

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1925

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED MAY 17, 2012

Sponsored by:

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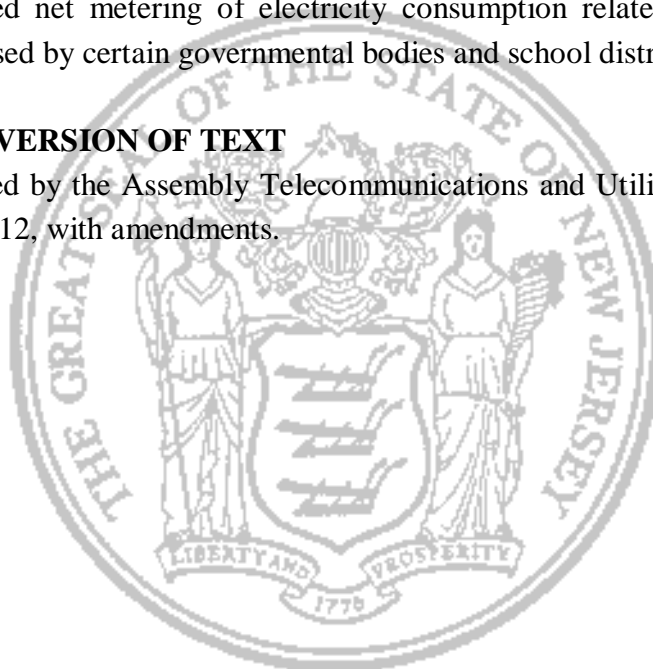
Senators Buono and Whelan

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Telecommunications and Utilities Committee on June 7, 2012, with amendments.



(Sponsorship Updated As Of: 6/15/2012)

1 AN ACT concerning ²**[net]** certain electric customer² metering and
2 solar renewable portfolio standards requirements and amending
3 P.L.1999, c.23.

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted May 24, 2012.

² Assembly ATU committee amendments adopted June 7, 2012.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Margin Fund established pursuant to section 9 of P.L.1999, c.23
2 (C.48:3-57) and for which basic generation service is hourly-priced;

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

8 "Connected to the distribution system" means, for a solar electric
9 power generation facility, ²that² the facility is: (1) connected to a
10 net metering customer's side of a meter, regardless of the voltage at
11 which that customer connects to the electric grid; (2) an on-site
12 generation facility; (3) qualified for ²[virtual]² net metering
13 aggregation as provided pursuant to paragraph (4) of subsection e.
14 of section 38 of P.L.1999, c.23 (C.48:3-87); ²(4) owned or operated
15 by an electric public utility and approved by the board pursuant to
16 section 13 of P.L.2007, c.340 (C.48:3-98.1); ²or ²[(4)] (5)² directly
17 connected to the electric grid at 69 kilovolts or less, regardless of
18 how an electric public utility classifies that portion of its electric
19 grid, and is designated as connected to the distribution system by
20 the board pursuant to subsections q. through s. of section 38 of
21 P.L.1999, c.23 (C.48:3-87), or is certified by the board as being
22 located on a brownfield², an existing or proposed commercial,
23 retail, industrial, municipal, professional, recreational, transit,
24 commuter, entertainment complex, multi-use, or mixed-use parking
25 lot with a capacity to park 350 or more vehicles where the area to
26 be utilized for the facility is paved, or is an impervious surface,² or
27 a properly closed sanitary landfill facility ², an existing or proposed
28 commercial, retail, industrial, municipal, professional, recreational,
29 transit, commuter, entertainment complex, multi-use, or mixed-use
30 parking lot with a capacity to park 350 or more vehicles where the
31 area to be utilized for the facility is paved, or is an impervious
32 surface, or a properly closed sanitary landfill facility². Any solar
33 electric power generation facility, other than that of a net metering
34 customer on the customer's side of the meter, connected above 69
35 kilovolts ²[.]² shall not be considered connected to the distribution
36 system;

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

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

44 "Delivery year" or "DY" means the 12-month period from June
45 1st through May 31st, numbered according to the calendar year in
46 which it ends;

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

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

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

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

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

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

42 "Electronic signature" means an electronic sound, symbol or
43 process, attached to, or logically associated with, a contract or other
44 record, and executed or adopted by a person with the intent to sign
45 the record;

46 "Eligible generator" means a developer of a base load or mid-
47 merit electric power generation facility including, but not limited to,

1 an on-site generation facility that qualifies as a capacity resource
2 under PJM criteria and that commences construction after the
3 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.);

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

10 "Energy consumer" means a business or residential consumer of
11 electric generation service or gas supply service located within the
12 territorial jurisdiction of a government aggregator;

13 "Energy efficiency portfolio standard" means a requirement to
14 procure a specified amount of energy efficiency or demand side
15 management resources as a means of managing and reducing energy
16 usage and demand by customers;

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

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

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

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

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

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

44 "Gas supplier" means a person that is duly licensed pursuant to
45 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
46 assume the contractual and legal obligation to provide gas supply
47 service to retail customers, and includes, but is not limited to,

