

§§3,4 –
C.48:3-87.1
& 48:3-87.2
§6 –
C.34:1B-209.4

P.L.2010, CHAPTER 57, *approved August 19, 2010*
Senate, No. 2036 (*Second Reprint*)

1 AN ACT concerning the development of offshore wind projects,
2 amending and supplementing P.L.1999, c.23, amending
3 P.L.2007, c.340, and supplementing P.L.2007, c.346 (C.34:1B-
4 207 et seq.).

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

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

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

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

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

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

34 "Basic generation service provider" or "provider" means a
35 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:

¹Senate SEN committee amendments adopted June 21, 2010.

²Senate SBA committee amendments adopted June 21, 2010.

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;

47 "Bondable stranded costs rate order" means one or more
48 irrevocable written orders issued by the board pursuant to P.L.1999,

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

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

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

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

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

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

45 "Class I renewable energy" means electric energy produced from
46 solar technologies, photovoltaic technologies, wind energy, fuel
47 cells, geothermal technologies, wave or tidal action, and methane

1 gas from landfills or a biomass facility, provided that the biomass is
2 cultivated and harvested in a sustainable manner;

3 "Class II renewable energy" means electric energy produced at a
4 resource recovery facility or hydropower facility, provided that
5 such facility is located where retail competition is permitted and
6 provided further that the Commissioner of Environmental
7 Protection has determined that such facility meets the highest
8 environmental standards and minimizes any impacts to the
9 environment and local communities;

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

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

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

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

30 "Comprehensive resource analysis" means an analysis including,
31 but not limited to, an assessment of existing market barriers to the
32 implementation of energy efficiency and renewable technologies
33 that are not or cannot be delivered to customers through a
34 competitive marketplace;

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

39 "Customer account service" means metering, billing, or such
40 other administrative activity associated with maintaining a customer
41 account;

42 "Demand side management" means the management of customer
43 demand for energy service through the implementation of cost-
44 effective energy efficiency technologies, including, but not limited
45 to, installed conservation, load management and energy efficiency
46 measures on and in the residential, commercial, industrial,
47 institutional and governmental premises and facilities in this State;

1 "Electric generation service" means the provision of retail
2 electric energy and capacity which is generated off-site from the
3 location at which the consumption of such electric energy and
4 capacity is metered for retail billing purposes, including agreements
5 and arrangements related thereto;

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

17 "Electric power supplier" means a person or entity that is duly
18 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
19 al.) to offer and to assume the contractual and legal responsibility to
20 provide electric generation service to retail customers, and includes
21 load serving entities, marketers and brokers that offer or provide
22 electric generation service to retail customers. The term excludes an
23 electric public utility that provides electric generation service only
24 as a basic generation service pursuant to section 9 of P.L.1999, c.23
25 (C.48:3-57);

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

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

36 "Electronic signature" means an electronic sound, symbol or
37 process, attached to, or logically associated with, a contract or other
38 record, and executed or adopted by a person with the intent to sign
39 the record;

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

46 "Energy consumer" means a business or residential consumer of
47 electric generation service or gas supply service located within the
48 territorial jurisdiction of a government aggregator;

1 "Energy efficiency portfolio standard" means a requirement to
2 procure a specified amount of energy efficiency or demand side
3 management resources as a means of managing and reducing energy
4 usage and demand by customers;

5 "Energy year" or "EY" means the 12-month period from June 1st
6 through May 31st and shall be numbered according to the calendar
7 year in which it ends;

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

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

17 "Gas related service" means a service that is directly related to
18 the consumption of gas by an end user, including, but not limited to,
19 the installation of demand side management measures at the end
20 user's premises, the maintenance, repair or replacement of
21 appliances or other energy-consuming devices at the end user's
22 premises, and the provision of energy consumption measurement
23 and billing services;

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

39 "Gas supply service" means the provision to customers of the
40 retail commodity of gas, but does not include any regulated
41 distribution service;

42 "Government aggregator" means any government entity subject
43 to the requirements of the "Local Public Contracts Law," P.L.1971,
44 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
45 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
46 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
47 contract with a licensed electric power supplier or a licensed gas
48 supplier for: (1) the provision of electric generation service, electric

1 related service, gas supply service, or gas related service for its own
2 use or the use of other government aggregators; or (2) if a
3 municipal or county government, the provision of electric
4 generation service or gas supply service on behalf of business or
5 residential customers within its territorial jurisdiction;

6 "Government energy aggregation program" means a program and
7 procedure pursuant to which a government aggregator enters into a
8 written contract for the provision of electric generation service or
9 gas supply service on behalf of business or residential customers
10 within its territorial jurisdiction;

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

14 "Greenhouse gas emissions portfolio standard" means a
15 requirement that addresses or limits the amount of carbon dioxide
16 emissions indirectly resulting from the use of electricity as applied
17 to any electric power suppliers and basic generation service
18 providers of electricity;

