

SENATE, No. 2535

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 2, 2009

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Concerns net metering and authorizes licensing of local renewable energy collaboratives by the BPU.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning net metering and amending P.L.1999, c.23.

2

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

5

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

8 3. As used in this act:

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

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

23 "Basic generation service" means electric generation service that
24 is provided, pursuant to section 9 of **[this act]** P.L.1999, c.23
25 (C.48:3-57), to any customer that has not chosen an alternative
26 electric power supplier, whether or not the customer has received
27 offers as to competitive supply options, including, but not limited
28 to, any customer that cannot obtain such service from an electric
29 power supplier for any reason, including non-payment for services.
30 Basic generation service is not a competitive service and shall be
31 fully regulated by the board;

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

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

Matter underlined thus is new matter.

1 parting contracts with the purchaser of the electric public utility's
2 divested generation assets, short-term advance purchases, and
3 financial instruments such as hedging, forward contracts, and
4 options. Basic generation service transition costs shall also include
5 the payments by an electric public utility pursuant to a competitive
6 procurement process for basic generation service supply during the
7 transition period, and costs of any such process used to procure the
8 basic generation service supply;

9 "Board" means the New Jersey Board of Public Utilities or any
10 successor agency;

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

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

1 "Bondable transition property" means the property consisting of
2 the irrevocable right to charge, collect and receive, and be paid
3 from collections of, transition bond charges in the amount necessary
4 to provide for the full recovery of bondable stranded costs which
5 are determined to be recoverable in a bondable stranded costs rate
6 order, all rights of the related electric public utility under such
7 bondable stranded costs rate order including, without limitation, all
8 rights to obtain periodic adjustments of the related transition bond
9 charges pursuant to subsection b. of section 15 of [this act]
10 P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments,
11 money and proceeds arising under, or with respect to, all of the
12 foregoing;

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

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

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

31 "Class I renewable energy" means electric energy produced from
32 solar technologies, photovoltaic technologies, wind energy, fuel
33 cells, geothermal technologies, wave or tidal action, and methane
34 gas from landfills or a biomass facility, provided that the biomass is
35 cultivated and harvested in a sustainable manner;

36 "Class II renewable energy" means electric energy produced at a
37 resource recovery facility or hydropower facility, provided that
38 such facility is located where retail competition is permitted and
39 provided further that the Commissioner of Environmental
40 Protection has determined that such facility meets the highest
41 environmental standards and minimizes any impacts to the
42 environment and local communities;

43 "Competitive service" means any service offered by an electric
44 public utility or a gas public utility that the board determines to be
45 competitive pursuant to section 8 or section 10 of [this act]
46 P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by
47 the board;

1 "Comprehensive resource analysis" means an analysis including,
2 but not limited to, an assessment of existing market barriers to the
3 implementation of energy efficiency and renewable technologies
4 that are not or cannot be delivered to customers through a
5 competitive marketplace;

6 "Customer" means any person that is an end user and is
7 connected to any part of the transmission and distribution system
8 within an electric public utility's service territory or a gas public
9 utility's service territory within this State;

10 "Customer account service" means metering, billing, or such
11 other administrative activity associated with maintaining a customer
12 account;

13 "Demand side management" means the management of customer
14 demand for energy service through the implementation of cost-
15 effective energy efficiency technologies, including, but not limited
16 to, installed conservation, load management and energy efficiency
17 measures on and in the residential, commercial, industrial,
18 institutional and governmental premises and facilities in this State;

19 "Electric generation service" means the provision of retail
20 electric energy and capacity which is generated off-site from the
21 location at which the consumption of such electric energy and
22 capacity is metered for retail billing purposes, including agreements
23 and arrangements related thereto;