1 marketers and brokers. A non-public utility affiliate of a public
2 utility holding company may be a gas supplier, but a gas public
3 utility or any subsidiary of a gas utility is not a gas supplier. In the
4 event that a gas public utility is not part of a holding company legal
5 structure, a related competitive business segment of that gas public
6 utility may be a gas supplier, provided that related competitive
7 business segment is structurally separated from the gas public
8 utility, and provided that the interactions between the gas public
9 utility and the related competitive business segment are subject to
10 the affiliate relations standards adopted by the board pursuant to
11 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

12 "Gas supply service" means the provision to customers of the
13 retail commodity of gas, but does not include any regulated
14 distribution service;

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

27 "Government energy aggregation program" means a program and
28 procedure pursuant to which a government aggregator enters into a
29 written contract for the provision of electric generation service or
30 gas supply service on behalf of business or residential customers
31 within its territorial jurisdiction;

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

35 "Greenhouse gas emissions portfolio standard" means a
36 requirement that addresses or limits the amount of carbon dioxide
37 emissions indirectly resulting from the use of electricity as applied
38 to any electric power suppliers and basic generation service
39 providers of electricity;

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

45 "Leakage" means an increase in greenhouse gas emissions
46 related to generation sources located outside of the State that are not
47 subject to a state, interstate or regional greenhouse gas emissions

1 cap or standard that applies to generation sources located within the
2 State;

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

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

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

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

29 "Mid-merit electric power generation facility" means a
30 generation facility that operates at a capacity factor between
31 baseload generation facilities and peaker generation facilities;

32 ²"Net metering aggregation" means a procedure for calculating
33 the combination of the annual energy usage for all solar electric
34 power generating facilities owned by a single customer where such
35 customer is a State entity, school district, county, county agency,
36 county authority, municipality, municipal agency, or municipal
37 authority, as provided pursuant to paragraph (4) of subsection e. of
38 section 38 of P.L.1999, c.23 (C.48:3-87)².

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

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

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

45 "Offshore wind renewable energy certificate" or "OREC" means
46 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,
12 including, but not limited to, a generation facility that produces
13 Class I or Class II renewable energy, and equipment and services
14 appurtenant to electric sales by such facility to the end use customer
15 located on the property or on property contiguous to the property on
16 which the end user is located ²[for the specific purpose of
17 supplying generation to the end use customer's property. The total
18 output of the on-site generation facility shall be used to serve the
19 load of the on-site end use customer]² ¹[unless the customer is
20 eligible for and engaged in virtual net metering aggregation]¹. An
21 on-site generation facility shall not be considered a public utility.
22 The property of the end use customer and the property on which the
23 on-site generation facility is located shall be considered contiguous
24 if they are geographically located next to each other, but may be
25 otherwise separated by an easement, public thoroughfare,
26 transportation or utility-owned right-of-way, or if the end use
27 customer is purchasing thermal energy services produced by the on-
28 site generation facility, for use for heating or cooling, or both,
29 regardless of whether the customer is located on property that is
30 separated from the property on which the on-site generation facility
31 is located by more than one easement, public thoroughfare, or
32 transportation or utility-owned right-of-way;

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

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

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

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

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

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

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

42 "Registration program" means an administrative process
43 developed by the board pursuant to subsection u. of section 38 of
44 ²[P.L.1999, c.12] P.L.1999, c.23² (C.48:3-87) that requires all
45 owners of solar electric power generation facilities connected to the
46 distribution system that intend to generate SRECs, to file with the

1 board documents detailing the size, location, interconnection plan,
2 land use, and other project information as required by the board;

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

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

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

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

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

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

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, which the Department of Environmental Protection has
41 determined to be in compliance with current environmental
42 standards, including, but not limited to, all applicable requirements
43 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

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

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

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

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

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

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

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

45 "Small scale hydropower facility" means a facility located within
46 this State that is connected to the distribution system, and that
47 meets the requirements of, and has been certified by, a nationally

1 recognized low-impact hydropower organization that has
2 established low-impact hydropower certification criteria applicable
3 to: (1) river flows; (2) water quality; (3) fish passage and
4 protection; (4) watershed protection; (5) threatened and endangered
5 species protection; (6) cultural resource protection; (7) recreation;
6 and (8) facilities recommended for removal;

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

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

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

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

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

36 "Standard offer capacity price" or "SOCP" means the capacity
37 price that is fixed for the term of the SOCA and which is the price
38 to be received by eligible generators under a board-approved
39 SOCA;

40 ²"State entity" means a department, agency, or office of State
41 government, a State university or college, or an authority created by
42 the State;²

43 "Stranded cost" means the amount by which the net cost of an
44 electric public utility's electric generating assets or electric power
45 purchase commitments, as determined by the board consistent with
46 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
47 market value of those assets or contractual commitments in a

1 competitive supply marketplace and the costs of buydowns or
2 buyouts of power purchase contracts;

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

10 "Thermal efficiency" means the useful electric energy output of a
11 facility, plus the useful thermal energy output of the facility,
12 expressed as a percentage of the total energy input to the facility;

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

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

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

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

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

43 ²["Virtual net metering aggregation" means a procedure for
44 calculating the combination of the annual energy usage for all
45 facilities owned or leased by a single customer and that customer is
46 a school district, county, county agency, county authority,
47 municipality, municipal agency, or municipal authority, as provided

