards requirements
21 that were in effect on the date that the suppliers or providers
22 executed their existing supply contracts. This limited exemption for
23 providers' existing supply contracts shall not be construed to lower
24 the Statewide solar purchase requirements set forth in this
25 paragraph. Such incremental new requirements shall be distributed
26 over the electric power suppliers and providers not subject to the
27 existing supply contract exemption until such time as existing
28 supply contracts expire and all suppliers are subject to the new
29 requirement in a manner that is competitively neutral among all
30 suppliers and providers, such that non-exempt providers are
31 assigned the requirements that would have otherwise been assigned
32 to the exempt providers.²】³

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

40 The renewable energy portfolio standards adopted by the board
41 pursuant to paragraphs (1) and (2) of this subsection shall be
42 effective as regulations immediately upon filing with the Office of
43 Administrative Law and shall be effective for a period not to exceed
44 18 months, and may, thereafter, be amended, adopted or readopted
45 by the board in accordance with the provisions of the
46 "Administrative Procedure Act."

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

8 (4) within 180 days after the date of enactment of P.L.2010,
9 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
10 renewable energy certificate program to require that a percentage of
11 the kilowatt hours sold in this State by each electric power supplier
12 and each basic generation service provider be from offshore wind
13 energy in order to support at least 1,100 megawatts of generation
14 from qualified offshore wind projects.

15 The percentage established by the board pursuant to this
16 paragraph shall serve as an offset to the renewable energy portfolio
17 standard established pursuant to paragraphs (1) and (2) of this
18 subsection and shall reduce the corresponding Class I renewable
19 energy requirement.

20 The percentage established by the board pursuant to this
21 paragraph shall reflect the projected OREC production of each
22 qualified offshore wind project, approved by the board pursuant to
23 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the
24 commercial operation start date of the qualified offshore wind
25 project which production projection and OREC purchase
26 requirement, once approved by the board, shall not be subject to
27 reduction.

28 An electric power supplier or basic generation service provider
29 shall comply with the OREC program established pursuant to this
30 paragraph through the purchase of offshore wind renewable energy
31 certificates at a price and for the time period required by the board.
32 In the event there are insufficient offshore wind renewable energy
33 certificates available, the electric power supplier or basic generation
34 service provider shall pay an offshore wind alternative compliance
35 payment established by the board. Any offshore wind alternative
36 compliance payments collected shall be refunded directly to the
37 ratepayers by the electric public utilities.

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

45 e. Notwithstanding any provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public
2 hearing:

3 (1) net metering standards for electric power suppliers and basic
4 generation service providers. The standards shall require electric
5 power suppliers and basic generation service providers to offer net
6 metering at non-discriminatory rates to industrial, large
7 commercial, residential and small commercial customers, as those
8 customers are classified or defined by the board, that generate
9 electricity, on the customer's side of the meter, using a Class I
10 renewable energy source, for the net amount of electricity supplied
11 by the electric power supplier or basic generation service provider
12 over an annualized period. Systems of any sized capacity, as
13 measured in watts, are eligible for net metering . If the amount of
14 electricity generated by the customer-generator, plus any kilowatt
15 hour credits held over from the previous billing periods, exceeds the
16 electricity supplied by the electric power supplier or basic
17 generation service provider, then the electric power supplier or
18 basic generation service provider, as the case may be, shall credit
19 the customer-generator for the excess kilowatt hours until the end of
20 the annualized period at which point the customer-generator will be
21 compensated for any remaining credits or, if the customer-generator
22 chooses, credit the customer-generator on a real-time basis, at the
23 electric power supplier's or basic generation service provider's
24 avoided cost of wholesale power or the PJM electric power pool's
25 real-time locational marginal pricing rate, adjusted for losses, for
26 the respective zone in the PJM electric power pool. Alternatively,
27 the customer-generator may execute a bilateral agreement with an
28 electric power supplier or basic generation service provider for the
29 sale and purchase of the customer-generator's excess generation.
30 The customer-generator may be credited on a real-time basis, so
31 long as the customer-generator follows applicable rules prescribed
32 by the PJM electric power pool for its capacity requirements for the
33 net amount of electricity supplied by the electric power supplier or
34 basic generation service provider. The board may authorize an
35 electric power supplier or basic generation service provider to cease
36 offering net metering whenever the total rated generating capacity
37 owned and operated by net metering customer-generators Statewide
38 equals 2.5 percent of the State's peak electricity demand;