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

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

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

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

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

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

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

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

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

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

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

30 "Private aggregator" means a non-government aggregator that is
31 a duly-organized business or non-profit organization authorized to
32 do business in this State that enters into a contract with a duly
33 licensed electric power supplier for the purchase of electric energy
34 and capacity, or with a duly licensed gas supplier for the purchase
35 of gas supply service, on behalf of multiple end-use customers by
36 combining the loads of those customers;

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

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

8 "Qualified offshore wind project" means a wind turbine
9 electricity generation facility in the Atlantic Ocean and connected
10 to the electric transmission system in this State, and includes the
11 associated transmission-related interconnection facilities and
12 equipment, and approved by the board pursuant to section 3 of
13 P.L. , c. (C.) (pending before the Legislature as this bill);

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

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

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

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

37 "Resource recovery facility" means a solid waste facility
38 constructed and operated for the incineration of solid waste for
39 energy production and the recovery of metals and other materials
40 for reuse;

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

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

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

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

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

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

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

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

1 "Solar renewable energy certificate" or "SREC" means a
2 certificate issued by the board or its designee, representing one
3 megawatt hour (MWh) of solar energy that is generated by a facility
4 connected to the distribution system in this State and has value
5 based upon, and driven by, the energy market;

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

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

20 "Thermal efficiency" means the useful electric energy output of a
21 facility, plus the useful thermal energy output of the facility,
22 expressed as a percentage of the total energy input to the facility;

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

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

41 "Transition period" means the period from August 1, 1999
42 through July 31, 2003;

43 "Transmission and distribution system" means, with respect to an
44 electric public utility, any facility or equipment that is used for the
45 transmission, distribution or delivery of electricity to the customers
46 of the electric public utility including, but not limited to, the land,
47 structures, meters, lines, switches and all other appurtenances

1 thereof and thereto, owned or controlled by the electric public
2 utility within this State; and

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

6 (cf: P.L.2009, c.289, s.1)

7

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

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

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

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

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

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

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

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

37 (3) A uniform emissions disclosure format that is graphic in
38 nature and easily understandable by consumers. The board shall
39 periodically review the disclosure requirements to determine if
40 revisions to the environmental disclosure system as implemented
41 are necessary.

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

47 c. (1) The board may adopt, in consultation with the
48 Department of Environmental Protection, after notice and

1 opportunity for public comment, an emissions portfolio standard
2 applicable to all electric power suppliers and basic generation
3 service providers, upon a finding that:

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

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

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

17 (a) Allow a transition period, either before or after the effective
18 date of the regulation to mitigate leakage, for a basic generation
19 service provider or electric power supplier to either meet the
20 emissions portfolio standard or other regulatory mechanism
21 to mitigate leakage, or to transfer any customer to a basic
22 generation service provider or electric power supplier that meets the
23 emissions portfolio standard or other regulatory mechanism to
24 mitigate leakage. If the transition period allowed pursuant to this
25 subparagraph occurs after the implementation of an emissions
26 portfolio standard or other regulatory mechanism to mitigate
27 leakage, the transition period shall be no longer than three years;
28 and

29 (b) Exempt the provision of basic generation service pursuant to
30 a basic generation service purchase and sale agreement effective
31 prior to the date of the regulation.

32 Unless the Attorney General or the Attorney General's designee
33 determines that a greenhouse gas emissions portfolio standard
34 would unconstitutionally burden interstate commerce or would be
35 preempted by federal law, the adoption by the board of an electric
36 energy efficiency portfolio standard pursuant to subsection g. of this
37 section, a gas energy efficiency portfolio standard pursuant to
38 subsection h. of this section, or any other enhanced energy
39 efficiency policies to mitigate leakage shall not be considered
40 sufficient to fulfill the requirement of this subsection for the
41 adoption of a greenhouse gas emissions portfolio standard or any
42 other regulatory mechanism to mitigate leakage.

43 d. 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, after
46 notice, provision of the opportunity for comment, and public
47 hearing, renewable energy portfolio standards that shall require:

1 (1) that two and one-half percent of the kilowatt hours sold in
2 this State by each electric power supplier and each basic generation
3 service provider be from Class I or Class II renewable energy
4 sources; **[and]**

5 (2) beginning on January 1, 2001, that one-half of one percent
6 of the kilowatt hours sold in this State by each electric power
7 supplier and each basic generation service provider be from Class I
8 renewable energy sources. The board shall increase the required
9 percentage for Class I renewable energy sources so that by January
10 1, 2006, one percent of the kilowatt hours sold in this State by each
11 electric power supplier and each basic generation service provider
12 shall be from Class I renewable energy sources and shall
13 additionally increase the required percentage for Class I renewable
14 energy sources by one-half of one percent each year until January 1,
15 2012, when four percent of the kilowatt hours sold in this State by
16 each electric power supplier and each basic generation service
17 provider shall be from Class I renewable energy sources.