1 pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999,
2 c.23 (C.48:3-87).]²

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

4

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

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

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

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

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

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

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

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

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

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

44 c. (1) The board may adopt, in consultation with the Department
45 of Environmental Protection, after notice and opportunity for public
46 comment, an emissions portfolio standard applicable to all electric

1 power suppliers and basic generation service providers, upon a
2 finding that:

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

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

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

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

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

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

42 d. Notwithstanding any provisions of the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
44 contrary, the board shall initiate a proceeding and shall adopt, after
45 notice, provision of the opportunity for comment, and public
46 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;

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 June 1, 2028, that requires ~~suppliers or providers to purchase at~~
 28 ~~least~~ the following number or percentage, as the case may be, of
 29 kilowatt-hours sold in this State by each electric power supplier and
 30 each basic generation service provider to be from solar electric
 31 power generators connected to the distribution system in this State:

| | | |
|----|---------|--|
| 32 | EY 2011 | 306 Gigawatthours (Gwhrs) |
| 33 | EY 2012 | 442 Gwhrs |
| 34 | EY 2013 | ² [596 Gwhrs] <u>0.752%</u> ² |
| 35 | EY 2014 | ² [772 Gwhrs] <u>[2.184%]</u> <u>2.050%</u> ² |
| 36 | EY 2015 | ² [965 Gwhrs] <u>[2.543%]</u> <u>2.450%</u> ² |
| 37 | EY 2016 | ² [1,150 Gwhrs] <u>[2.549%]</u> <u>2.750%</u> ² |
| 38 | EY 2017 | ² [1,357 Gwhrs] <u>[2.788%]</u> <u>3.000%</u> ² |
| 39 | EY 2018 | ² [1,591 Gwhrs] <u>[3.023%]</u> <u>3.200%</u> ² |
| 40 | EY 2019 | ² [1,858 Gwhrs] <u>[3.255%]</u> <u>3.290%</u> ² |
| 41 | EY 2020 | ² [2,164 Gwhrs] <u>[3.486%]</u> <u>3.380%</u> ² |
| 42 | EY 2021 | ² [2,518 Gwhrs] <u>[3.722%]</u> <u>3.470%</u> ² |
| 43 | EY 2022 | ² [2,928 Gwhrs] <u>[3.865%]</u> <u>3.560%</u> ² |
| 44 | EY 2023 | ² [3,433 Gwhrs] <u>[4.002%]</u> <u>3.650%</u> ² |
| 45 | EY 2024 | ² [3,989 Gwhrs] <u>[4.078%]</u> <u>3.740%</u> ² |
| 46 | EY 2025 | ² [4,610 Gwhrs] <u>[4.147%]</u> <u>3.830%</u> ² |

1 EY 2026 ~~[5,316 Gwhrs] ²[4.180%] 3.920%²~~
2 EY 2027 ~~²[4.204%] 4.010%²~~
3 ~~EY 2028, ²[4.227%] 4.100%²~~, and for every energy year thereafter,
4 at least ~~[5,316 Gwhrs] ²[4.227%] 4.100%²~~ per energy year to
5 reflect an increasing number of kilowatt-hours to be purchased by
6 suppliers or providers from solar electric power generators
7 connected to the distribution system in this State, and to establish a
8 framework within which, of the electricity that the generators sell in
9 this State, suppliers and providers shall [purchase] each obtain at
10 least [2,518 Gwhrs] ²[3.722%] 3.470%² in the energy year 2021
11 and [5,316 Gwhrs] ²[4.227%] 4.100%² in the energy year [2026]
12 2028 from solar electric power generators connected to the
13 distribution system in this State, provided, however, that

14 [the number of solar kilowatt-hours required to be purchased by
15 each supplier or provider, when expressed as a percentage of the
16 total number of solar kilowatt-hours purchased in this State, shall be
17 equivalent to each supplier's or provider's proportionate share of the
18 total number of kilowatt-hours sold in this State by all suppliers and
19 providers.] :

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

24 (b) No more than 24 months following the date of enactment of
25 P.L. , c. (C.) (pending before the Legislature as this bill),
26 the board shall complete a proceeding to investigate approaches to
27 mitigate solar development volatility and prepare and submit,
28 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to
29 the Legislature, detailing its findings and recommendations. As
30 part of the proceeding, the board shall evaluate other techniques
31 used nationally and internationally;

32 (c) The solar renewable portfolio standards requirements in this
33 paragraph shall exempt those existing supply contracts which are
34 effective prior to the date of enactment of P.L. , c. (C.)
35 (pending before the Legislature as this bill) from any increase
36 beyond the number of SRECs that exceeds the number mandated by
37 the solar renewable portfolio standards requirements that were in
38 effect on the date that the providers executed their existing supply
39 contracts. This limited exemption for providers' existing supply
40 contracts shall not be construed to lower the Statewide solar
41 sourcing requirements set forth in this paragraph. Such incremental
42 new requirements shall be distributed over the electric power
43 suppliers and providers not subject to the existing supply contract
44 exemption until such time as existing supply contracts expire and
45 all suppliers are subject to the new requirement in a manner that is
46 competitively neutral among all providers and suppliers, such that

1 non-exempt providers are assigned the requirements that would
2 have otherwise been assigned to the exempt providers.

