

[Second Reprint]

ASSEMBLY, No. 3422

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED NOVEMBER 19, 2012

Sponsored by:

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Greenstein, Beck, Cunningham, Assemblyman C.A.Brown and
Assemblywoman Spencer**

SYNOPSIS

Prohibits certain energy suppliers from making false and misleading claims to potential customers; prohibits suppliers' calls to customers where no business relationship exists.

CURRENT VERSION OF TEXT

As amended by the Senate on December 19, 2013.

(Sponsorship Updated As Of: 1/14/2014)

1 AN ACT concerning certain advertising and marketing standards for
2 ²the provision of² electric power ²**[suppliers]** and gas supply² and
3 amending P.L.1999, c.23.

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

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

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

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

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

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

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

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

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

43 "Basic generation service transition costs" means the amount by
44 which the payments by an electric public utility for the procurement

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:

¹Assembly ATU committee amendments adopted June 6, 2013.

²Senate floor amendments adopted December 19, 2013.

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

20 "Board" means the New Jersey Board of Public Utilities or any
21 successor agency;

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

45 "Bondable stranded costs rate order" means one or more
46 irrevocable written orders issued by the board pursuant to P.L.1999,
47 c.23 (C.48:3-49 et al.) which determines the amount of bondable
48 stranded costs and the initial amount of transition bond charges

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

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

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

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

32 "Brownfield" means any former or current commercial or
33 industrial site that is currently vacant or underutilized and on which
34 there has been, or there is suspected to have been, a discharge of a
35 contaminant;

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

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

47 "Class I renewable energy" means electric energy produced from
48 solar technologies, photovoltaic technologies, wind energy, fuel

1 cells, geothermal technologies, wave or tidal action, small scale
2 hydropower facilities with a capacity of three megawatts or less and
3 put into service after the effective date of P.L.2012, c.24, and
4 methane gas from landfills or a biomass facility, provided that the
5 biomass is cultivated and harvested in a sustainable manner;

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

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

16 "Combined cycle power facility" means a generation facility that
17 combines two or more thermodynamic cycles, by producing electric
18 power via the combustion of fuel and then routing the resulting
19 waste heat by-product to a conventional boiler or to a heat recovery
20 steam generator for use by a steam turbine to produce electric
21 power, thereby increasing the overall efficiency of the generating
22 facility;

23 "Combined heat and power facility" or "co-generation facility"
24 means a generation facility which produces electric energy and
25 steam or other forms of useful energy such as heat, which are used
26 for industrial or commercial heating or cooling purposes. A
27 combined heat and power facility or co-generation facility shall not
28 be considered a public utility;

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

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

40 "Comprehensive resource analysis" means an analysis including,
41 but not limited to, an assessment of existing market barriers to the
42 implementation of energy efficiency and renewable technologies
43 that are not or cannot be delivered to customers through a
44 competitive marketplace;

45 "Connected to the distribution system" means, for a solar electric
46 power generation facility, that the facility is: (1) connected to a net
47 metering customer's side of a meter, regardless of the voltage at
48 which that customer connects to the electric grid, (2) an on-site

1 generation facility, (3) qualified for net metering aggregation as
2 provided pursuant to paragraph (4) of subsection e. of section 38 of
3 P.L.1999, c.23 (C.48:3-87), (4) owned or operated by an electric
4 public utility and approved by the board pursuant to section 13 of
5 P.L.2007, c.340 (C.48:3-98.1), (5) directly connected to the electric
6 grid at 69 kilovolts or less, regardless of how an electric public
7 utility classifies that portion of its electric grid, and is designated as
8 "connected to the distribution system" by the board pursuant to
9 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
10 87), or (6) is certified by the board, in consultation with the
11 Department of Environmental Protection, as being located on a
12 brownfield, on an area of historic fill, or on a properly closed
13 sanitary landfill facility. Any solar electric power generation
14 facility, other than that of a net metering customer on the customer's
15 side of the meter, connected above 69 kilovolts shall not be
16 considered connected to the distribution system;

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

21 "Customer account service" means metering, billing, or such
22 other administrative activity associated with maintaining a customer
23 account;

24 "Delivery year" or "DY" means the 12-month period from June
25 1st through May 31st, numbered according to the calendar year in
26 which it ends;

27 "Demand side management" means the management of customer
28 demand for energy service through the implementation of cost-
29 effective energy efficiency technologies, including, but not limited
30 to, installed conservation, load management and energy efficiency
31 measures on and in the residential, commercial, industrial,
32 institutional and governmental premises and facilities in this State;