18 An electric power supplier or basic generation service provider
19 may satisfy the requirements of this subsection by participating in a
20 renewable energy trading program approved by the board in
21 consultation with the Department of Environmental Protection **[.]** ;

22 (3) that the board establish a multi-year schedule, applicable to
23 each electric power supplier or basic generation service provider in
24 this State, beginning with the one-year period commencing on June
25 1, 2010, and continuing for each subsequent one-year period up to
26 and including, the one-year period commencing on June 1, 2025,
27 that requires suppliers or providers to purchase at least the
28 following number of kilowatt-hours from solar electric power
29 generators in this State:

30 EY 2011	306 Gigawatthours (Gwhrs)
31 EY 2012	442 Gwhrs
32 EY 2013	596 Gwhrs
33 EY 2014	772 Gwhrs
34 EY 2015	965 Gwhrs
35 EY 2016	1,150 Gwhrs
36 EY 2017	1,357 Gwhrs
37 EY 2018	1,591 Gwhrs
38 EY 2019	1,858 Gwhrs
39 EY 2020	2,164 Gwhrs
40 EY 2021	2,518 Gwhrs
41 EY 2022	2,928 Gwhrs
42 EY 2023	3,433 Gwhrs
43 EY 2024	3,989 Gwhrs
44 EY 2025	4,610 Gwhrs
45 EY 2026	5,316 Gwhrs
46 EY 2027, and for every energy year thereafter,	at least 5,316 Gwhrs
47 per energy year to reflect an increasing number of kilowatt-hours to	
48 be purchased by suppliers or providers from solar electric power	

1 generators in this State, and to establish a framework within which
2 suppliers and providers shall purchase at least 2,518 Gwhrs in the
3 energy year 2021 and 5,316 Gwhrs in the energy year 2026 from
4 solar electric power generators in this State, provided, however, that
5 the number of solar kilowatt-hours required to be purchased by each
6 supplier or provider, when expressed as a percentage of the total
7 number of solar kilowatt-hours purchased in this State, shall be
8 equivalent to each supplier's or provider's proportionate share of the
9 total number of kilowatt-hours sold in this State by all suppliers and
10 providers.

11 The solar renewable portfolio standards requirements in
12 paragraph (3) of this subsection shall automatically increase by 20%
13 for the remainder of the schedule in the event that the following two
14 conditions are met: (a) the number of SRECs generated meets or
15 exceeds the requirement for three consecutive reporting years,
16 starting with energy year 2013; and (b) the average SREC price for
17 all SRECs purchased by entities with renewable energy portfolio
18 standards obligations has decreased in the same three consecutive
19 reporting years. The board shall exempt providers' existing supply
20 contracts that are: (a) effective prior to the date of P.L.2009, c.289;
21 or (b) effective prior to any future increase in the solar renewable
22 portfolio standard beyond the multi-year schedule established in
23 paragraph (3) of this subsection. This exemption shall apply to the
24 number of SRECs that exceeds the number mandated by the solar
25 renewable portfolio standards requirements that were in effect on
26 the date that the providers executed their existing supply contracts.
27 This limited exemption for providers' existing supply contracts shall
28 not be construed to lower the Statewide solar purchase requirements
29 set forth in paragraph (3) of this subsection. Such incremental new
30 requirements shall be distributed over the electric power suppliers
31 and providers not subject to the existing supply contract exemption
32 until such time as existing supply contracts expire and all suppliers
33 are subject to the new requirement.

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

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

1 The renewable energy portfolio standards adopted by the board
2 pursuant to paragraph (3) of this subsection shall be effective as
3 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. ,
9 c. (C.) (pending before the Legislature as this bill), 'that' the
10 board '【shall adopt】 establish' an offshore wind renewable energy
11 certificate program to require that a percentage of the kilowatt hours
12 sold in this State by each electric power supplier and each basic
13 generation service provider be from offshore wind energy in order
14 to support at least 1,100 megawatts of generation from qualified
15 offshore wind projects.

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

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

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

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

46 e. Notwithstanding any provisions of the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
48 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
6 meter.

7 Such rules shall require the board or its designee to issue a credit
8 or other incentive to those generators that do not use a net meter but
9 otherwise generate electricity derived from a Class I renewable
10 energy source and to issue an enhanced credit or other incentive,
11 including, but not limited to, a solar renewable energy credit, to
12 those generators that generate electricity derived from solar
13 technologies.

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

20 f. The board may assess, by written order and after notice and
21 opportunity for comment, a separate fee to cover the cost of
22 implementing and overseeing an emission disclosure system or
23 emission portfolio standard, which fee shall be assessed based on an
24 electric power supplier's or basic generation service provider's share
25 of the retail electricity supply market. The board shall not impose a
26 fee for the cost of implementing and overseeing a greenhouse gas
27 emissions portfolio standard adopted pursuant to paragraph (2) of
28 subsection c. of this section, the electric energy efficiency portfolio
29 standard adopted pursuant to subsection g. of this section, or the gas
30 energy efficiency portfolio standard adopted pursuant to subsection
31 h. of this section.

32 g. The board may adopt, pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
34 energy efficiency portfolio standard that may require each electric
35 public utility to implement energy efficiency measures that reduce
36 electricity usage 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 an
39 electric public utility from meeting the requirements of this section
40 by contracting with another entity for the performance of the
41 requirements.

