

CHAPTER 136

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.48:3-121.2 Definitions.

1. As used in P.L.2025, c.136 (C.48:3-121.2 et al.):

“Accredited capacity” means the amount of capacity, measured in megawatts of unforced capacity, that an eligible project can contribute toward New Jersey’s capacity needs or bid into the base residual auction.

“Base residual auction” means the same as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

“Board” means the Board of Public Utilities.

“Capacity Interconnection Rights” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“Decision Point I” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“Electric public utility” means a public utility, as that term is defined in R.S.48:2-13, that transmits and distributes electricity to end users within the State.

“Eligible project” means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.).

“Energy storage” means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

“Energy storage capacity” means the measure of the energy capacity in megawatt-hours of a transmission-scale energy storage system.

“Energy storage program” means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. “Energy storage program” includes the board’s Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.); and the board’s Garden State Energy Storage Program.

“Garden State Energy Storage Program” or “GSESP” means the final form of the energy storage program currently under development by the board and outlined in the board’s November 2024 straw proposal, or the program’s replacement or successor.

“Generation Interconnection Agreement” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“Incentive award” means a set of payments awarded by the board for an eligible project, which payments are conditioned upon the completion and commercial operation of the eligible project in compliance with P.L.2025, c.136 (C.48:3-121.2 et al.) and any conditions required by the board. An “incentive award” shall be a fixed series of annual payments to be issued over the 15-year award period; based on the maximum usable installed capacity of an eligible project, which is measured in dollars per megawatt, or on the energy storage capacity of an eligible project, which is measured in dollars per megawatt-hour; and paid upon commercial operation of the eligible project, unless the board provides for an alternative payment timeline. An “incentive award” is subject to any conditions imposed by the board, including, but not limited to, satisfactory up-time performance metrics. An “incentive award” may include, at the discretion of the board, a performance-based adjustment based on the availability of the

eligible project or the benefits created through the commercial operation of the eligible project, provided that the board shall confirm the reliability of any proposed metrics on which to base a performance-based adjustment prior to being used in the calculation of an incentive award.

“Installed capacity” means the nameplate output of an eligible project, measured in megawatts of alternating current (MW AC), that is available to the electric grid.

“Interconnection Service Agreement” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“Phase I System Impact Study” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“PJM” means “PJM Interconnection, L.L.C.” or “PJM,” as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51).

“Readiness Deposit” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“Subsequent tranche” means additional energy storage procurement administered pursuant to section 4 of P.L.2025, c.136 (C.48:3-121.5).

“Tranche 1” means the initial procurement for the energy storage program established pursuant to section 2 of P.L.2025, c.136 (C.48:3-121.3).

“Tranche 2” means the second procurement for the energy storage program established pursuant to section 2 of P.L.2025, c.136 (C.48:3-121.3).

“Transmission-scale energy storage system” means an energy storage system, with an installed capacity of at least 5 MW AC, that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM.

“Unforced capacity” means the same as that term is defined in PJM’s Reliability Assurance Agreement or in any successor document.

C.48:3-121.3 Transmission-scale energy storage systems development, incentive awards.

2. a. (1) The Board of Public Utilities shall establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board shall solicit applications for the program established pursuant to this section in an initial Tranche 1 and in Tranche 2, pursuant to paragraph (2) of this subsection. The board may place an eligible project that does not receive an incentive award for Tranche 1 or Tranche 2 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche.

(2) By no later than June 30, 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least 350 MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than December 31, 2025. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than June 30, 2026.

b. To qualify for an incentive award in Tranche 1 or Tranche 2 pursuant to this section, a transmission-scale energy storage system shall:

(1) not participate in any other energy storage program, except for the GSESP, to the extent that the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) is incorporated into the GSESP;

(2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception;

(3) meet the following project maturity requirements, as applicable:

(a) a transmission-scale energy storage system applying for an incentive award in Tranche 1 shall have entered the PJM interconnection process and, at the time of application, have a fully executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM, have a completed Surplus Interconnection Study through PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station;

(b) a transmission-scale energy storage system applying for an incentive award in Tranche 2 shall have entered the PJM interconnection process and, at the time of application, have a fully executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM, have a completed Surplus Interconnection Study through PJM, have been studied by PJM in a Phase I System Impact Study and have paid a Decision Point I Readiness Deposit to PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station; and

(c) if a transmission-scale energy storage system fulfils the project maturity requirements established pursuant to subparagraph (a) or subparagraph (b) of this paragraph by completing a Surplus Interconnection Study or by notifying PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station, then the transmission-scale energy storage system shall also have obtained the associated Capacity Interconnection Rights through PJM; and