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

35 "Electric power supplier" means a person or entity that is duly
36 licensed pursuant to the provisions of this act to offer and to assume
37 the contractual and legal responsibility to provide electric
38 generation service to retail customers, and includes load serving
39 entities, marketers and brokers that offer or provide electric
40 generation service to retail customers. The term excludes an
41 electric public utility that provides electric generation service only
42 as a basic generation service pursuant to section 9 of **[this act]**
43 P.L.1999, c.23 (C.48:3-57);

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

47 "Electric related service" means a service that is directly related
48 to the consumption of electricity by an end user, including, but not

1 limited to, the installation of demand side management measures at
2 the end user's premises, the maintenance, repair or replacement of
3 appliances, lighting, motors or other energy-consuming devices at
4 the end user's premises, and the provision of energy consumption
5 measurement and billing services;

6 "Electronic signature" means an electronic sound, symbol or
7 process, attached to, or logically associated with, a contract or other
8 record, and executed or adopted by a person with the intent to sign
9 the record;

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

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

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

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

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

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

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

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

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

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

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

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

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

34 "Hosting site" means a site upon which there is a renewable
35 energy system provided by a customer who is a member of an
36 LREC and is used for the purpose of generating a net excess of
37 electricity generated for the shared use of customers within the
38 LREC;

39 "Leakage" means an increase in greenhouse gas emissions
40 related to generation sources located outside of the State that are not
41 subject to a state, interstate or regional greenhouse gas emissions
42 cap or standard that applies to generation sources located within the
43 State;

44 "Local renewable energy collaborative" or "LREC" means a
45 limited liability corporation or other legal entity which consists of a
46 group of customers who share the output of distributed Class I or
47 Class II renewable energy systems through multiple sites, and
48 which is licensed by the board pursuant to P.L.1999, c.23 (C.48:3-

1 49 et al.) for the purpose of generating energy, from Class I or Class
2 II renewable energy sources, primarily for use by customers within
3 the group. An LREC shall not be considered an electric public
4 utility;

5 "Market transition charge" means a charge imposed pursuant to
6 section 13 of **[this act]** P.L.1999, c.23 (C.48:3-61) by an electric
7 public utility, at a level determined by the board, on the electric
8 public utility customers for a limited duration transition period to
9 recover stranded costs created as a result of the introduction of
10 electric power supply competition pursuant to the provisions of
11 **[this act]** P.L.1999, c.23 (C.48:3-49 et al.);

12 "Marketer" means a duly licensed electric power supplier that
13 takes title to electric energy and capacity, transmission and other
14 services from electric power generators and other wholesale
15 suppliers and then assumes contractual and legal obligation to
16 provide electric generation service, and may include transmission
17 and other services, to an end-use retail customer or customers, or a
18 duly licensed gas supplier that takes title to gas and then assumes
19 the contractual and legal obligation to provide gas supply service to
20 an end-use customer or customers;

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

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

25 "On-site generation facility" means a generation facility, and
26 equipment and services appurtenant to electric sales by such facility
27 to the end use customer located on the property or on property
28 contiguous to the property on which the end user is located. An on-
29 site generation facility shall not be considered a public utility. The
30 property of the end use customer and the property on which the on-
31 site generation facility is located shall be considered contiguous if
32 they are geographically located next to each other, but may be
33 otherwise separated by an easement, public thoroughfare,
34 transportation or utility-owned right-of-way;

35 "Person" means an individual, partnership, corporation,
36 association, trust, limited liability company, governmental entity or
37 other legal entity;

38 "Private aggregator" means a non-government aggregator that is
39 a duly-organized business or non-profit organization authorized to
40 do business in this State that enters into a contract with a duly
41 licensed electric power supplier for the purchase of electric energy
42 and capacity, or with a duly licensed gas supplier for the purchase
43 of gas supply service, on behalf of multiple end-use customers by
44 combining the loads of those customers;

45 "Public utility holding company" means: (1) any company that,
46 directly or indirectly, owns, controls, or holds with power to vote,
47 ten percent or more of the outstanding voting securities of an
48 electric public utility or a gas public utility or of a company which