42 h. The board may adopt, pursuant to the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
44 efficiency portfolio standard that may require each gas public utility
45 to implement energy efficiency measures that reduce natural gas
46 usage for heating in the State by 2020 to a level that is 20 percent
47 below the usage projected by the board in the absence of such a
48 standard. Nothing in this section shall be construed to prevent a gas

1 public utility from meeting the requirements of this section by
2 contracting with another entity for the performance of the
3 requirements.

4 i. After the board establishes a schedule of solar kilowatt-hour
5 sale or purchase requirements pursuant to paragraph (3) of
6 subsection d. of this section, the board may initiate subsequent
7 proceedings and adopt, after appropriate notice and opportunity for
8 public comment and public hearing, increased minimum solar
9 kilowatt-hour sale or purchase requirements, provided that the
10 board shall not reduce previously established minimum solar
11 kilowatt-hour sale or purchase requirements, or otherwise impose
12 constraints that reduce the requirements by any means.

13 j. The board shall determine an appropriate level of solar
14 alternative compliance payment, and establish a 15-year solar
15 alternative compliance payment schedule, that permits each supplier
16 or provider to submit an SACP to comply with the solar electric
17 generation requirements of paragraph (3) of subsection d. of this
18 section. The board may initiate subsequent proceedings and adopt,
19 after appropriate notice and opportunity for public comment and
20 public hearing, an increase in solar alternative compliance
21 payments, provided that the board shall not reduce previously
22 established levels of solar alternative compliance payments, nor
23 shall the board provide relief from the obligation of payment of the
24 SACP by the electric power suppliers or basic generation service
25 providers in any form. Any SACP payments collected shall be
26 refunded directly to the ratepayers by the electric public utilities.

27 k. The board may allow electric public utilities to offer long-
28 term contracts and other means of financing, including but not
29 limited to loans, for the purchase of SRECs and the resale of SRECs
30 to suppliers or providers or others, provided that after such
31 contracts have been approved by the board, the board's approvals
32 shall not be modified by subsequent board orders.

33 l. The board shall implement its responsibilities under the
34 provisions of this section in such a manner as to:

35 (1) place greater reliance on competitive markets, with the
36 explicit goal of encouraging and ensuring the emergence of new
37 entrants that can foster innovations and price competition;

38 (2) maintain adequate regulatory authority over non-competitive
39 public utility services;

40 (3) consider alternative forms of regulation in order to address
41 changes in the technology and structure of electric public utilities;

42 (4) promote energy efficiency and Class I renewable energy
43 market development, taking into consideration environmental
44 benefits and market barriers;

45 (5) make energy services more affordable for low and moderate
46 income customers;

1 (6) attempt to transform the renewable energy market into one
2 that can move forward without subsidies from the State or public
3 utilities;

4 (7) achieve the goals put forth under the renewable energy
5 portfolio standards;

6 (8) promote the lowest cost to ratepayers; and

7 (9) allow all market segments to participate.

8 m. The board shall ensure the availability of financial incentives
9 under its jurisdiction, including, but not limited to, long-term
10 contracts, loans, SRECs, or other financial support, to ensure
11 market diversity, competition, and appropriate coverage across all
12 ratepayer segments, including, but not limited to, residential,
13 commercial, industrial, non-profit, farms, schools, and public entity
14 customers.

15 n. For projects which are owned, or directly invested in, by a
16 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
17 98.1), the board shall determine the number of SRECs with which
18 such projects shall be credited; and in determining such number the
19 board shall ensure that the market for SRECs does not detrimentally
20 affect the development of non-utility solar projects and shall
21 consider how its determination may impact the ratepayers.

22 o. The board, in consultation with the Department of
23 Environmental Protection, electric public utilities, the Division of
24 Rate Counsel in the Department of the Public Advocate, affected
25 members of the solar energy industry, and relevant stakeholders,
26 shall periodically consider increasing the renewable energy
27 portfolio standards beyond the minimum amounts set forth in
28 subsection d. of this section, taking into account the cost impacts
29 and public benefits of such increases including, but not limited to:

30 (1) reductions in air pollution, water pollution, land disturbance,
31 and greenhouse gas emissions;

32 (2) reductions in peak demand for electricity and natural gas,
33 and the overall impact on the costs to customers of electricity and
34 natural gas;

35 (3) increases in renewable energy development, manufacturing,
36 investment, and job creation opportunities in this State; and

37 (4) reductions in State and national dependence on the use of
38 fossil fuels.

39 p. Class I RECs shall be eligible for use in renewable energy
40 portfolio standards compliance in the energy year in which they are
41 generated, and for the following two energy years. SRECs and
42 ORECs shall be eligible for use in renewable energy portfolio
43 standards compliance in the energy year in which they are
44 generated, and for the following two energy years.