(4) meet any other eligibility criteria the board may establish through board order or rulemaking.

c. Any application for an incentive award issued in Tranche 1 or Tranche 2 pursuant to this section shall include:

(1) evidence reasonably satisfactory to the board of site control;

(2) evidence reasonably satisfactory to the board that an applicant has or will obtain all required permits, which evidence shall include an execution plan to obtain all required permits;

(3) evidence reasonably satisfactory to the board that the applicant has submitted all interconnection applications and initial application fees necessary to obtain permission from the appropriate electric public utility or grid operator to operate the transmission-scale energy storage system;

(4) evidence reasonably satisfactory to the board of the applicant's financial means to construct the transmission-scale energy storage system and ability to obtain revenues through electricity markets or non-ratepayer funding, including, but not limited to, energy arbitrage, ancillary services, and capacity revenues in PJM;

(5) evidence reasonably satisfactory to the board of the status of the transmission-scale energy storage system in the PJM interconnection process;

(6) assurances reasonably satisfactory to the board that the transmission-scale energy storage system will adhere to any safety requirements, standards, or measures that the board deems appropriate as well as to any nationally recognized minimum safety requirements, including, but not limited to, appropriate laboratory testing, and will comply with all manufacturers' installation requirements, applicable laws, regulations, codes, licensing, and permit requirements;

(7) a statement describing the transmission-scale energy storage system's alignment with State and regional transmission and resource adequacy planning goals and demonstrating the

transmission-scale energy storage system's coordination with PJM and the appropriate electric public utility;

- (8) an application fee as set by the board; and
- (9) any other information required by the board.

d. The board shall review Tranche 1 and Tranche 2 applications consistently with the requirements of this section. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 or Tranche 2 application. The board shall evaluate each application based on the bid prices of the requested incentive awards. The board may appropriately compare bid prices, at the board's discretion, based on the measure of a transmission-scale energy storage system's installed capacity, energy storage capacity, or expected accredited capacity. The board may also consider other factors such as:

- (1) project maturity and likelihood of success;
- (2) whether the project has completed non-ministerial permits;
- (3) whether the project is proposed by an applicant with experience in energy storage development, construction, and finance; and
- (4) whether the project promotes redevelopment, community benefits, brownfield redevelopment, or existing or former fossil fuel plant replacement or provides demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located.

e. Any board order issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) shall be binding and enforceable. Any such board order shall:

- (1) define the eligible project receiving an incentive award and the eligible project's installed capacity;
- (2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term shall commence no earlier than the commercial operations date of an eligible project and during which term an eligible project shall receive an annual incentive award on each anniversary of the first payment date;
- (3) determine the amount of funding to be allocated for payment of the incentive award beginning in the fiscal year in which the eligible project commences commercial operations;
- (4) include a participation fee as the board may require from the developer;
- (5) require, for an eligible project awarded an incentive award, a pre-development security not to exceed \$100,000 per megawatt and not to exceed in total \$10,000,000;
- (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain some or all of the pre-development security;
- (7) provide that receipt of an incentive award for an eligible project shall be contingent on achievement of baseline performance requirements, including, but not limited to, availability for dispatch in a minimum number of hours per year, as determined by the board. The board may use the PJM Equivalent Forced Outage Rate or another metric determined appropriate by the board to measure energy storage availability. The board order shall require that the developer report data for the purpose of this paragraph at regular intervals and shall provide for a reduction of an incentive award in proportion to the number of hours of required availability that is unmet by the eligible project; and
- (8) require a developer to provide additional information to the board during the term of the incentive award, as the board may reasonably require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security

throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

f. The board may amend an order issuing an incentive award pursuant to this section solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

g. (1) Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall permit applications for Tranche 1 without regard to the publication status of the rules and regulations to be issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), by no later than September 30, 2025.

(2) The board shall accept Tranche 1 applications for a maximum of 60 days after the beginning of the formal application period for Tranche 1. Within 60 days following the closure of the Tranche 1 application period, the board shall:

(a) evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), and any application requirements and eligibility criteria approved pursuant to this subsection; and

(b) select eligible projects to receive an award.

h. An incentive award shall be conditioned upon a developer’s compliance with the board order determining the incentive award and with any conditions the board shall reasonably require.

C.48:3-121.4 BPU to initiate proceeding, determining extension of transmission-scale energy storage procurement; report to Governor, Legislature.