1 is a public utility holding company by virtue of this definition,
2 unless the Securities and Exchange Commission, or its successor,
3 by order declares such company not to be a public utility holding
4 company under the Public Utility Holding Company Act of 1935,
5 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
6 Securities and Exchange Commission, or its successor, determines,
7 after notice and opportunity for hearing, directly or indirectly, to
8 exercise, either alone or pursuant to an arrangement or
9 understanding with one or more other persons, such a controlling
10 influence over the management or policies of an electric public
11 utility or a gas public utility or public utility holding company as to
12 make it necessary or appropriate in the public interest or for the
13 protection of investors or consumers that such person be subject to
14 the obligations, duties, and liabilities imposed in the Public Utility
15 Holding Company Act of 1935 or its successor;

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

21 "Related competitive business segment of an electric public
22 utility or gas public utility" means any business venture of an
23 electric public utility or gas public utility including, but not limited
24 to, functionally separate business units, joint ventures, and
25 partnerships, that offers to provide or provides competitive services;

26 "Related competitive business segment of a public utility holding
27 company" means any business venture of a public utility holding
28 company, including, but not limited to, functionally separate
29 business units, joint ventures, and partnerships and subsidiaries, that
30 offers to provide or provides competitive services, but does not
31 include any related competitive business segments of an electric
32 public utility or gas public utility;

33 "Renewable Energy Certificate" or "REC" means a certificate
34 representing the environmental benefits or attributes of one
35 megawatt-hour of generation from a generating facility subject to
36 regulation by the board. Class I RECs represent the environmental
37 benefits or attributes of one megawatt-hour of class I renewable
38 energy generation. Class II RECs represent the environmental
39 benefits or attributes of one megawatt-hour of class II renewable
40 energy generation;

41 "Resource recovery facility" means a solid waste facility
42 constructed and operated for the incineration of solid waste for
43 energy production and the recovery of metals and other materials
44 for reuse;

45 "Restructuring related costs" means reasonably incurred costs
46 directly related to the restructuring of the electric power industry,
47 including the closure, sale, functional separation and divestiture of
48 generation and other competitive utility assets by a public utility, or

1 the provision of competitive services as such costs are determined
2 by the board, and which are not stranded costs as defined in [this
3 act] P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be
4 limited to, investments in management information systems, and
5 which shall include expenses related to employees affected by
6 restructuring which result in efficiencies and which result in
7 benefits to ratepayers, such as training or retraining at the level
8 equivalent to one year's training at a vocational or technical school
9 or county community college, the provision of severance pay of two
10 weeks of base pay for each year of full-time employment, and a
11 maximum of 24 months' continued health care coverage. Except as
12 to expenses related to employees affected by restructuring,
13 "restructuring related costs" shall not include going forward costs;

14 "Retail choice" means the ability of retail customers to shop for
15 electric generation or gas supply service from electric power or gas
16 suppliers, or opt to receive basic generation service or basic gas
17 service, and the ability of an electric power or gas supplier to offer
18 electric generation service or gas supply service to retail customers,
19 consistent with the provisions of [this act] P.L.1999, c.23 (C.48:3-
20 49 et al.);

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

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

34 "Societal benefits charge" means a charge imposed by an electric
35 public utility, at a level determined by the board, pursuant to, and in
36 accordance with, section 12 of [this act] P.L.1999, c.23 (C.48:3-
37 60);

38 "Solar electric generation" means the creation of electricity using
39 a system that employs solar radiation to produce energy that powers
40 an electric generator. Solar electric generation includes technologies
41 that utilize the photovoltaic effect. Solar electric generation is a
42 type of Class I renewable energy;

43 "Solar renewable energy certificate" or "SREC" means the
44 environmental attributes of one megawatt hour (MWh) of solar
45 electric generation generated in this State;

46 "Stranded cost" means the amount by which the net cost of an
47 electric public utility's electric generating assets or electric power
48 purchase commitments, as determined by the board consistent with