33 "Electric generation service" means the provision of retail
34 electric energy and capacity which is generated off-site from the
35 location at which the consumption of such electric energy and
36 capacity is metered for retail billing purposes, including agreements
37 and arrangements related thereto;

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

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

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

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

20 "Electronic signature" means an electronic sound, symbol or
21 process, attached to, or logically associated with, a contract or other
22 record, and executed or adopted by a person with the intent to sign
23 the record;

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

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

35 "Energy consumer" means a business or residential consumer of
36 electric generation service or gas supply service located within the
37 territorial jurisdiction of a government aggregator;

38 "Energy efficiency portfolio standard" means a requirement to
39 procure a specified amount of energy efficiency or demand side
40 management resources as a means of managing and reducing energy
41 usage and demand by customers;

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

45 "Existing business relationship" means a relationship formed by
46 a voluntary two-way communication between an electric power
47 supplier², gas supplier, broker, energy agent, marketer, private
48 aggregator, sales representative, or telemarketer² and a customer

1 ²["with or without"] regardless of² an exchange of consideration, on
2 the basis of an inquiry, application, purchase, or transaction
3 initiated by the customer regarding products or services offered by
4 ²["such"] the² electric power supplier², gas supplier, broker, energy
5 agent, marketer, private aggregator, sales representative, or
6 telemarketer; however, a consumer's use of electric generation
7 service or gas supply service through the consumer's electric public
8 utility or gas public utility shall not constitute or establish an
9 existing business relationship for the purpose of P.L. _____,

10 c. (C. _____) (pending before the Legislature as this bill)² :

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

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

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

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

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

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

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

1 utility and the related competitive business segment are subject to
2 the affiliate relations standards adopted by the board pursuant to
3 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

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

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

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

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

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

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

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

1 "Leakage" means an increase in greenhouse gas emissions
2 related to generation sources located outside of the State that are not
3 subject to a state, interstate or regional greenhouse gas emissions
4 cap or standard that applies to generation sources located within the
5 State;

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

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

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

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

32 "Mid-merit electric power generation facility" means a
33 generation facility that operates at a capacity factor between
34 baseload generation facilities and peaker generation facilities;

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

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

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

47 "Offshore wind energy" means electric energy produced by a
48 qualified offshore wind project;

1 "Offshore wind renewable energy certificate" or "OREC" means
2 a certificate, issued by the board or its designee, representing the
3 environmental attributes of one megawatt hour of electric
4 generation from a qualified offshore wind project;

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

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

31 "Person" means an individual, partnership, corporation,
32 association, trust, limited liability company, governmental entity or
33 other legal entity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ²"Sales representative" means a person employed by, acting on
29 behalf of, or as an independent contractor for, an electric power
30 supplier, gas supplier, broker, energy agent, marketer, or private
31 aggregator who, by any means, solicits a potential residential
32 customer for the provision of electric generation service or gas
33 supply service.²

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 "Telemarketing sales call" means a telephone call made by a
18 telemarketer to a potential residential customer as part of a plan,
19 program, or campaign to encourage the customer to change the
20 customer's electric power supplier or gas supplier. A telephone call
21 made to an existing customer of an electric power supplier, gas
22 supplier, broker, energy agent, marketer, private aggregator, or
23 sales representative, for the sole purpose of collecting on accounts
24 or following up on contractual obligations, shall not be deemed a
25 telemarketing sales call. A telephone call made in response to an
26 express written request of a customer shall not be deemed a
27 telemarketing sales call;²

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

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

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

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

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

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

13 "Unsolicited advertisement" means any advertising claims of the
14 commercial availability or quality of services provided by an
15 electric power supplier ², gas supplier, broker, energy agent,
16 marketer, private aggregator, sales representative, or telemarketer²
17 which is transmitted to a potential customer without that customer's
18 prior express invitation or permission.

19 (cf: P.L.2012, c.24, s.1)

20

21 2. Section 36 of P.L.1999, c.23 (C.48:3-85) is amended to read
22 as follows:

23 36. a. Notwithstanding any provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
25 contrary, the board, in consultation with the Division of Consumer
26 Affairs in the Department of Law and Public Safety, shall initiate a
27 proceeding and shall adopt, after notice, provision of the
28 opportunity for comment, and public hearing, interim consumer
29 protection standards for electric power suppliers or gas suppliers,
30 within 90 days of February 9, 1999, including, but not limited to,
31 standards for collections, credit, contracts, ¹and¹ authorized changes
32 of an energy consumer's electric power supplier or gas supplier, for
33 the prohibition of discriminatory marketing, for advertising and for
34 disclosure. Such standards shall be effective as regulations
35 immediately upon filing with the Office of Administrative Law and
36 shall be effective for a period not to exceed 18 months, and may,
37 thereafter, be amended, adopted ¹,¹ or readopted by the board in
38 accordance with the provisions of the "Administrative Procedure
39 Act."