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

42 Such standards or rules shall take into consideration the goals of
43 the New Jersey Energy Master Plan, applicable industry standards,
44 and the standards of other states and the Institute of Electrical and
45 Electronic Engineers. The board shall allow electric public utilities
46 to recover the costs of any new net meters, upgraded net meters,
47 system reinforcements or upgrades, and interconnection costs

1 through either their regulated rates or from the net metering
2 customer-generator; **[and]**
3 (3) credit or other incentive rules for generators using Class I
4 renewable energy generation systems that connect to New Jersey's
5 electric public utilities' distribution system but who do not net meter
6 **³[and:] ; and³**
7 (4) **²[virtual]² net metering aggregation standards to require**
8 **electric public utilities to provide ²[virtual]² net metering**
9 **aggregation to single electric public utility customers that operate a**
10 **solar electric power generation ²[facility] system installed at one of**
11 **the customer's facilities^{2 3} or on property owned by the customer³ ,**
12 **provided that any such customer is a ³State entity,³ school district,**
13 **county, county agency, county authority, municipality, municipal**
14 **agency, or municipal authority. The standards shall provide that, in**
15 **order to qualify for ²[virtual]² net metering aggregation, the**
16 **customer must operate a solar electric power generation ²[facility**
17 **that is directly connected to the electric grid,] system using a net**
18 **metering billing account, which system is located on property**
19 **owned by the customer, provided that ³:³ (a) the property is not land**
20 **that has been actively devoted to agricultural or horticultural use**
21 **and that is valued, assessed, and taxed pursuant to the "Farmland**
22 **Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at**
23 **any time within the 10 year period prior to the effective date of**
24 **P.L. , c. (C.) (pending before the Legislature as this bill),**
25 **³provided, however, that the municipal planning board of a**
26 **municipality in which a solar electric power generation system is**
27 **located may waive the requirement of this subparagraph (a),³ (b) the**
28 **system² is not an on-site generation facility, ²[that] (c)² all of the**
29 **facilities of the single customer combined for the purpose of**
30 **²[virtual]² net metering aggregation are facilities owned or**
31 **operated by the single customer ²[,] and² are located within its**
32 **territorial jurisdiction ¹[and,]¹ ²except that all of the facilities of a**
33 **State entity engaged in net metering aggregation shall be located**
34 **within five miles of one another, and (d) all of those facilities² are**
35 **within the service territory of a single electric public utility ²[,]²**
36 **¹and are all served by ²the same² basic generation service**
37 **²provider² or by the same electric power supplier¹. The standards**
38 **shall provide that in order to qualify for ²[virtual]² net metering**
39 **aggregation, the customer's solar electric power generation**
40 **²[facility] system² shall be sized so that its annual generation does**
41 **not exceed the combined ²metered² annual energy usage of the**
42 **qualified customer facilities, and the qualified customer facilities**
43 **shall all be in the same customer ³rate³ class under the applicable**
44 **electric public utility ¹[transmission and distribution]¹ tariff. ²For**
45 **the customer's facility ³or property³ on which the solar electric**