1 the provisions of **[this act]** P.L.1999, c.23 (C.48:3-49 et al.),
2 exceeds the market value of those assets or contractual
3 commitments in a competitive supply marketplace and the costs of
4 buydowns or buyouts of power purchase contracts;

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

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

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

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

36 "Transition period" means the period from August 1, 1999
37 through July 31, 2003; and

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

41 (cf: P.L. 2002, c.84, s.1)

42

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

45 38. a. The board shall require an electric power supplier or
46 basic generation service provider to disclose on a customer's bill or
47 on customer contracts or marketing materials, a uniform, common

1 set of information about the environmental characteristics of the
2 energy purchased by the customer, including, but not limited to:

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

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

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

12 b. Notwithstanding any provisions of the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
14 contrary, the board shall initiate a proceeding and shall adopt, in
15 consultation with the Department of Environmental Protection, after
16 notice and opportunity for public comment and public hearing,
17 interim standards to implement this disclosure requirement,
18 including, but not limited to:

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

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

25 (3) A uniform emissions disclosure format that is graphic in
26 nature and easily understandable by consumers. The board shall
27 periodically review the disclosure requirements to determine if
28 revisions to the environmental disclosure system as implemented
29 are necessary.

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

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

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

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

45 (2) By July 1, 2009, the board shall adopt, pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), a greenhouse gas emissions portfolio standard to mitigate
48 leakage or another regulatory mechanism to mitigate leakage

1 applicable to all electric power suppliers and basic generation
2 service providers that provide electricity to customers within the
3 State. The greenhouse gas emissions portfolio standard or any other
4 regulatory mechanism to mitigate leakage shall:

5 (a) Allow a transition period, either before or after the effective
6 date of the regulation to mitigate leakage, for a basic generation
7 service provider or electric power supplier to either meet the
8 emissions portfolio standard or other regulatory mechanism to
9 mitigate leakage, or to transfer any customer to a basic generation
10 service provider or electric power supplier that meets the emissions
11 portfolio standard or other regulatory mechanism to mitigate
12 leakage. If the transition period allowed pursuant to this
13 subparagraph occurs after the implementation of an emissions
14 portfolio standard or other regulatory mechanism to mitigate
15 leakage, the transition period shall be no longer than three years;
16 and

17 (b) Exempt the provision of basic generation service pursuant to
18 a basic generation service purchase and sale agreement effective
19 prior to the date of the regulation.

20 Unless the Attorney General or the Attorney General's designee
21 determines that a greenhouse gas emissions portfolio standard
22 would unconstitutionally burden interstate commerce or would be
23 preempted by federal law, the adoption by the board of an electric
24 energy efficiency portfolio standard pursuant to subsection g. of this
25 section, a gas energy efficiency portfolio standard pursuant to
26 subsection h. of this section, or any other enhanced energy
27 efficiency policies to mitigate leakage shall not be considered
28 sufficient to fulfill the requirement of this subsection for the
29 adoption of a greenhouse gas emissions portfolio standard or any
30 other regulatory mechanism to mitigate leakage.

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

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

41 (2) beginning on January 1, 2001, that one-half of one percent of
42 the kilowatt hours sold in this State by each electric power supplier
43 and each basic generation service provider be from Class I
44 renewable energy sources. The board shall increase the required
45 percentage for Class I renewable energy sources so that by January
46 1, 2006, one percent of the kilowatt hours sold in this State by each
47 electric power supplier and each basic generation service provider
48 shall be from Class I renewable energy sources and shall

1 additionally increase the required percentage for Class I renewable
2 energy sources by one-half of one percent each year until January 1,
3 2012, when four percent of the kilowatt hours sold in this State by
4 each electric power supplier and each basic generation service
5 provider shall be from Class I renewable energy sources.

6 An electric power supplier or basic generation service provider
7 may satisfy the requirements of this subsection by participating in a
8 renewable energy trading program approved by the board in
9 consultation with the Department of Environmental Protection.