40 (1) Contract standards shall include, but not be limited to,
41 requirements that electric power supply contracts or gas supply
42 contracts must conspicuously disclose the duration of the contract;
43 state the price per kilowatt hour or per therm or other pricing
44 determinant approved by the board; have the customer's written
45 signature; the customer's electronic signature; an audio recording of
46 a telephone call initiated by the customer; independent, third-party
47 verification, in accordance with section 37 of P.L.1999, c.23
48 (C.48:3-86), of a telephone call initiated by an electric power

1 supplier, gas supplier or private aggregator; or such alternative
2 forms of verification as the board, in consultation with the Division
3 of Consumer Affairs, may permit for switching electric power
4 suppliers or gas suppliers and for contract renewal; and include
5 termination procedures, notice of any fees, and toll-free or local
6 telephone numbers for the electric power supplier or gas supplier
7 and for the board.

8 (2) Standards for the prohibition of discriminatory marketing
9 **'[standards]'** shall provide at a minimum that a decision made by
10 an electric power supplier or a gas supplier to accept or reject a
11 customer shall not be based on race, color, national origin, age,
12 gender, religion, source of income, receipt of public benefits, family
13 status, sexual preference, or geographic location. The board shall
14 adopt reporting requirements to monitor compliance with such
15 standards.

16 (3) Advertising standards for electric power suppliers or gas
17 suppliers shall provide, at a minimum, that optional charges to the
18 consumer will not be added to any advertised cost per kilowatt hour
19 or per therm, and that the only unit of measurement that may be
20 used in advertisements is cost per kilowatt hour or per therm, unless
21 otherwise approved by the board. If an electric power supplier or
22 gas supplier does not advertise using cost per kilowatt hour or per
23 therm, the electric power supplier or gas supplier shall provide, at
24 the consumer's request, an estimate of the cost per kilowatt hour or
25 per therm. Any optional charges to the consumer shall be identified
26 separately and denoted as optional.

27 (4) Credit standards shall include, at a minimum, that the credit
28 requirements used to make **'[offer]'** decisions must be the same for
29 all residential customers and that electric power suppliers, gas
30 suppliers, and private aggregators not impose unreasonable income
31 or credit requirements.

32 (5) Billing standards shall include, at a minimum, provisions
33 prohibiting electric public utilities, gas public utilities, electric
34 power suppliers, and gas suppliers from charging a fee to residential
35 customers for either the commencement or termination of electric
36 generation service or gas supply service.

37 b. (1) Except as provided in paragraph (2) of this subsection, an
38 electric power supplier, a gas supplier, an electric public utility, and
39 a gas public utility shall not disclose, sell **'1,1'** or transfer individual
40 proprietary information, including, but not limited to, a customer's
41 name, address, telephone number, energy usage **'1,1'** and electric
42 power payment history, to a third party without the consent of the
43 customer.

44 (2) (a) An electric public utility or a gas public utility may
45 disclose and provide, in an electronic format, which may include a
46 CD rom, diskette, and other format as determined by the board,
47 without the consent of a residential customer, a residential
48 customer's name, rate class, and account number, to a government

1 aggregator that is a municipality or a county, or to an energy agent
2 acting as a consultant to a government aggregator that is a
3 municipality or a county, if the customer information is to be used
4 to establish a government energy aggregation program pursuant to
5 sections 42, 43, and 45 of P.L.1999, c.23 (C.48:3-91; 48:3-92; and
6 48:3-94). The number of residential customers and their rate class,
7 and the load profile of non-residential customers who have
8 affirmatively chosen to be included in a government energy
9 aggregation program pursuant to paragraph (3) of subsection a. of
10 section 45 of P.L.1999, **[c 23]** c.23 (C.48:3-94) may be disclosed
11 pursuant to this paragraph prior to the request by the government
12 aggregator for bids pursuant to paragraph (1) of subsection b. of
13 section 45 of P.L.1999, c.23 (C.48:3-94), and the name, address,
14 and account number of a residential customer and the name,
15 address, and account number of non-residential customers who have
16 affirmatively chosen to be included in a government energy
17 aggregation program pursuant to paragraph (3) of subsection a. of
18 section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant
19 to this paragraph upon the awarding of a contract to a licensed
20 power supplier or licensed gas supplier pursuant to paragraph (2) of
21 subsection b. of section 45 of P.L.1999, c.23 ²(C.48:3-94)². Any
22 customer information disclosed pursuant to this paragraph shall not
23 be considered a government record for the purposes of, and shall be
24 exempt from the provisions of P.L.2001, c.404.