1 generation system is installed, the electricity generated from the
 2 customer's solar electric generation system shall be accounted for
 3 pursuant to the provisions of paragraph (1) of this subsection to
 4 provide that the electricity generated in excess of the electricity
 5 supplied by the electric power supplier or the basic generation
 6 service provider, as the case may be, for the customer's facility on
 7 which the solar electric generation system is installed, over the
 8 annualized period, is credited ³[to] at³ the electric power supplier's
 9 or the basic generation service provider's avoided cost of wholesale
 10 power or the PJM electric power pool real-time locational marginal
 11 pricing rate.² All electricity used by ¹[a customer engaged in
 12 virtual net metering aggregation shall be delivered] the customer's
 13 qualified facilities, with the exception of the ²[solar electric power
 14 generation]² facility ³or property³ ²on which the solar electric
 15 power generation system is installed² , shall be billed at the full
 16 retail rate¹ pursuant to the electric public utility ³[transmission and
 17 distribution]³ ¹[tariffs] tariff¹ applicable to the customer class of
 18 the customer using the electricity. ²[¹[A] The electric public
 19 utility shall provide the¹ customer ¹[that is a school district, county,
 20 county agency, county authority, municipality, municipal agency, or
 21 municipal authority, may purchase such electricity through virtual
 22 net metering aggregation to meet its electricity requirements] an
 23 annual payment for the difference between the total energy
 24 generated by the customer's solar electric power generation facility
 25 and the energy used by the customer's qualified facilities consistent
 26 with the standards established in paragraph (1) of this subsection¹]
 27 A customer may contract with a third party to operate a solar
 28 electric power generation system, for the purpose of net metering
 29 aggregation. Any contractual relationship entered into for operation
 30 of a solar electric power generation system related to net metering
 31 aggregation shall include contractual protections that provide for
 32 adequate performance and provision for construction and operation
 33 for the term of the contract, including any appropriate bonding or
 34 escrow requirements². Any incremental cost to an electric public
 35 utility for ²[virtual]² net metering aggregation shall be fully and
 36 timely recovered in a manner to be determined by the board. ¹The
 37 board shall adopt ²[virtual]² net metering aggregation standards
 38 within 270 days after the effective date of P.L. , c. (C.)
 39 (pending before the Legislature as this bill). ²[Should the board
 40 fail to adopt such standards, electric public utilities shall provide for
 41 virtual net metering aggregation consistent with the provisions of
 42 this paragraph.¹]²

43 Such rules shall require the board or its designee to issue a credit
 44 or other incentive to those generators that do not use a net meter but
 45 otherwise generate electricity derived from a Class I renewable
 46 energy source and to issue an enhanced credit or other incentive,

1 including, but not limited to, a solar renewable energy credit, to
2 those generators that generate electricity derived from solar
3 technologies.

4 Such standards or rules shall be effective as regulations
5 immediately upon filing with the Office of Administrative Law and
6 shall be effective for a period not to exceed 18 months, and may,
7 thereafter, be amended, adopted or readopted by the board in
8 accordance with the provisions of the "Administrative Procedure
9 Act."

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

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

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

42 i. After the board establishes a schedule of solar kilowatt-hour
43 sale or purchase requirements pursuant to paragraph (3) of
44 subsection d. of this section, the board may initiate subsequent
45 proceedings and adopt, after appropriate notice and opportunity for
46 public comment and public hearing, increased minimum solar
47 kilowatt-hour sale or purchase requirements, provided that the

1 board shall not reduce previously established minimum solar
 2 kilowatt-hour sale or purchase requirements, or otherwise impose
 3 constraints that reduce the requirements by any means.

4 j. The board shall determine an appropriate level of solar
 5 alternative compliance payment, and ~~establish a 15-year solar~~
 6 ~~alternative compliance payment schedule, that permits~~ permit each
 7 supplier or provider to submit an SACP to comply with the solar
 8 electric generation requirements of paragraph (3) of subsection d. of
 9 this section. The value of the SACP for each Energy Year, for
 10 Energy Years 2014 through 2028 per megawatt hour from solar
 11 electric generation required pursuant to this section, shall be:

12	<u>EY 2014</u>	² [\$325] <u>\$339</u> ²
13	<u>EY 2015</u>	² [\$317] <u>\$331</u> ²
14	<u>EY 2016</u>	² [\$309] <u>\$323</u> ²
15	<u>EY 2017</u>	² [\$301] <u>\$315</u> ²
16	<u>EY 2018</u>	² [\$294] <u>\$308</u> ²
17	<u>EY 2019</u>	² [\$286] <u>\$300</u> ²
18	<u>EY 2020</u>	² [\$279] <u>\$293</u> ²
19	<u>EY 2021</u>	² [\$272] <u>\$286</u> ²
20	<u>EY 2022</u>	² [\$265] <u>\$279</u> ²
21	<u>EY 2023</u>	² [\$259] <u>\$272</u> ²
22	<u>EY 2024</u>	² [\$252] <u>\$266</u> ²
23	<u>EY 2025</u>	² [\$246] <u>\$260</u> ²
24	<u>EY 2026</u>	² [\$240] <u>\$253</u> ²
25	<u>EY 2027</u>	² [\$234] <u>\$250</u> ²
26	<u>EY 2028</u>	² [\$228] <u>\$239</u> ² ³ <u>.</u> ³

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

36 k. The board may allow electric public utilities to offer long-
 37 term contracts through a competitive process, direct electric public
 38 utility investment and other means of financing, including but not
 39 limited to loans, for the purchase of SRECs and the resale of SRECs
 40 to suppliers or providers or others, provided that after such
 41 contracts have been approved by the board, the board's approvals
 42 shall not be modified by subsequent board orders. ²If the board
 43 allows the offering of contracts pursuant to this subsection, the
 44 board ³[shall] may³ establish a process, after hearing, and
 45 opportunity for public comment, to provide that a designated
 46 segment of the contracts approved pursuant to this subsection shall

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

1 (2) reductions in peak demand for electricity and natural gas,
2 and the overall impact on the costs to customers of electricity and
3 natural gas;
4 (3) increases in renewable energy development, manufacturing,
5 investment, and job creation opportunities in this State; and
6 (4) reductions in State and national dependence on the use of
7 fossil fuels.

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

14 q. (1) During the energy years of 2014, 2015, and 2016, a solar
15 electric power generation facility project that is not: (a) net
16 metered; (b) an on-site generation facility; (c) qualified for
17 ²**virtual**² net metering aggregation; ²**or**² ³**or**³ (d) certified as
18 being located on a brownfield ⁴, on an area of historic fill⁴ or ⁴on
19 a⁴ a properly closed sanitary landfill facility, as provided pursuant
20 to subsection t. of this section ³**or**² (e) certified as being located on
21 an existing or proposed commercial, retail, industrial, municipal,
22 professional, recreational, transit, commuter, entertainment
23 complex, multi-use, or mixed-use parking lot with a capacity to
24 park 350 or more vehicles where the area to be utilized for the
25 facility is paved, or is an impervious surface pursuant to subsection
26 x. of this section²**or**³ may file an application with the board for
27 approval of a designation pursuant to this subsection that the
28 facility is connected to the distribution system. An application filed
29 pursuant to this subsection shall include a notice escrow of \$40,000
30 per megawatt of the proposed capacity of the facility. The board
31 shall approve the designation if: the facility has filed a notice in
32 writing with the board applying for designation pursuant to this
33 subsection, together with the notice escrow; and the capacity of the
34 facility, when added to the capacity of other facilities that have
35 been previously approved for designation prior to the facility's
36 filing under this subsection, does not exceed 80 megawatts in the
37 aggregate for each year. The capacity of any one solar electric
38 power supply project approved pursuant to this subsection shall not
39 exceed 10 megawatts. No more than 90 days after its receipt of a
40 completed application for designation pursuant to this subsection,
41 the board shall approve, conditionally approve, or disapprove the
42 application. The notice escrow shall be reimbursed to the facility in
43 full upon ³either rejection by the board or³ the facility entering
44 commercial operation, or shall be forfeited to the State if the facility
45 is designated pursuant to this subsection ³**or**³ but does not enter
46 commercial operation pursuant to paragraph (2) of this subsection.

1 (2) If the proposed solar electric power generation facility does
2 not commence commercial operations within two years following
3 the date of the designation by the board pursuant to this subsection,
4 the designation of the facility shall be deemed to be null and void,
5 and the facility shall not be considered connected to the distribution
6 system thereafter.