45 (cf: P.L.2009, c.289, s.2)

46
47 3. (New section) a. An entity seeking to construct an offshore
48 wind project shall submit an application to the board for approval

1 by the board as a qualified offshore wind project, which shall
2 include, but need not be limited to, the following information:

3 (1) a detailed description of the project, including maps, surveys
4 and other visual aides. This description shall include, but need not
5 be limited to: the type, size and number of proposed turbines and
6 foundations; the history to-date of the same type, size and
7 manufacturer of installed turbines and foundations globally; and a
8 detailed implementation plan that highlights key milestone
9 activities during the permitting, financing, design, equipment
10 solicitation, manufacturing, shipping, assembly, in-field
11 installation, testing, equipment commissioning and service start-up;

12 (2) a completed financial analysis of the project including pro
13 forma income statements, balance sheets, and cash flow projections
14 for a 20-year period, including the internal rate of return, and a
15 description and estimate of any State or federal tax benefits that
16 may be associated with the project;

17 (3) the proposed method of financing the project, including
18 identification of equity investors, fixed income investors, and any
19 other sources of capital;

20 (4) documentation that the entity has applied for all eligible
21 federal funds and programs available to offset the cost of the project
22 or provide tax advantages;

23 (5) the projected electrical output and anticipated market prices
24 over the anticipated life of the project, including a forecast of
25 electricity² revenues from the sale of energy derived from the
26 project and capacity ², as well as revenues anticipated by the sale of
27 any ORECs, RECs, air emission credits or offsets, or any tradable
28 environmental attributes created by the project²;

29 (6) an operations and maintenance plan for the initial 20-year
30 operation of the project that: details routine, intermittent and
31 emergency protocols; identifies the primary risks to the built
32 infrastructure and how the potential risks, including but not limited
33 to hurricanes, lightning, fog, rogue wave occurrences, and exposed
34 cabling, shall be mitigated; and identifies specific and concrete
35 elements to ensure both construction and operational cost controls.
36 This operations and maintenance plan shall be integrated into the
37 financial analysis of the project, and shall identify the projected
38 plan for the subsequent 20 years, following conclusion of the initial
39 20-year operations, assuming any necessary federal lease
40 agreements are maintained and renewed;

41 (7) the anticipated carbon dioxide emissions impact of the
42 project;

43 (8) a decommissioning plan for the project including provisions
44 for financial assurance for decommissioning as required by the
45 applicable State and federal governmental entities;

46 (9) a list of all State and federal regulatory agency approvals,
47 permits, or other authorizations required pursuant to State and
48 federal law for the offshore wind project, and copies of all

- 1 submitted permit applications and any issued approvals and permits
2 for the offshore wind project;
- 3 (10) a cost-benefit analysis for the project including at a
4 minimum:
- 5 (a) a detailed input-output analysis of the impact of the project
6 on income, employment ², wages, indirect business taxes,² and
7 output in the State with particular emphasis on in-State
8 manufacturing employment;
- 9 (b) an explanation of the location, type and salary of
10 employment opportunities to be created by the project with job
11 totals expressed as full-time equivalent positions assuming 1,820
12 hours per year;
- 13 (c) an analysis of the anticipated environmental benefits and
14 environmental impacts of the project; and
- 15 (d) an analysis of the potential impacts on residential and
16 industrial ratepayers of electricity rates over the life of the project
17 that may be caused by incorporating any State subsidy into rates;
- 18 (11) a proposed OREC pricing method and schedule for the
19 board to consider;
- 20 (12) a timeline for the permitting, licensing and construction of
21 the proposed offshore wind project;
- 22 (13) a plan for interconnection, including engineering
23 specifications and costs; and
- 24 (14) any other information deemed necessary by the board in
25 order to conduct a thorough evaluation of the proposal. The board
26 may hire consultants or other experts if the board determines that
27 obtaining such outside expertise would be beneficial to the review
28 of the proposal.
- 29 b. (1) In considering an application for a qualified offshore
30 wind project, submitted pursuant to subsection a. of this section, the
31 board shall determine that the application satisfies the following
32 conditions:
- 33 (a) the filing is consistent with the New Jersey energy master
34 plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-
35 14), in effect at the time the board is considering the application;
- 36 (b) the cost-benefit analysis, submitted pursuant to paragraph
37 (10) of subsection a. of this section, demonstrates positive
38 economic and environmental net benefits to the State;
- 39 (c) the financing mechanism ²is based upon the actual electrical
40 output of the project,² fairly balances the risks and rewards of the
41 project between ratepayers and shareholders, and ensures that any
42 costs of non-performance ², in either the construction or operational
43 phase of the project,² shall be borne by shareholders; and
- 44 (d) the entity proposing the project demonstrates financial
45 integrity and sufficient access to capital to allow for a reasonable
46 expectation of completion of construction of the project.

1 (2) In considering an application for a qualified offshore wind
2 project, submitted pursuant to subsection a. of this section, the
3 board shall also consider:

4 (a) the total level of subsidies to be paid by ratepayers for
5 qualified offshore wind projects over the life of the project; and

6 (b) any other elements the board deems appropriate in
7 conjunction with the application.