3 ²[The solar renewable portfolio standards requirements in
4 paragraph (3) of this subsection shall automatically increase by 20%
5 for the remainder of the schedule in the event that the following two
6 conditions are met: (a) the number of SRECs generated meets or
7 exceeds the requirement for three consecutive reporting years,
8 starting with energy year 2013; and (b) the average SREC price for
9 all SRECs purchased by entities with renewable energy portfolio
10 standards obligations has decreased in the same three consecutive
11 reporting years; and

12 The board shall exempt providers' existing supply contracts that
13 are: (a) effective prior to the date of P.L.2009, c.289; or (b)
14 effective prior to any future increase in the solar renewable
15 portfolio standard beyond the multi-year schedule established in
16 paragraph (3) of this subsection. This exemption shall apply to the
17 number of SRECs that exceeds the number mandated by the solar
18 renewable portfolio standards requirements that were in effect on
19 the date that the providers executed their existing supply contracts.
20 This limited exemption for providers' existing supply contracts shall
21 not be construed to lower the Statewide solar purchase requirements
22 set forth in paragraph (3) of this subsection. Such incremental new
23 requirements shall be distributed over the electric power suppliers
24 and providers not subject to the existing supply contract exemption
25 until such time as existing supply contracts expire and all suppliers
26 are subject to the new requirement.]

27 (d) The solar renewable portfolio standards requirements in this
28 paragraph shall automatically increase by 20% for the remainder of
29 the schedule in the event that the following two conditions are met:
30 (i) the number of SRECs generated meets or exceeds the
31 requirement for three consecutive reporting years, starting with
32 energy year 2014; and (ii) the average current market SREC price
33 for SRECs purchased by entities with renewable energy portfolio
34 standards obligations in each of the same three consecutive
35 reporting years is less than the average current market SREC price
36 in the year prior to the three consecutive reporting years; and

37 (e) The board shall exempt providers' supply contracts that are
38 effective prior to the date of any such increase. This exemption
39 shall apply to the number of SRECs that exceeds the number
40 mandated by the solar renewable portfolio standards requirements
41 that were in effect on the date that the suppliers or providers
42 executed their existing supply contracts. This limited exemption for
43 providers' existing supply contracts shall not be construed to lower
44 the Statewide solar purchase requirements set forth in this
45 paragraph. Such incremental new requirements shall be distributed
46 over the electric power suppliers and providers not subject to the
47 existing supply contract exemption until such time as existing

1 supply contracts expire and all suppliers are subject to the new
2 requirement in a manner that is competitively neutral among all
3 suppliers and providers, such that non-exempt providers are
4 assigned the requirements that would have otherwise been assigned
5 to the exempt providers.²

6 An electric power supplier or basic generation service provider
7 may satisfy the requirements of this subsection by participating in a
8 renewable energy trading program approved by the board in
9 consultation with the Department of Environmental Protection, or
10 compliance with the requirements of this subsection may be
11 demonstrated to the board by suppliers or providers through the
12 purchase of SRECs.

13 The renewable energy portfolio standards adopted by the board
14 pursuant to paragraphs (1) and (2) of this subsection shall be
15 effective as regulations immediately upon filing with the Office of
16 Administrative Law and shall be effective for a period not to exceed
17 18 months, and may, thereafter, be amended, adopted or readopted
18 by the board in accordance with the provisions of the
19 "Administrative Procedure Act."

20 The renewable energy portfolio standards adopted by the board
21 pursuant to this paragraph [(3) of this subsection] shall be effective
22 as regulations immediately upon filing with the Office of
23 Administrative Law and shall be effective for a period not to exceed
24 30 months after such filing, and shall, thereafter, be amended,
25 adopted or readopted by the board in accordance with the
26 "Administrative Procedure Act"; and

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

34 The percentage established by the board pursuant to this
35 paragraph shall serve as an offset to the renewable energy portfolio
36 standard established pursuant to paragraphs (1) and (2) of this
37 subsection and shall reduce the corresponding Class I renewable
38 energy requirement.

39 The percentage established by the board pursuant to this
40 paragraph shall reflect the projected OREC production of each
41 qualified offshore wind project, approved by the board pursuant to
42 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the
43 commercial operation start date of the qualified offshore wind
44 project which production projection and OREC purchase
45 requirement, once approved by the board, shall not be subject to
46 reduction.

1 An electric power supplier or basic generation service provider
2 shall comply with the OREC program established pursuant to this
3 paragraph through the purchase of offshore wind renewable energy
4 certificates at a price and for the time period required by the board.
5 In the event there are insufficient offshore wind renewable energy
6 certificates available, the electric power supplier or basic generation
7 service provider shall pay an offshore wind alternative compliance
8 payment established by the board. Any offshore wind alternative
9 compliance payments collected shall be refunded directly to the
10 ratepayers by the electric public utilities.