7 r. (1) For ²all proposed solar electric power generation facility
8 projects except for those² solar electric power generation facility
9 projects ²[proposed in addition to those]² approved pursuant to
10 subsection q. of this section^{4,4} and for all projects proposed in each
11 energy year following energy year 2016, a proposed solar electric
12 power generation facility that is neither net metered nor an on-site
13 generation facility, may be considered “connected to the
14 distribution system” only upon designation as such by the board,
15 after notice to the public and opportunity for public comment or
16 hearing. A proposed solar power electric generation facility
17 seeking board designation as "connected to the distribution system"
18 shall submit an application to the board that includes for the
19 proposed facility: the nameplate capacity; the estimated energy and
20 number of SRECs to be produced and sold per year; the estimated
21 annual rate impact on ratepayers; the estimated capacity of the
22 generator as defined by PJM for sale in the PJM capacity market;
23 the point of interconnection; the total project acreage and location;
24 the current land use designation of the property; the type of solar
25 technology to be used; and such other information as the board shall
26 require.

27 (2) The board shall approve the designation of the proposed
28 solar power electric generation facility as “connected to the
29 distribution system” if the board determines that:

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

33 (b) the approval of the designation of the proposed facility
34 would not significantly impact the preservation of open space in
35 this State;

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

38 (d) there will be no ³[impact] impingement³ on the ability of an
39 electric public utility to maintain its property and equipment in such
40 a condition as to enable it to provide safe, adequate, and proper
41 service to each of its customers.

42 (3) The board shall act within 90 days of its receipt of a
43 completed application for designation of a solar power electric
44 generation facility as "connected to the distribution system," to
45 either approve, conditionally approve, or disapprove the
46 application. If the proposed solar electric power generation facility
47 does not commence commercial operations within two years

1 following the date of the designation by the board pursuant to this
 2 subsection, the designation of the facility as "connected to the
 3 distribution system" shall be deemed to be null and void, and the
 4 facility shall thereafter be considered not "connected to the
 5 distribution system."

6 s. ²【Notwithstanding any other provisions of this section】 In
 7 addition to any other requirements of P.L.1999, c.23 or any other
 8 law, rule, regulation or order² , a solar electric power generation
 9 facility³ that is not net metered or an on-site generation facility and
 10 which is³ located on ²【farmland, or】² land that has been actively
 11 devoted to agricultural or horticultural use that is valued, assessed,
 12 and taxed pursuant to the "Farmland Assessment Act of 1964,"
 13 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10 year
 14 period prior to the effective date of P.L. , c. (C.) (pending
 15 before the Legislature as this bill), shall only be considered
 16 "connected to the distribution system" if (1) the board approves
 17 ²【a】 the² facility's designation pursuant to subsection q. of this
 18 section²【.】² or (2) (a) ²【a】² PJM issued ²a² System Impact Study
 19 for the facility ²【prior to】 on or before² ³【March 31, 2011;】 June
 20 30, 2011³ ³【and】³ (b) ³【the facility ²is not: (i) net metered, or (ii)
 21 an on-site generation facility and (c)】³ the facility² files a notice
 22 with the board within 60 days of the effective date of P.L. ,
 23 c. (C.) (pending before the Legislature as this bill),
 24 indicating its intent to qualify under this ²【paragraph.】 subsection,
 25 and ³【(d)】 (c)³ the facility has been approved as ³【connected】
 26 "connected³ to the distribution ³【system】 system"³ by the board.
 27 Nothing in this subsection shall ³【affect】 limit³ the board's
 28 authority concerning the review and oversight of facilities, unless
 29 such facilities are exempt from such review as a result of having
 30 been approved pursuant to subsection q. of this section.²