8 c. An order issued by the board to approve an application for a
9 qualified offshore wind project pursuant to this section shall, at a
10 minimum, include conditions to ensure the following:

11 (1) no OREC ²~~or other market support~~² shall be paid until
12 electricity is produced by the qualified offshore wind project;

13 (2) ²ORECs shall be paid on the actual electrical output of the
14 project that is delivered into the transmission system of the State;

15 (3)² ratepayers and the State shall be held harmless for any cost
16 overruns associated with the project; and

17 ²~~[(3)]~~ (4)² the applicant will reimburse the board and the State
18 for all reasonable costs incurred for regulatory review of the
19 project, including but not limited to consulting services, oversight,
20 inspections, and audits.

21 An order issued by the board pursuant to this subsection shall
22 specify the value of the OREC and the term of the order.

23 An order issued by the board pursuant to this subsection shall not
24 be modified by subsequent board orders ², unless the modifications
25 are jointly agreed to by the parties² .

26 d. The board shall review and approve, conditionally approve,
27 or deny an application submitted pursuant to this section within
28 ²~~[90]~~ 180² days after the date ²~~[the]~~ a complete² application is
29 submitted to the board.

30
31 4. (New section) The board may approve ², subject to the
32 project obtaining the necessary permits, approvals, and
33 authorizations from the Department of Environmental Protection,² a
34 qualified wind energy project located in territorial waters offshore
35 of a municipality in which casino gaming is authorized, and
36 authorize offshore wind renewable energy certificates for that
37 project. Any such project shall be a nominal 20 megawatts and no
38 more than 25 megawatts in nameplate capacity and comply with the
39 requirements set forth in section 3 of P.L. , c. (C.) (pending
40 before the Legislature as this bill).

41
42 5. Section 7 of P.L.2007, c.340 (C.26:2C-51) is amended to
43 read as follows:

44 7. a. The agencies administering programs established pursuant
45 to this section shall maximize coordination in the administration of
46 the programs to avoid overlap between the uses of the fund
47 prescribed in this section.

1 b. Moneys in the fund, after appropriation annually for
2 payment of administrative costs authorized pursuant to subsection c.
3 of this section, shall be annually appropriated and used for the
4 following purposes:

5 (1) Sixty percent shall be allocated to the New Jersey Economic
6 Development Authority to provide grants and other forms of
7 financial assistance to commercial, institutional, and industrial
8 entities to support end-use energy efficiency projects and new,
9 efficient electric generation facilities that are state of the art, as
10 determined by the department, including but not limited to energy
11 efficiency and renewable energy applications, to develop combined
12 heat and power production and other high efficiency electric
13 generation facilities, **[and]** to stimulate or reward investment in the
14 development of innovative carbon emissions abatement
15 technologies with significant carbon emissions reduction or
16 avoidance potential, to develop qualified offshore wind projects
17 pursuant to section 3 of P.L. , c. (C.) (pending before the
18 Legislature as this bill), and to provide financial assistance to
19 manufacturers of equipment associated with qualified offshore wind
20 projects. The authority, in consultation with the board and the
21 department, shall determine: (a) the appropriate level of grants or
22 other forms of financial assistance to be awarded to individual
23 commercial, institutional, and industrial sectors and to individual
24 projects within each of these sectors; (b) the evaluation criteria for
25 selecting projects to be awarded grants or other forms of financial
26 assistance, which criteria shall include the ability of the project to
27 result in a measurable reduction of the emission of greenhouse
28 gases or a measurable reduction in energy demand, provided,
29 however, that neither the development of a new combined heat and
30 power production facility, nor an increase in the electrical and
31 thermal output of an existing combined heat and power production
32 facility, shall be subject to the requirement to demonstrate such a
33 measurable reduction; and (c) the process by which grants or other
34 forms of financial assistance can be applied for and awarded
35 including, if applicable, the payment terms and conditions for
36 authority investments in certain projects with commercial viability;

37 (2) Twenty percent shall be allocated to the board to support
38 programs that are designed to reduce electricity demand or costs to
39 electricity customers in the low-income and moderate-income
40 residential sector with a focus on urban areas, including efforts to
41 address heat island effect and reduce impacts on ratepayers
42 attributable to the implementation of P.L.2007, c.340 (C.26:2C-45
43 et al.). For the purposes of this paragraph, the board, in
44 consultation with the authority and the department, shall determine
45 the types of programs to be supported and the mechanism by which
46 to quantify benefits to ensure that the supported programs result in a
47 measurable reduction in energy demand;

1 (3) Ten percent shall be allocated to the department to support
2 programs designed to promote local government efforts to plan,
3 develop and implement measures to reduce greenhouse gas
4 emissions, including but not limited to technical assistance to local
5 governments, and the awarding of grants and other forms of
6 assistance to local governments to conduct and implement energy
7 efficiency, renewable energy, and distributed energy programs and
8 land use planning where the grant or assistance results in a
9 measurable reduction of the emission of greenhouse gases or a
10 measurable reduction in energy demand. For the purpose of
11 conducting any program pursuant to this paragraph, the department,
12 in consultation with the authority and the board, shall determine:
13 (a) the appropriate level of grants or other forms of financial
14 assistance to be awarded to local governments; (b) the evaluation
15 criteria for selecting projects to be awarded grants or other forms of
16 financial assistance; (c) the process by which grants or other forms
17 of financial assistance can be applied for and awarded; and (d) a
18 mechanism by which to quantify benefits; and

19 (4) Ten percent shall be allocated to the department to support
20 programs that enhance the stewardship and restoration of the State's
21 forests and tidal marshes that provide important opportunities to
22 sequester or reduce greenhouse gases.