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

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

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

1 electric power supplier or basic generation service provider for the
2 sale and purchase of the customer-generator's excess generation.
3 The customer-generator may be credited on a real-time basis, so
4 long as the customer-generator follows applicable rules prescribed
5 by the PJM electric power pool for its capacity requirements for the
6 net amount of electricity supplied by the electric power supplier or
7 basic generation service provider. The board may authorize an
8 electric power supplier or basic generation service provider to cease
9 offering net metering whenever the total rated generating capacity
10 owned and operated by net metering customer-generators Statewide
11 equals 2.5 percent of the State's peak electricity demand;

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

15 Such standards or rules shall take into consideration the goals of
16 the New Jersey Energy Master Plan, applicable industry standards,
17 and the standards of other states and the Institute of Electrical and
18 Electronic Engineers. The board shall allow electric public utilities
19 to recover the costs of any new net meters, upgraded net meters,
20 system reinforcements or upgrades, and interconnection costs
21 through either their regulated rates or from the net metering
22 customer-generator; **[and]**

23 (3) credit or other incentive rules for generators using Class I
24 renewable energy generation systems that connect to New Jersey's
25 electric public utilities' distribution system but who do not net meter
26 **and;**

27 (4) ²**[virtual]**² net metering aggregation standards to require
28 electric public utilities to provide ²**[virtual]**² net metering
29 aggregation to single electric public utility customers that operate a
30 solar electric power generation ²**[facility]** system installed at one of
31 the customer's facilities² , provided that any such customer is a
32 school district, county, county agency, county authority,
33 municipality, municipal agency, or municipal authority. The
34 standards shall provide that, in order to qualify for ²**[virtual]**² net
35 metering aggregation, the customer must operate a solar electric
36 power generation ²**[facility that is directly connected to the electric**
37 grid,] system using a net metering billing account, which system is
38 located on property owned by the customer, provided that (a) the
39 property is not land that has been actively devoted to agricultural or
40 horticultural use and that is valued, assessed, and taxed pursuant to
41 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
42 23.1 et seq.) at any time within the 10 year period prior to the
43 effective date of P.L. , c. (C.) (pending before the Legislature
44 as this bill), (b) the system² is not an on-site generation facility,
45 ²**[that]** ²**(c)**² all of the facilities of the single customer combined for
46 the purpose of ²**[virtual]**² net metering aggregation are facilities

1 owned or operated by the single customer²[,] and² are located
2 within its territorial jurisdiction ¹[and,] ²except that all of the
3 facilities of a State entity engaged in net metering aggregation shall
4 be located within five miles of one another, and (d) all of those
5 facilities² are within the service territory of a single electric public
6 utility¹ ²[,]² and are all served by ²the same² basic generation
7 service ²provider² or by the same electric power supplier¹. The
8 standards shall provide that in order to qualify for ²[virtual]² net
9 metering aggregation, the customer's solar electric power
10 generation ²[facility] system² shall be sized so that its annual
11 generation does not exceed the combined ²metered² annual energy
12 usage of the qualified customer facilities, and the qualified
13 customer facilities shall all be in the same customer class under the
14 applicable electric public utility ¹[transmission and distribution]¹
15 tariff. ²For the customer's facility on which the solar electric
16 generation system is installed, the electricity generated from the
17 customer's solar electric generation system shall be accounted for
18 pursuant to the provisions of paragraph (l) of this subsection to
19 provide that the electricity generated in excess of the electricity
20 supplied by the electric power supplier or the basic generation
21 service provider, as the case may be, for the customer's facility on
22 which the solar electric generation system is installed, over the
23 annualized period, is credited to the electric power supplier's or the
24 basic generation service provider's avoided cost of wholesale power
25 or the PJM electric power pool real-time locational marginal pricing
26 rate.² All electricity used by ¹[a customer engaged in virtual net
27 metering aggregation shall be delivered] the customer's qualified
28 facilities, with the exception of the ²[solar electric power
29 generation]² facility ²on which the solar electric power generation
30 system is installed² , shall be billed at the full retail rate¹ pursuant
31 to the electric public utility transmission and distribution ¹[tariffs]
32 tariff¹ applicable to the customer class of the customer using the
33 electricity. ²[¹[A] The electric public utility shall provide the¹
34 customer ¹[that is a school district, county, county agency, county
35 authority, municipality, municipal agency, or municipal authority,
36 may purchase such electricity through virtual net metering
37 aggregation to meet its electricity requirements] an annual payment
38 for the difference between the total energy generated by the
39 customer's solar electric power generation facility and the energy
40 used by the customer's qualified facilities consistent with the
41 standards established in paragraph (1) of this subsection¹] A
42 customer may contract with a third party to operate a solar electric
43 power generation system, for the purpose of net metering
44 aggregation. Any contractual relationship entered into for operation
45 of a solar electric power generation system related to net metering

1 aggregation shall include contractual protections that provide for
2 adequate performance and provision for construction and operation
3 for the term of the contract, including any appropriate bonding or
4 escrow requirements². Any incremental cost to an electric public
5 utility for ²[virtual]² net metering aggregation shall be fully and
6 timely recovered in a manner to be determined by the board. ¹The
7 board shall adopt ²[virtual]² net metering aggregation standards
8 within 270 days after the effective date of P.L. , c. (C.)
9 (pending before the Legislature as this bill). ²[Should the board
10 fail to adopt such standards, electric public utilities shall provide for
11 virtual net metering aggregation consistent with the provisions of
12 this paragraph. ¹]²

13 Such rules shall require the board or its designee to issue a credit
14 or other incentive to those generators that do not use a net meter but
15 otherwise generate electricity derived from a Class I renewable
16 energy source and to issue an enhanced credit or other incentive,
17 including, but not limited to, a solar renewable energy credit, to
18 those generators that generate electricity derived from solar
19 technologies.