31 t. ³【²(1)²】³ ⁴(1)⁴ No more than 180 days after the date of
 32 enactment of P.L. , c. (C.) (pending before the Legislature
 33 as this bill), the board shall, in consultation with the Department of
 34 Environmental Protection and the New Jersey Economic
 35 Development Authority, and, after notice and opportunity for public
 36 comment and public hearing, complete a proceeding to establish a
 37 program to provide SRECs to owners of solar electric power
 38 generation facility projects certified by the board ⁴, in consultation
 39 with the Department of Environmental Protection,⁴ as being located
 40 on a brownfield ⁴, on an area of historic fill⁴ or ⁴on a⁴ a properly
 41 closed sanitary landfill facility, ³【²or an existing or proposed
 42 commercial, retail, industrial, municipal, professional, recreational,
 43 transit, commuter, entertainment complex, multi-use, or mixed-use
 44 parking lot with a capacity to park 350 or more vehicles where the
 45 area to be utilized for the facility is paved or is an impervious

1 surface² which shall include, but not be limited to projects located
2 on a brownfield or a properly closed sanitary landfill facility ²or an
3 existing or proposed commercial, retail, industrial, municipal,
4 professional, recreational, transit, commuter, entertainment
5 complex, multi-use, or mixed-use parking lot with a capacity to
6 park 350 or more vehicles where the area to be utilized for the
7 facility is paved or is an impervious surface² and¹ including those³
8 owned or operated by an electric public utility and approved
9 pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1). Projects
10 certified under this subsection shall ²[(1)]² be considered
11 “connected to the distribution system” ²[and],² shall not require
12 such designation by the board ^{3,3} and ²[(2)]² shall not be subject to
13 board review required pursuant to subsections q. and r. of this
14 section. ³[Notwithstanding the provisions of section 3 of P.L.1999,
15 c.23 (C.48:3-51) or any other law, rule, regulation, or order to the
16 contrary, for projects certified under this subsection, ²except for
17 those projects involving a facility that is certified as being located
18 on an existing or proposed commercial, retail, industrial, municipal,
19 professional, recreational, transit, commuter, entertainment
20 complex, multi-use, or mixed-use parking lot with a capacity to
21 park 350 or more vehicles where the area to be utilized for the
22 facility is paved, or is an impervious surface,² the board shall
23 establish a financial incentive that is designed to supplement the
24 SRECs generated by the facility in order to cover the additional cost
25 of constructing and operating a solar electric power generation
26 facility on a brownfield or properly closed sanitary landfill
27 ²facility².]³ ²Notwithstanding the provisions of section 3 of
28 P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
29 order to the contrary, for projects certified under this subsection, the
30 board shall establish a financial incentive that is designed to
31 supplement the SRECs generated by the facility in order to cover
32 the additional cost of constructing and operating a solar electric
33 power generation facility on a brownfield ⁴, on an area of historic
34 fill⁴ or ⁴on a⁴ properly closed sanitary landfill ³facility³ . Any
35 financial benefit realized in relation to a project owned or operated
36 by an electric public utility and approved by the board pursuant to
37 section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the
38 provision of a financial incentive established by the board pursuant
39 to this subsection, shall be credited to ratepayers.² The issuance of
40 SRECs for all solar electric power generation facility projects
41 pursuant to this subsection shall be deemed “Board of Public
42 Utilities financial assistance” as provided under section 1 of
43 P.L.2009, c.89 (C.48:2-29.47).

44 ³[(2) Notwithstanding the provisions of the "Spill
45 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et
46 seq.) or any other law, rule, regulation, or order to the contrary, the

1 board may find that a person who owns real property, where there
2 is constructed a solar electric power generation facility project
3 certified by the board, pursuant to paragraph (1) of this subsection,
4 as being located on a brownfield, or a properly closed sanitary
5 landfill facility, which shall include, but not be limited to projects
6 located on a brownfield or a properly closed sanitary landfill
7 facility and owned or operated by an electric public utility and
8 approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1),
9 that is acquired on or after the effective date of P.L. , c. (C.)
10 (pending in the Legislature as this bill), or who operates a solar
11 electric power generation facility project certified by the board,
12 pursuant to paragraph (1) of this subsection, as being located on a
13 brownfield or a properly closed sanitary landfill facility, which
14 shall include, but not be limited to projects located on a brownfield
15 or a properly closed sanitary landfill facility and owned or operated
16 by an electric public utility and approved pursuant to section 13 of
17 P.L.2007, c.340 (C.48:3-98.1), after the effective date of P.L. ,
18 c. (C:) (pending in the Legislature as this bill), shall not be liable
19 for cleanup and removal costs or for any other costs or damages to
20 the State or to any other person for the discharge of a hazardous
21 substance provided that:

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

24 (b) the person did not discharge the hazardous substance, is not
25 in any way responsible for the hazardous substance, and is not a
26 successor to the discharger or to any person in any way responsible
27 for the hazardous substance or to anyone liable for cleanup and
28 removal costs pursuant to section 8 of P.L.1976, c. 141 (C.58:10-
29 23.11g);

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

33 (d) the person does not disrupt or change, without the
34 department's prior written permission, any engineering or
35 institutional control that is part of a remedial action for the
36 contaminated site;

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

39 (f) the person cooperates with any necessary remediation of the
40 property; and

41 (g) the person complies with any regulations and any permit the
42 department issues pursuant to section 19 of P.L 2009, c.60
43 (C.58:10C-19).

44 Only the person who is liable to clean up and remove the
45 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
46 23.11g) and who does not have a defense to liability pursuant to
47 subsection d. of that section shall be liable for cleanup and removal

1 costs or for any other costs or damages.²】³
2 ⁴(2) Notwithstanding the provisions of the "Spill Compensation
3 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
4 other law, rule, regulation, or order to the contrary, the board, in
5 consultation with the Department of Environmental Protection, may
6 find that a person who operates a solar electric power generation
7 facility project that has commenced operation on or after the
8 effective date of P.L. , c. (C.) (pending in the Legislature as
9 this bill), which project is certified by the board, in consultation
10 with the Department of Environmental Protection pursuant to
11 paragraph (1) of this subsection, as being located on a brownfield
12 for which a final remediation document has been issued, on an area
13 of historic fill or on a properly closed sanitary landfill facility,
14 which projects shall include, but not be limited to projects located
15 on a brownfield for which a final remediation document has been
16 issued, on an area of historic fill or on a properly closed sanitary
17 landfill facility owned or operated by an electric public utility and
18 approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1),
19 or a person who owns property acquired on or after the effective
20 date of P.L. , c. (C.) (pending in the Legislature as this bill) on
21 which such a solar electric power generation facility project is
22 constructed and operated, shall not be liable for cleanup and
23 removal costs to the Department of Environmental Protection or to
24 any other person for the discharge of a hazardous substance
25 provided that:
26 (a) the person acquired or leased the real property after the
27 discharge of that hazardous substance at the real property;
28 (b) the person did not discharge the hazardous substance, is not
29 in any way responsible for the hazardous substance, and is not a
30 successor to the discharger or to any person in any way responsible
31 for the hazardous substance or to anyone liable for cleanup and
32 removal costs pursuant to section 8 of P.L.1976, c. 141 (C.58:10-
33 23.11g);
34 (c) the person, within 30 days after acquisition of the property,
35 gave notice of the discharge to the Department of Environmental
36 Protection in a manner the Department of Environmental Protection
37 prescribes;
38 (d) the person does not disrupt or change, without prior written
39 permission from the Department of Environmental Protection, any
40 engineering or institutional control that is part of a remedial action
41 for the contaminated site or any landfill closure or post-closure
42 requirement;
43 (e) the person does not exacerbate the contamination at the
44 property;
45 (f) the person does not interfere with any necessary
46 remediation of the property;
47 (g) the person complies with any regulations and any permit the