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

15 e. Notwithstanding any provisions of the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
17 contrary, the board shall initiate a proceeding and shall adopt, after
18 notice, provision of the opportunity for comment, and public
19 hearing:

20 (1) net metering standards for electric power suppliers and basic
21 generation service providers. The standards shall require electric
22 power suppliers and basic generation service providers to offer net
23 metering at non-discriminatory rates to industrial, large
24 commercial, residential and small commercial customers, as those
25 customers are classified or defined by the board, that generate
26 electricity, on the customer's side of the meter, using a Class I
27 renewable energy source, for the net amount of electricity supplied
28 by the electric power supplier or basic generation service provider
29 over an annualized period. If the amount of electricity generated by
30 the customer-generator plus any kilowatt hour credits held over
31 from the previous billing periods, exceeds the electricity supplied
32 by the electric power supplier or basic generation service provider,
33 then the electric power supplier or basic generation service
34 provider, as the case may be, shall credit the customer-generator for
35 the excess kilowatt hours until the end of the annualized period at
36 which point the customer-generator will be compensated for any
37 remaining credits or, if the customer-generator chooses, credit the
38 customer-generator on a real-time basis, at the electric power
39 supplier's or basic generation service provider's avoided cost of
40 wholesale power or the PJM power pool's real-time locational
41 marginal pricing rate, adjusted for losses, for the respective zone in
42 the PJM electric power pool. Alternatively, the customer-generator
43 may execute a bilateral agreement with an electric power supplier
44 or basic generation service provider for the sale and purchase of the
45 customer-generator's excess generation. The customer-generator
46 may be credited on a real-time basis, so long as the customer-
47 generator follows applicable rules prescribed by the PJM electric
48 power pool for its capacity requirements for the net amount of

1 electricity supplied by the electric power supplier or basic
2 generation service provider. The board may authorize an electric
3 power supplier or basic generation service provider to cease
4 offering net metering whenever the total rated generating capacity
5 owned and operated by net metering customer-generators Statewide
6 equals 2.5 percent of the State's peak electricity demand;

7 (2) net metering standards which require electric power suppliers
8 and basic generation service providers to offer net metering at non-
9 discriminatory rates to customers who are members of an LREC.
10 Customers who are members of an LREC may install renewable
11 energy systems that produce a net excess of energy that is used to
12 offset consumption by other members within the same LREC. The
13 LREC shall assume fiduciary responsibility for the aggregated
14 energy purchase obligations of its members, and shall serve as the
15 customer of record with the electric public utility providing service
16 to the LREC. The electric public utility shall be responsible for
17 reading the utility meter of all LREC members and rendering a
18 consolidated bill to the LREC specifying meter readings, and the
19 net payment due to the utility, electric power suppliers or basic
20 generation service providers, as appropriate, from the LREC. The
21 LREC shall be responsible for making payment to the electric
22 public utility for amounts due under the consolidated bill that is
23 rendered to the LREC by the utility, and for rendering bills to its
24 individual members in accordance with an energy-sharing and
25 settlement agreement established by the LREC.

26 The net computation by the electric public utility shall be done in
27 dollars, with net excess generation by renewable energy generation
28 systems installed within an LREC being rated at the full retail
29 residential rate, including energy and distribution charges, applied
30 as a credit, while all consuming members of the LREC are rated as
31 per the applicable tariff in each case. Net credits may be carried
32 over from month to month, and may be converted to an avoided cost
33 of wholesale power at the end of the annualized period. LRECs
34 may include all classes of customers as members, but all LREC
35 members shall be within the same electric public utility service
36 territory. The annual energy generation capacity of a given LREC
37 Class I renewable energy system may exceed the usage of the
38 hosting site, but the total capacity of Class I renewable energy
39 generation systems associated with an LREC may not exceed the
40 net metering limit set by the board or the projected annual
41 consumption of the initial LREC members. Renewable energy
42 generation systems within an LREC that are connected to the
43 distribution system, may earn RECs or SRECs or other applicable
44 incentives, and are eligible for contract securitization programs for
45 RECs and SRECs which may be sponsored by the board. Except
46 for two-party LRECs, or an LREC where all renewable energy
47 generation sites and meters are owned by the same legal entity, the
48 LREC shall be managed by an entity that is licensed by the board

1 for that purpose. The board's licensing requirements shall be
2 established through a process that includes input from stakeholders,
3 with the goal of ensuring sound and uniform business practices,
4 encouraging new market entrants, and facilitating innovation and
5 competition.