25 (b) An electric public utility or a gas public utility disclosing
26 customer information pursuant to this paragraph shall exercise
27 reasonable care in the preparation of this customer information, but
28 shall not be responsible for errors or omissions in the preparation or
29 the content of the customer information.

30 (c) Any person using any information disclosed pursuant to this
31 paragraph for any purpose other than to establish a government
32 energy aggregation program pursuant to sections 42, 43 ^{1,1} and 45
33 of P.L.1999, c.23 (C.48:3-91; 48:3-92; and 48:3-94) shall be subject
34 to the provisions of section 34 of P.L.1999, c.23 (C.48:3-83).

35 (d) The role of an electric public utility or a gas public utility in
36 a government energy aggregation program established pursuant to
37 P.L.1999, c.23 (C.48:3-49 et al.) shall be limited to the provisions
38 of this paragraph.

39 (3) Whenever any individual proprietary information is
40 disclosed, sold ^{1,1} or transferred, pursuant to paragraph (1) or
41 paragraph (2) of subsection b. of this section, it shall be used only
42 for the provision of continued electric generation service, electric
43 related service, gas supply service ^{1,1} or gas related service to that
44 customer. In the case of a transfer or sale of a business, customer
45 consent shall not be required for the transfer of customer
46 proprietary information to the subsequent owner of the business for
47 maintaining the continuation of such services.

1 (4) Notwithstanding any provisions of the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
3 contrary, the board shall, within 90 days of the effective date of
4 P.L.2003, c.24 (C.48:3-93.1 et al.), review existing regulations
5 including, without limitation, Chapter 4 of Title 14 of the New
6 Jersey Administrative Code (Energy Competition Standards), to
7 determine their consistency with the provisions of section 36 of
8 P.L.1999, c.23 (C.48:3-85), section 43 of P.L.1999, c.23 (C.48:3-
9 92) and section 45 of P.L.1999, c.23 (C.48:3-94), **'[shall]'** repeal
10 or modify any regulations that are inconsistent with the provisions
11 thereof ^{1,1} and shall adopt regulations and standards implementing
12 the provisions thereof permitting disclosure of customer
13 information without the consent of the customer including, without
14 limitation, provisions for the development of a board-approved
15 agreement between the disclosing party and the receiving party and
16 the creation of a mechanism for the recovery by the disclosing
17 electric public utility or gas public utility of its reasonable
18 incremental costs of providing such information if such costs are
19 not covered in an existing third party supplier agreement.

20 (5) An electric power supplier, a gas supplier, a gas public
21 utility, or an electric public utility may use individual proprietary
22 information that it has obtained by virtue of its provision of electric
23 generation service, electric related service, gas supply service, or
24 gas related service to:

25 (a) Initiate, render, bill, and collect for such services to the
26 extent otherwise authorized to provide billing and collection
27 services;

28 (b) Protect the rights or property of the electric power supplier,
29 gas supplier, or public utility; and

30 (c) Protect consumers of such services and other electric power
31 suppliers, gas suppliers, or electric and gas public utilities from
32 fraudulent, abusive ^{1,1} or unlawful use of, or subscription to, such
33 services.

34 c. The board shall establish and maintain a database for the
35 purpose of recording customer complaints concerning electric and
36 gas public utilities, electric power suppliers, gas suppliers, private
37 aggregators, and energy agents.

38 d. The board, in consultation with the Division of Consumer
39 Affairs in the Department of Law and Public Safety, shall establish,
40 or cause to be established, a multi-lingual electric and gas consumer
41 education program. The goal of the consumer education program
42 shall be to educate residential, small business, and special needs
43 consumers about the implications for consumers of the restructuring
44 of the electric power and gas industries. The consumer education
45 program shall include, but need not be limited to, the dissemination
46 of information to enable consumers to make informed choices
47 among available electricity and gas services and suppliers, and the

1 communication to consumers of the consumer protection provisions
2 of ~~["this act"]~~ P.L.1999, c.23 (C.48:3-49 et al.).