1 Department of Environmental Protection issues pursuant to section
2 19 of P.L. 2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
3 a. of section 6 of P.L.1970, c. 39 (C.13:1E-6);
4 (h) with respect to an area of historic fill, the person has
5 demonstrated pursuant to a preliminary assessment and site
6 investigation, that hazardous substances have not been discharged;
7 and
8 (i) with respect to a properly closed sanitary landfill facility, no
9 person who owns or controls the facility receives, has received, or
10 will receive, with respect to such facility, any funds from any post-
11 closure escrow account established pursuant to section 10 of
12 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
13 the facility.
14 Only the person who is liable to clean up and remove the
15 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
16 23.11g) and who does not have a defense to liability pursuant to
17 subsection d. of that section shall be liable for cleanup and removal
18 costs.⁴
19 u. No more than 180 days after the date of enactment of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 the board shall complete a proceeding to establish a registration
22 program. The registration program shall require the owners of solar
23 ³[power]³ electric ³power³ generation facility projects connected to
24 the distribution system to make periodic milestone filings with the
25 board in a manner and at such times as determined by the board to
26 provide full disclosure and transparency regarding the overall level
27 of development and construction activity of those projects
28 Statewide.
29 v. The issuance of SRECs for all solar ³[power]³ electric
30 ³power³ generation facility projects pursuant to this section, for
31 projects connected to the distribution system with a capacity of one
32 megawatt or greater, shall be deemed "Board of Public Utilities
33 financial assistance" as provided pursuant to section 1 of P.L.2009,
34 c.89 (C.48:2-29.47).
35 ²w. No more than 270 days after the date of enactment of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 the board shall, after notice and opportunity for public comment and
38 public hearing, complete a proceeding to ³[establish] consider
39 whether to establish³ a program to provide ³[SRECs] ,³ to owners
40 of solar ³[power]³ electric ³power³ generation facility projects
41 certified by the board as being three megawatts or greater in
42 capacity and being net metered, including facilities which are
43 owned or operated by an electric public utility and approved by the
44 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), ³a
45 financial incentive that is designed to supplement the SRECs
46 generated by the facility³ to further the goal of improving the

1 economic competitiveness of commercial and industrial customers
2 taking power from such projects.³【Projects certified under this
3 subsection (1) shall be considered “connected to the distribution
4 system” and shall not require such designation by the board, and (2)
5 shall not be subject to board review required pursuant to
6 subsections q. and r. of this section. For projects approved】 If the
7 board determines to establish such a program³ pursuant to this
8 subsection, the board may establish a financial incentive to provide
9 that the board shall issue³one SREC³ for³no less than³ every 750
10 ³【kilowatts】 kilowatt-hours³ of solar energy generated by the
11 certified projects. Any financial benefit realized in relation to a
12 project owned or operated by an electric public utility and approved
13 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
14 98.1), as a result of the provisions of a financial incentive
15 established by the board pursuant to this subsection, shall be
16 credited to ratepayers.

17 x.³【No more than 180 days after the date of enactment of
18 P.L. , c. (C.) (pending before the Legislature as this bill),
19 the board shall, in consultation with the Department of
20 Environmental Protection and the New Jersey Economic
21 Development Authority, and, after notice and opportunity for public
22 comment and public hearing, complete a proceeding to establish a
23 program to provide SRECs to owners of solar】 Solar³ electric
24 power generation facility projects³【, including facility projects
25 which are owned or operated by an electric public utility and
26 approved by the board pursuant to section 13 of P.L.2007, c.340
27 (C.48:3-98.1), certified by the board as being】 that are³ located on
28 an existing or proposed commercial, retail, industrial, municipal,
29 professional, recreational, transit, commuter, entertainment
30 complex, multi-use, or mixed-use parking lot with a capacity to
31 park 350 or more vehicles where the area to be utilized for the
32 facility is paved, or an impervious surface³may be owned or
33 operated by an electric public utility and may be approved by the
34 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1)³ .
35 ³【Projects certified under this subsection shall (1) be considered
36 “connected to the distribution system” and shall not require such
37 designation by the board and (2) shall not be subject to board
38 review required pursuant to subsections q. and r. of this section.²³
39 (cf: P.L.2010, c.57, s.2)

40

41 3. This act shall take effect immediately.