6 **[(2)] (3)** safety and power quality interconnection standards for
7 Class I renewable energy source systems used by a customer-
8 generator that shall be eligible for net metering.

9 Such standards or rules shall take into consideration the goals of
10 the New Jersey Energy Master Plan, applicable industry standards
11 and the standards of other states and the Institute of Electrical and
12 Electronic Engineers. The board shall allow electric public utilities
13 to recover the costs of any new net meters, upgraded net meters,
14 system reinforcements or upgrades, and interconnection costs
15 through either their regulated rates or from the net metering
16 customer-generator; and

17 **[(3)] (4)** credit or other incentive rules for generators using
18 Class I renewable energy generation systems that connect to New
19 Jersey's electric public utilities' distribution system but who do not
20 net meter.

21 Such rules shall require the board or its designee to issue a credit
22 or other incentive to those generators that do not use a net meter but
23 otherwise generate electricity derived from a Class I renewable
24 energy source and to issue an enhanced credit or other incentive,
25 including, but not limited to, a solar renewable energy credit, to
26 those generators that generate electricity derived from solar
27 technologies.

28 Such standards or rules shall be effective as regulations
29 immediately upon filing with the Office of Administrative Law and
30 shall be effective for a period not to exceed 18 months, and may,
31 thereafter, be amended, adopted or readopted by the board in
32 accordance with the provisions of the "Administrative Procedure
33 Act."

34 f. The board may assess, by written order and after notice and
35 opportunity for comment, a separate fee to cover the cost of
36 implementing and overseeing an emission disclosure system or
37 emission portfolio standard, which fee shall be assessed based on an
38 electric power supplier's or basic generation service provider's share
39 of the retail electricity supply market. The board shall not impose a
40 fee for the cost of implementing and overseeing a greenhouse gas
41 emissions portfolio standard adopted pursuant to paragraph (2) of
42 subsection c. of this section, the electric energy efficiency portfolio
43 standard adopted pursuant to subsection g. of this section, or the gas
44 energy efficiency portfolio standard adopted pursuant to subsection
45 h. of this section.

46 g. The board may adopt, pursuant to the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
48 energy efficiency portfolio standard that may require each electric

1 public utility to implement energy efficiency measures that reduce
2 electricity usage in the State by 2020 to a level that is 20 percent
3 below the usage projected by the board in the absence of such a
4 standard. Nothing in this section shall be construed to prevent an
5 electric public utility from meeting the requirements of this section
6 by contracting with another entity for the performance of the
7 requirements.

8 h. The board may adopt, pursuant to the "Administrative
9 Procedure Act," a gas energy efficiency portfolio standard that may
10 require each gas public utility to implement energy efficiency
11 measures that reduce natural gas usage for heating in the State by
12 2020 to a level that is 20 percent below the usage projected by the
13 board in the absence of such a standard. Nothing in this section
14 shall be construed to prevent a gas public utility from meeting the
15 requirements of this section by contracting with another entity for
16 the performance of the requirements.

17 [i. As used in this section:

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

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

27 "Leakage" means an increase in greenhouse gas emissions
28 related to generation sources located outside of the State that are not
29 subject to a state, interstate or regional greenhouse gas emissions
30 cap or standard that applies to generation sources located within the
31 State.] (Deleted by amendment, P.L. , c.) (pending before the
32 Legislature as this bill)

33 (cf: P.L.2007, c.340, s.12)

34
35 3. This act shall take effect on the 180th date after the date of
36 enactment, but the Board of Public Utilities may take such
37 anticipatory action in advance thereof as shall be necessary for the
38 implementation of the act.