20 Such standards or rules shall be effective as regulations
21 immediately upon filing with the Office of Administrative Law and
22 shall be effective for a period not to exceed 18 months, and may,
23 thereafter, be amended, adopted or readopted by the board in
24 accordance with the provisions of the "Administrative Procedure
25 Act."

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

38 g. The board may adopt, pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
40 energy efficiency portfolio standard that may require each electric
41 public utility to implement energy efficiency measures that reduce
42 electricity usage in the State by 2020 to a level that is 20 percent
43 below the usage projected by the board in the absence of such a
44 standard. Nothing in this section shall be construed to prevent an
45 electric public utility from meeting the requirements of this section
46 by contracting with another entity for the performance of the
47 requirements.

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

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

20 j. The board shall determine an appropriate level of solar
21 alternative compliance payment, and ~~establish a 15-year solar~~
22 ~~alternative compliance payment schedule, that permits~~ permit each
23 supplier or provider to submit an SACP to comply with the solar
24 electric generation requirements of paragraph (3) of subsection d. of
25 this section. The value of the SACP for each Energy Year, for
26 Energy Years 2014 through 2028 per megawatt hour from solar
27 electric generation required pursuant to this section, shall be:

| | |
|-------------------|--|
| 28 <u>EY 2014</u> | 2 ² [\$325] <u>\$339</u> ² |
| 29 <u>EY 2015</u> | 2 ² [\$317] <u>\$331</u> ² |
| 30 <u>EY 2016</u> | 2 ² [\$309] <u>\$323</u> ² |
| 31 <u>EY 2017</u> | 2 ² [\$301] <u>\$315</u> ² |
| 32 <u>EY 2018</u> | 2 ² [\$294] <u>\$308</u> ² |
| 33 <u>EY 2019</u> | 2 ² [\$286] <u>\$300</u> ² |
| 34 <u>EY 2020</u> | 2 ² [\$279] <u>\$293</u> ² |
| 35 <u>EY 2021</u> | 2 ² [\$272] <u>\$286</u> ² |
| 36 <u>EY 2022</u> | 2 ² [\$265] <u>\$279</u> ² |
| 37 <u>EY 2023</u> | 2 ² [\$259] <u>\$272</u> ² |
| 38 <u>EY 2024</u> | 2 ² [\$252] <u>\$266</u> ² |
| 39 <u>EY 2025</u> | 2 ² [\$246] <u>\$260</u> ² |
| 40 <u>EY 2026</u> | 2 ² [\$240] <u>\$253</u> ² |
| 41 <u>EY 2027</u> | 2 ² [\$234] <u>\$250</u> ² |
| 42 <u>EY 2028</u> | 2 ² [\$228] <u>\$239</u> ² |

43 The board may initiate subsequent proceedings and adopt, after
44 appropriate notice and opportunity for public comment and public
45 hearing, an increase in solar alternative compliance payments,
46 provided that the board shall not reduce previously established

1 levels of solar alternative compliance payments, nor shall the board
2 provide relief from the obligation of payment of the SACP by the
3 electric power suppliers or basic generation service providers in any
4 form. Any SACP payments collected shall be refunded directly to
5 the ratepayers by the electric public utilities.

6 k. The board may allow electric public utilities to offer long-
7 term contracts through a competitive process, direct electric public
8 utility investment and other means of financing, including but not
9 limited to loans, for the purchase of SRECs and the resale of SRECs
10 to suppliers or providers or others, provided that after such
11 contracts have been approved by the board, the board's approvals
12 shall not be modified by subsequent board orders. ²If the board
13 allows the offering of contracts pursuant to this subsection, the
14 board shall establish a process, after hearing, and opportunity for
15 public comment, to provide that a designated segment of the
16 contracts approved pursuant to this subsection shall be contracts
17 involving solar electric power generation facility projects with a
18 capacity of up to 250 kilowatts.²

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

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

24 (2) maintain adequate regulatory authority over non-competitive
25 public utility services;

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

28 (4) promote energy efficiency and Class I renewable energy
29 market development, taking into consideration environmental
30 benefits and market barriers;

31 (5) make energy services more affordable for low and moderate
32 income customers;

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

36 (7) achieve the goals put forth under the renewable energy
37 portfolio standards;

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

39 (9) allow all market segments to participate.

40 m. The board shall ensure the availability of financial incentives
41 under its jurisdiction, including, but not limited to, long-term
42 contracts, loans, SRECs, or other financial support, to ensure
43 market diversity, competition, and appropriate coverage across all
44 ratepayer segments, including, but not limited to, residential,
45 commercial, industrial, non-profit, farms, schools, and public entity
46 customers.