23 c. (1) The department may use up to four percent of the total
24 amount in the fund each year to pay for administrative costs
25 justifiable and approved in the annual budget process, incurred by
26 the department in administering the provisions of P.L.2007, c.340
27 (C.26:2C-45 et al.) and in administering programs to reduce the
28 emissions of greenhouse gases including any obligations that may
29 arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-
30 55).

31 (2) The board may use up to two percent of the total amount in
32 the fund each year to pay for administrative costs justifiable and
33 approved in the annual budget process, incurred by the board in
34 administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.)
35 and in administering programs to reduce the emissions of
36 greenhouse gases including any obligations that may arise under
37 subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

38 (3) The New Jersey Economic Development Authority may use
39 up to two percent of the total amount in the fund each year to pay
40 for administrative costs justifiable and approved in the annual
41 budget process, incurred by the authority in administering the
42 provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in
43 administering programs to reduce the emissions of greenhouse
44 gases.

45 d. The State Comptroller shall conduct or supervise
46 independent audit and fiscal oversight functions of the fund and its
47 uses.

48 (cf: P.L.2007, c.340, s.7)

1 6. (New section) a. (1) A business, upon application to and
2 approval from the authority, shall be allowed a credit of 100 percent
3 of its capital investment, made after the effective date of P.L. ,
4 c. (C.) (pending before the Legislature as this bill) but prior to
5 its submission of documentation pursuant to subsection c. of this
6 section, in a qualified wind energy facility located within an eligible
7 wind energy zone, pursuant to the restrictions and requirements of
8 this section. To be eligible for any tax credits authorized under this
9 section, a business shall demonstrate to the authority, at the time of
10 application, that the State's financial support of the proposed capital
11 investment in a qualified wind energy facility will yield a net
12 positive benefit to the State. The value of all credits approved by
13 the authority pursuant to this section may be up to \$100,000,000,
14 except as may be increased by the authority as set forth below;
15 provided, however, that the combined value of all credits approved
16 by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.),
17 P.L.2009, c.90 (C.52:27D-489a et al.), and P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall not exceed
19 \$1,500,000,000. The authority shall monitor application and
20 allocation activity under P.L.2007, c.346 after taking into account
21 the allocation under P.L.2007, c.346 and if sufficient credits are
22 available to those qualified business facilities for which
23 applications have been filed or for which applications are
24 reasonably anticipated, and if the chief executive officer judges
25 certain qualified offshore wind projects to be meritorious, the
26 aforementioned cap may, in the discretion of the chief executive
27 officer, be exceeded for allocation to qualified wind energy
28 facilities in such amounts as the chief executive officer deems
29 reasonable, justified and appropriate.

30 (2) (a) A business, other than a tenant eligible pursuant to
31 subparagraph (b) of this paragraph, shall make or acquire capital
32 investments totaling not less than \$50,000,000 in a qualified wind
33 energy facility, at which the business, including tenants at the
34 qualified wind energy facility, shall employ at least 300 new, full-
35 time employees, to be eligible for a credit under this section. A
36 business that acquires a qualified wind energy facility after the
37 effective date of P.L. , c. (C.) (pending before the
38 Legislature as this bill) shall also be deemed to have acquired the
39 capital investment made or acquired by the seller.

40 (b) A business that is a tenant in the qualified wind energy
41 facility, the owner of which has made or acquired capital
42 investments in the facility totaling more than \$50,000,000, shall
43 occupy a leased area of the qualified wind energy facility that
44 represents at least \$17,500,000 of the capital investment in the
45 qualified wind energy facility at which at least 300 new, full-time
46 employees in the aggregate are employed, to be eligible for a credit
47 under this section. The amount of capital investment in a facility
48 that a leased area represents shall be equal to that percentage of the

1 owner's total capital investment in the facility that the percentage of
2 net leasable area leased by the tenant is of the total net leasable area
3 of the qualified business facility. Capital investments made by a
4 tenant shall be deemed to be included in the calculation of the
5 capital investment made or acquired by the owner, but only to the
6 extent necessary to meet the owner's minimum capital investment
7 of \$50,000,000. Capital investments made by a tenant and not
8 allocated to meet the owner's minimum capital investment
9 threshold of \$50,000,000 shall be added to the amount of capital
10 investment represented by the tenant's leased area in the qualified
11 wind energy facility.

12 (c) The calculation of the number of new, full-time employees
13 required pursuant to subparagraphs (a) and (b) of this paragraph
14 may include the number of new, full-time positions resulting from
15 an equipment supply coordination agreement with equipment
16 manufacturers, suppliers, installers and operators associated with
17 the supply chain required to support the qualified wind energy
18 facility.