3 The board shall ensure the neutrality of the content and message
4 of advertisements and materials.

5 The board shall promulgate standards for the recovery of
6 consumer education program costs from customers which include
7 reasonable measures and criteria to judge the success of the
8 program in enhancing customer understanding of retail choice.

9 e. (Deleted by amendment, P.L.2003, c.24).

10 f. (1) In addition to the advertising standards adopted by the
11 board pursuant to paragraph (3) of subsection a. of this section,

12 ~~²["and notwithstanding any provisions of the "Administrative~~
13 ~~Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other~~
14 ~~law, rule, regulation, or order to the contrary,]~~² the board, in

15 consultation with the Division of Consumer Affairs in the
16 Department of Law and Public Safety, shall ~~²["initiate a proceeding~~
17 and shall adopt, after notice, provision of the opportunity for
18 comment, and public hearing,] adopt, pursuant to the

19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.)² interim advertising and marketing standards for electric

21 power suppliers ², gas suppliers, brokers, energy agents, marketers,
22 private aggregators, sales representatives, and telemarketers²

23 ¹applicable to potential residential customers¹, within ¹["90]

24 ~~²["180"]~~¹ ~~270~~² days of the effective date of P.L. , c. (C.)

25 (pending before the Legislature as this bill), which standards shall

26 include, but not limited to, prohibiting ~~²["an"]~~² electric power

27 ~~²["supplier"]~~ suppliers, gas suppliers, brokers, energy agents,
28 marketers, private aggregators, sales representatives, and

29 telemarketers² from ~~²["purposely and knowingly"]~~² : ~~¹["(i)"]~~ (a)¹

30 making false or misleading advertising claims to a potential

31 ¹residential¹ customer; or ~~¹["(ii)"]~~ (b)¹ contacting a potential

32 ¹residential¹ customer ¹["via"] by¹ telephone ~~²["more than once per~~
33 calendar year"]² for the purpose of making an unsolicited

34 advertisement if the electric power supplier ~~²["does"]~~ , gas supplier,
35 broker, energy agent, marketer, private aggregator, sales

36 representative, or telemarketer do² not have an existing business

37 relationship with the potential ¹residential¹ customer ~~²and the~~

38 residential customer's telephone number appears on the no

39 telemarketing call list established and maintained by the Division of

40 Consumer Affairs, pursuant to the provisions of section 9 of
41 P.L.2003, c.76 (C.56:8-127), or the national do-not-call registry as

42 maintained by the Federal Trade Commission² . Such standards

43 shall be effective as regulations immediately upon filing with the

44 Office of Administrative Law and shall be effective for a period not

45 to exceed 18 months, and may, thereafter, be amended, adopted, or

46 readopted by the board in accordance with the provisions of the

1 ²["Administrative Procedure Act."] "Administrative Procedure
2 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).²

3 (2) In addition to any other penalties, fines, or remedies
4 authorized by law, ¹["any"] an¹ electric power supplier ², gas
5 supplier, broker, energy agent, marketer, private aggregator, sales
6 representative, or telemarketer² that violates ¹subparagraph (a) of
7 paragraph (1) of¹ this subsection and collects charges for electric
8 ²["power supply services"] generation service or gas supply service²
9 supplied to a ¹residential¹ customer ¹, who was subjected to false or
10 misleading advertising claims by the electric power supplier ², gas
11 supplier, broker, energy agent, marketer, private aggregator, sales
12 representative, or telemarketer² in violation of subparagraph (a) of
13 paragraph (1) of this subsection,¹ shall be liable to the ¹residential¹
14 customer ¹in¹ an amount equal to all charges paid by the
15 ¹residential¹ customer after such violation ¹occurs¹ in accordance
16 with any procedures as the board may prescribe ², whether the
17 electric power supplier or gas supplier provided the electric
18 generation service or gas supply service to that customer, or the
19 electric generation service or gas supply service was provided to the
20 customer by a broker, energy agent, marketer, private aggregator,
21 sales representative, or telemarketer who contacted the customer on
22 behalf of the electric power supplier or gas supplier² . ¹["Any"] An¹
23 electric power supplier ², gas supplier, broker, energy agent,
24 marketer, private aggregator, sales representative, or telemarketer²
25 that violates this subsection shall also be liable for a civil penalty
26 pursuant to section 34 of P.L.1999, c.23 (C.48:3-83). The board is
27 hereby authorized to revoke the license of any electric power
28 supplier ², gas supplier, broker, energy agent, marketer, or private
29 aggregator² that violates this subsection.

30 (cf: P.L.2003, c.24, s.3)

31
32 3. This act shall take effect immediately.