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

8 o. The board, in consultation with the Department of
9 Environmental Protection, electric public utilities, the Division of
10 Rate Counsel in, but not of, the Department of the Treasury,
11 affected members of the solar energy industry, and relevant
12 stakeholders, shall periodically consider increasing the renewable
13 energy portfolio standards beyond the minimum amounts set forth
14 in subsection d. of this section, taking into account the cost impacts
15 and public benefits of such increases including, but not limited to:

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

18 (2) reductions in peak demand for electricity and natural gas,
19 and the overall impact on the costs to customers of electricity and
20 natural gas;

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

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

25 p. Class I RECs and ORECS shall be eligible for use in
26 renewable energy portfolio standards compliance in the energy year
27 in which they are generated, and for the following two energy years.
28 SRECs **[and ORECs]** shall be eligible for use in renewable energy
29 portfolio standards compliance in the energy year in which they are
30 generated, and for the following **[two]** four energy years.

31 q. (1) During the energy years of 2014, 2015, and 2016, a solar
32 electric power generation facility project that is not: (a) net
33 metered; (b) an on-site generation facility; (c) qualified for
34 ²[virtual]² net metering aggregation; ²[or]² (d) certified as being
35 located on a brownfield or a properly closed sanitary landfill
36 facility, as provided pursuant to subsection t. of this section ²or (e)
37 certified as being located on an existing or proposed commercial,
38 retail, industrial, municipal, professional, recreational, transit,
39 commuter, entertainment complex, multi-use, or mixed-use parking
40 lot with a capacity to park 350 or more vehicles where the area to
41 be utilized for the facility is paved, or is an impervious surface
42 pursuant to subsection x. of this section² may file an application
43 with the board for approval of a designation pursuant to this
44 subsection that the facility is connected to the distribution system.
45 An application filed pursuant to this subsection shall include a
46 notice escrow of \$40,000 per megawatt of the proposed capacity of
47 the facility. The board shall approve the designation if: the facility

1 has filed a notice in writing with the board applying for designation
2 pursuant to this subsection, together with the notice escrow; and the
3 capacity of the facility, when added to the capacity of other
4 facilities that have been previously approved for designation prior
5 to the facility's filing under this subsection, does not exceed 80
6 megawatts in the aggregate for each year. The capacity of any one
7 solar electric power supply project approved pursuant to this
8 subsection shall not exceed 10 megawatts. No more than 90 days
9 after its receipt of a completed application for designation pursuant
10 to this subsection, the board shall approve, conditionally approve,
11 or disapprove the application. The notice escrow shall be
12 reimbursed to the facility in full upon the facility entering
13 commercial operation, or shall be forfeited to the State if the facility
14 is designated pursuant to this subsection, but does not enter
15 commercial operation pursuant to paragraph (2) of this subsection.

16 (2) If the proposed solar electric power generation facility does
17 not commence commercial operations within two years following
18 the date of the designation by the board pursuant to this subsection,
19 the designation of the facility shall be deemed to be null and void,
20 and the facility shall not be considered connected to the distribution
21 system thereafter.

22 r. (1) For ²all proposed solar electric power generation facility
23 projects except for those² solar electric power generation facility
24 projects ²[proposed in addition to those]² approved pursuant to
25 subsection q. of this section and for all projects proposed in each
26 energy year following energy year 2016, a proposed solar electric
27 power generation facility that is neither net metered nor an on-site
28 generation facility, may be considered "connected to the
29 distribution system" only upon designation as such by the board,
30 after notice to the public and opportunity for public comment or
31 hearing. A proposed solar power electric generation facility
32 seeking board designation as "connected to the distribution system"
33 shall submit an application to the board that includes for the
34 proposed facility: the nameplate capacity; the estimated energy and
35 number of SRECs to be produced and sold per year; the estimated
36 annual rate impact on ratepayers; the estimated capacity of the
37 generator as defined by PJM for sale in the PJM capacity market;
38 the point of interconnection; the total project acreage and location;
39 the current land use designation of the property; the type of solar
40 technology to be used; and such other information as the board shall
41 require.

42 (2) The board shall approve the designation of the proposed solar
43 power electric generation facility as "connected to the distribution
44 system" if the board determines that:

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

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

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

5 (d) there will be no impact on the ability of an electric public
6 utility to maintain its property and equipment in such a condition as
7 to enable it to provide safe, adequate, and proper service to each of
8 its customers.

9 (3) The board shall act within 90 days of its receipt of a
10 completed application for designation of a solar power electric
11 generation facility as "connected to the distribution system," to
12 either approve, conditionally approve, or disapprove the
13 application. If the proposed solar electric power generation facility
14 does not commence commercial operations within two years
15 following the date of the designation by the board pursuant to this
16 subsection, the designation of the facility as "connected to the
17 distribution system" shall be deemed to be null and void, and the
18 facility shall thereafter be considered not "connected to the
19 distribution system."

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

43 t. ²(1)² No more than 180 days after the date of enactment of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 the board shall, in consultation with the Department of
46 Environmental Protection and the New Jersey Economic

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

1 to this subsection, shall be credited to ratepayers.² The issuance of
2 SRECs for all solar electric power generation facility projects
3 pursuant to this subsection shall be deemed "Board of Public
4 Utilities financial assistance" as provided under section 1 of
5 P.L.2009, c.89 (C.48:2-29.47).