41 STATEMENT

42
43 This bill amends the "Electric Discount and Energy Competition
44 Act" ("EDECA") P.L.1999, c.23 (C.48:3-49 et al.) to direct the
45 Board of Public Utilities ("board") to adopt net metering standards
46 which require electric power suppliers and basic generation service
47 suppliers to offer net metering at non-discriminatory rates to
48 customers who are members of a local renewable energy

1 collaborative (“LREC”). An LREC is a limited liability corporation
2 or other legal entity which consists of a group of customers who
3 share the output of distributed Class I or Class II renewable energy
4 systems through multiple sites, and which is licensed by the board
5 pursuant to EDECA for the purpose of generating energy, from
6 Class I or Class II renewable energy sources, primarily for use by
7 customers within the group. An LREC shall not be considered an
8 electric public utility.

9 The bill provides that: (1) customers who are members of an
10 LREC may install renewable energy systems that produce a net
11 excess of energy that is used to offset consumption by other
12 members within the same LREC; (2) the LREC may install
13 renewable energy systems that produce a net excess of energy that
14 is used to offset consumption by other members within the same
15 LREC; (3) the LREC shall assume fiduciary responsibility for the
16 aggregated energy purchase obligations of its members, and shall
17 serve as the customer of record with the electric public utility
18 providing service to the LREC; (4) the electric public utility shall
19 be responsible for reading the utility meter of all LREC members
20 and rendering a consolidated bill to the LREC specifying meter
21 readings, and the net payment due to the utility, electric power
22 suppliers or basic generation service providers, as appropriate, from
23 the LREC; and (5) the LREC shall be responsible for making
24 payment to the electric public utility for amounts due under the
25 consolidated bill that is rendered to the LREC by the utility, and for
26 rendering bills to its individual members in accordance with an
27 energy-sharing and settlement agreement established by the LREC.

28 The bill further provides that, except for two-party LRECs, or an
29 LREC where all renewable energy generation sites and meters are
30 owned by the same legal entity, the LREC shall be managed by an
31 entity that is licensed by the board for that purpose. The board’s
32 licensing requirements shall be established through a process that
33 includes input from stakeholders, with the goal of ensuring sound
34 and uniform business practices, encouraging new market entrants,
35 and facilitating innovation and competition.

36 In addition, the bill adds definitions to EDECA for “LREC,”
37 “hosting site,” “renewable energy certificate” (“REC”), “solar
38 electric generation” and “solar renewable energy certificate”
39 (“SREC”).

40 “Hosting site” means a site upon which there is a renewable
41 energy system provided by a customer who is a member of an
42 LREC and is used for the purpose of generating a net excess of
43 electricity generated for the shared use of customers within the
44 LREC.

45 “REC” means a certificate representing the environmental
46 benefits or attributes of one megawatt-hour of generation from a
47 generating facility subject to regulation by the board. Class I RECs
48 represent the environmental benefits or attributes of one megawatt-

1 hour of class I renewable energy generation. Class II RECs
2 represent the environmental benefits or attributes of one megawatt-
3 hour of class II renewable energy generation,
4 “Solar electric generation” means the creation of electricity using
5 a system that employs solar radiation to produce energy that powers
6 an electric generator. Solar electric generation includes technologies
7 that utilize the photovoltaic effect. Solar electric generation is a
8 type of Class I renewable energy.
9 “SREC” means the environmental attributes of one megawatt
10 hour (MWh) of solar electric generation generated in this State.
11 Finally, the bill amends EDECA to move the definitions for
12 “energy efficiency portfolio standard,” “greenhouse gas emissions”
13 and “leakage” from section 38 to the definitions of EDECA (section
14 3).