19 For the purposes of this paragraph, "full time employee" shall
20 not include an employee who is a resident of another state and
21 whose income is not subject to the "New Jersey Gross Income Tax
22 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
23 reciprocity agreement with the State of New Jersey, provided that
24 any employee whose work is provided pursuant to a collective
25 bargaining agreement with the port district in the wind energy zone
26 may be included.

27 (3) A business shall not be allowed a tax credit pursuant to this
28 section if the business participates in a business employment
29 incentive grant relating to the same capital and employees that
30 qualify the business for this credit, or if the business receives
31 assistance pursuant to the "Business Retention and Relocation
32 Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business
33 that is allowed a tax credit under this section shall not be eligible
34 for incentives authorized pursuant to the "Municipal Rehabilitation
35 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
36 al.).

37 (4) Full-time employment for an accounting or privilege period
38 shall be determined as the average of the monthly full-time
39 employment for the period.

40 b. A business shall apply for the credit within five years after
41 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a
42 business shall submit its documentation for approval of its credit
43 amount within eight years after the effective date of P.L.2007,
44 c.346.

45 c. The credit allowed pursuant to this section shall be
46 administered in accordance with the provisions of subsection c. of
47 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
48 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to

1 “qualified business facility” shall be deemed to refer to “qualified
2 wind energy facility,” as that term is defined in subsection f. of this
3 section.

4 d. The amount of the credit allowed pursuant to this section
5 shall, except as otherwise provided, be equal to the capital
6 investment made by the business, or the capital investment
7 represented by the business' leased area, and shall be taken over a
8 10-year period, at the rate of one-tenth of the total amount of the
9 business' credit for each tax accounting or privilege period of the
10 business, beginning with the tax period in which the business is first
11 approved by the authority as having met the investment capital and
12 employment qualifications, subject to any disqualification as
13 determined by annual review by the authority. In conducting its
14 annual review, the authority may require a business to submit any
15 information determined by the authority to be necessary and
16 relevant to its review. The credit amount for any tax period ending
17 after the date eight years after the effective date of P.L.2007, c.346
18 (C.34:1B-207 et seq.) during which the documentation of a
19 business' credit amount remains unapproved shall be forfeited,
20 although credit amounts for the remainder of the years of the 10-
21 year credit period shall remain available. The amount of the credit
22 allowed for a tax period to a business that is a tenant in a qualified
23 wind energy facility shall not exceed the business' total lease
24 payments for occupancy of the qualified wind energy facility for the
25 tax period.

26 e. The authority shall adopt rules in accordance with the
27 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
28 seq.) as are necessary to implement this section, including but not
29 limited to: examples of and the determination of capital investment;
30 nature of businesses and employment positions constituting and
31 participating in an equipment supply coordination agreement;
32 determination of the types of businesses that may be eligible and
33 expenses that may constitute capital improvements; promulgation of
34 procedures and forms necessary to apply for a credit; and provisions
35 for applicants to be charged an initial application fee, and ongoing
36 service fees, to cover the administrative costs related to the credit.

37 The rules established by the authority pursuant to this subsection
38 shall be effective immediately upon filing with the Office of
39 Administrative Law and shall be effective for a period not to exceed
40 12 months and may, thereafter, be amended, adopted or readopted
41 in accordance with the provisions of the “Administrative Procedure
42 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

43 f. As used in this section: the terms “authority,” “business,”
44 and “capital investment” shall have the same meanings as defined in
45 section 2 of the “Urban Transit Hub Tax Credit Act,” P.L.2007,
46 c.236 (C.34:1B-208), except that all references therein to “qualified
47 business facility” shall be deemed to refer to “qualified wind energy
48 facility” as defined in this subsection.

1 In addition, as used in this section:

2 “Equipment supply coordination agreement” means an
3 agreement between a business and equipment manufacturer,
4 supplier, installer, and operator that supports a qualified offshore
5 wind project, or other wind energy project as determined by the
6 authority, and that indicates the number of new, full-time jobs to be
7 created by the agreement participants towards the employment
8 requirement as set forth in paragraph (2) of subsection a. of this
9 section.

10 “Qualified offshore wind project” means the same as the term is
11 defined in section 3 of P.L.1999, c.23 (C.48:3-49 et al.).

12 “Qualified wind energy facility” means any building, complex of
13 buildings, or structural components of buildings, including water
14 access infrastructure, and all machinery and equipment used in the
15 manufacturing, assembly, development or administration of
16 component parts that support the development and operation of a
17 qualified offshore wind project, or other wind energy project as
18 determined by the authority, and that are located in a wind energy
19 zone.

20 “Wind energy zone” means property located in the South Jersey
21 Port District established pursuant to “The South Jersey Port
22 Corporation Act,” P.L.1968, c.60 (C.12:11A-1 et seq.).

23

24 7. This act shall take effect immediately.

25

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27

28

29 The “Offshore Wind Economic Development Act”; establishes
30 offshore wind renewable energy certificate program, and authorizes
31 EDA to provide tax credits for qualified wind energy facilities in
32 wind energy zones.