6 ²(2) Notwithstanding the provisions of the "Spill Compensation
7 and Control Act," P.L.1976, c. 141 (C. 58:10-23.11 et seq.) or any
8 other law, rule, regulation, or order to the contrary, the board may
9 find that a person who owns real property, where there is
10 constructed a solar electric power generation facility project
11 certified by the board, pursuant to paragraph (1) of this subsection,
12 as being located on a brownfield or a properly closed sanitary
13 landfill facility, which shall include, but not be limited to projects
14 located on a brownfield or a properly closed sanitary landfill
15 facility and owned or operated by an electric public utility and
16 approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1),
17 that is acquired on or after the effective date of P.L. , c. (C.)
18 (pending in the Legislature as this bill), or who operates a solar
19 electric power generation facility project certified by the board,
20 pursuant to paragraph (1) of this subsection, as being located on a
21 brownfield or a properly closed sanitary landfill facility, which
22 shall include, but not be limited to projects located on a brownfield
23 or a properly closed sanitary landfill facility and owned or operated
24 by an electric public utility and approved pursuant to section 13 of
25 P.L.2007, c.340 (C.48:3-98.1), after the effective date of P.L. ,
26 c. (C:) (pending in the Legislature as this bill), shall not be liable
27 for cleanup and removal costs or for any other costs or damages to
28 the State or to any other person for the discharge of a hazardous
29 substance provided that:

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

32 (b) the person did not discharge the hazardous substance, is not
33 in any way responsible for the hazardous substance, and is not a
34 successor to the discharger or to any person in any way responsible
35 for the hazardous substance or to anyone liable for cleanup and
36 removal costs pursuant to section 8 of P.L. 1976, c. 141 (C. 58:10-
37 23.11g);

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

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

45 (e) the person does not exacerbate the contamination at the
46 property;

1 (f) the person cooperates with any necessary remediation of the
2 property; and

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

6 Only the person who is liable to clean up and remove the
7 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
8 23.11g) and who does not have a defense to liability pursuant to
9 subsection d. of that section shall be liable for cleanup and removal
10 costs or for any other costs or damages.²

11 u. No more than 180 days after the date of enactment of
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 the board shall complete a proceeding to establish a registration
14 program. The registration program shall require the owners of solar
15 power electric generation facility projects connected to the
16 distribution system to make periodic milestone filings with the
17 board in a manner and at such times as determined by the board to
18 provide full disclosure and transparency regarding the overall level
19 of development and construction activity of those projects
20 Statewide.

21 v. The issuance of SRECs for all solar power electric
22 generation facility projects pursuant to this section, for projects
23 connected to the distribution system with a capacity of one
24 megawatt or greater, shall be deemed "Board of Public Utilities
25 financial assistance" as provided pursuant to section 1 of P.L.2009,
26 c.89 (C.48:2-29.47).

27 ²w. No more than 270 days after the date of enactment of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 the board shall, after notice and opportunity for public comment and
30 public hearing, complete a proceeding to establish a program to
31 provide SRECs to owners of solar power electric generation facility
32 projects certified by the board as being three megawatts or greater
33 in capacity and being net metered, including facilities which are
34 owned or operated by an electric public utility and approved by the
35 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), to
36 further the goal of improving the economic competitiveness of
37 commercial and industrial customers taking power from such
38 projects. Projects certified under this subsection (1) shall be
39 considered "connected to the distribution system" and shall not
40 require such designation by the board and (2) shall not be subject to
41 board review required pursuant to subsections q. and r. of this
42 section. For projects approved pursuant to this subsection, the
43 board may establish a financial incentive to provide that the board
44 shall issue for every 750 kilowatts of solar energy generated by the
45 certified projects. Any financial benefit realized in relation to a
46 project owned or operated by an electric public utility and approved
47 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-

1 98.1), as a result of the provision of a financial incentive established
2 by the board pursuant to this subsection, shall be credited to
3 ratepayers.

4 x. No more than 180 days after the date of enactment of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), the board
6 shall, in consultation with the Department of Environmental
7 Protection and the New Jersey Economic Development Authority,
8 and, after notice and opportunity for public comment and public
9 hearing, complete a proceeding to establish a program to provide
10 SRECs to owners of solar electric power generation facility
11 projects, including facility projects which are owned or operated by
12 an electric public utility and approved by the board pursuant to
13 section 13 of P.L.2007, c.340 (C.48:3-98.1), certified by the board
14 as being located on an existing or proposed commercial, retail,
15 industrial, municipal, professional, recreational, transit, commuter,
16 entertainment complex, multi-use, or mixed-use parking lot with a
17 capacity to park 350 or more vehicles where the area to be utilized
18 for the facility is paved, or an impervious surface. Projects certified
19 under this subsection shall (1) be considered “connected to the
20 distribution system” and shall not require such designation by the
21 board and (2) shall not be subject to board review required pursuant
22 to subsections q. and r. of this section. ²

23 (cf: P.L.2010, c.57, s.2)

24

25 3. This act shall take effect immediately.