3. a. Within 30 days of meeting its 1,000 MW AC procurement goal established pursuant to paragraph (2) of subsection a. of section 2 of P.L.2025, c.136 (C.48:3-121.3), the board shall initiate a proceeding, with opportunity for public comment, to determine whether to extend its procurement of transmission-scale energy storage through the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.).

b. The board shall issue a report detailing its findings based on the proceeding initiated pursuant to subsection a. of this section and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall:

(1) examine the impact of the State’s energy storage programs, individually and collectively, on the State’s progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8);

(2) assess the impact of the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) on ratepayers, which impact shall include an evaluation of any costs and benefits to ratepayers as a result of increased energy storage capacity under the program;

(3) evaluate any changes in the PJM capacity market or in the federal energy and utility landscape that could impact the need for incentive awards issued through the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.);

(4) study any other information the board deems necessary to make its determination pursuant to paragraph (5) of this subsection; and

(5) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) through subsequent tranches based on its findings from paragraphs (1) through (4) of this subsection.

C.48:3-121.5 Extended procurement, transmission-scale energy storage, subsequent tranches.

4. a. If the board elects to extend its procurement of transmission-scale energy storage pursuant to paragraph (5) of subsection b. of section 3 of P.L.2025, c.136 (C.48:3-121.4) through subsequent tranches under the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), the board shall administer any subsequent tranche in a similar manner to Tranche 1 and Tranche 2, modifying as appropriate for each subsequent tranche:

- (1) the amount of megawatts to be solicited;
- (2) the application requirements or eligibility criteria;
- (3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and
- (4) any other administrative modification the board deems appropriate.

b. Prior to administering each subsequent tranche, the board shall increase, decrease, or maintain the amount of an incentive award as the board deems necessary based on a market analysis that shall account for:

- (1) changes within the energy and utility industries, including any changes due to State and federal policies, that may increase or decrease average project costs for developers of transmission-scale energy storage systems;
- (2) any additional sources of revenue available to developers of transmission-scale energy storage systems; and
- (3) any other factors concerning the cost to develop transmission-scale energy storage systems that the board deems necessary to reevaluate the amount of an incentive award.

c. Notwithstanding subsection b. of this section to the contrary, the board may determine incentive award amounts in a subsequent tranche by a competitive solicitation process.

C.48:3-121.6 “Energy Storage Fund.”

5. a. There is established in the Board of Public Utilities a special, non-lapsing fund to be known as the “Energy Storage Fund.” The fund shall be administered by the board and shall be credited with:

- (1) monies deposited into the fund by the board pursuant to subsection b. of this section;
- (2) monies appropriated by the Legislature; and
- (3) any return on investment of monies deposited in the fund.

b. The board shall deposit into the fund, each year, until the end of all award periods for incentive awards issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), a minimum of \$60,000,000 from the:

- (1) revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60); and
- (2) monies made available from other funding sources, as determined by the board, which sources shall include, but not be limited to, federal funding.

c. Notwithstanding any restrictions on the use of funds provided in section 12 of P.L.1999, c.23 (C.48:3-60), monies in the fund shall be used by the board solely to fund:

- (1) incentive awards issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.); and
- (2) energy storage incentives issued pursuant to the GSESP.

d. In the fiscal year beginning on July 1, 2027, and in each fiscal year thereafter, until the end of all award periods for incentive awards issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), the board shall allocate sufficient monies from the “Energy Storage Fund” established pursuant to subsection a. of this section to fully fund the incentive awards issued by the board pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.).

C.48:3-121.7 Rules, regulations.

6. a. (1) The board shall adopt, as expeditiously as possible, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of P.L.2025, c.136 (C.48:3-121.2 et al.).

(2) Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, within 90 days following the effective date of P.L.2025, c.136 (C.48:3-121.2 et al.), the board shall publish a notice of proposal that contains the proposed rules required by this subsection.

b. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and issue incentive awards for Tranche 1 and Tranche 2 pursuant to section 2 of P.L.2025, c.136 (C.48:3-121.3) notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

C.48:3-60 Societal benefits charge by public utility; "Universal Service Fund."

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) the costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) nuclear plant decommissioning costs;

(3) the costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school

buses, and associated plug-in electric vehicle charging infrastructure, energy storage, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches \$140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding. In addition to the determinations above, the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive awards issued for transmission-scale energy storage systems that are eligible projects pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), after accounting for funding allocated to this purpose from other sources;

(4) manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) the cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies

from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

8. This act shall take effect immediately.

Approved August 22, 2025.