

SENATE, No. 2651

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MARCH 18, 2013

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Establishes alternative energy portfolio standard and certificate program; provides financial incentives for certain standby generation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing an alternative energy portfolio standard and
2 certificate program and amending P.L.1999, c.23.

3

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

6

7 1. (New section) The Legislature finds and declares that

8 a. The devastating consequences of “Superstorm” Sandy to
9 New Jersey brought into sharp focus the need to harden the energy
10 infrastructure that currently serves our State’s most critical
11 institutional facilities. New Jersey's hospitals, correctional
12 institutions, nursing homes, and other vital assets sustained
13 perilously long electric outages as the result of the significant
14 destruction of the overhead electric distribution system. These vital
15 institutions must be provided the tools necessary to eliminate, to the
16 extent possible, this vulnerability in a manner that is consistent with
17 the long-term goals of efficiency as dictated by New Jersey's
18 Energy Master Plan; and

19 b. As these institutions now search for new energy services and
20 products to sharply reduce the threat of loss of electric service, it is
21 most important that the Legislative and Executive Branches create
22 incentives appropriate to guide their selection to the most efficient
23 energy resources available to produce the greatest long term
24 financial savings for these institutions, the greatest environmental
25 benefits, and the most efficient utilization of energy over the life of
26 applicable projects.

27

28 2. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
29 as follows:

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

31 “Alternative energy” means electric or thermal energy produced
32 by a qualified alternative energy generating facility;

33 “Alternative energy certificate” or “AEC” means a certificate,
34 issued by the board or its designee to the owner or operator of a
35 qualified alternative energy generating facility;

36 “Alternative energy generating facility” means a facility that
37 generates electrical energy or useful thermal energy using combined
38 heat and power or fuel cell technology;

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

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

Matter underlined thus is new matter.

1 "Base load electric power generation facility" means an electric
2 power generation facility intended to be operated at a greater than
3 50 percent capacity factor including, but not limited to, a combined
4 cycle power facility and a combined heat and power facility;

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

9 "Basic gas supply service" means gas supply service that is
10 provided to any customer that has not chosen an alternative gas
11 supplier, whether or not the customer has received offers as to
12 competitive supply options, including, but not limited to, any
13 customer that cannot obtain such service for any reason, including
14 non-payment for services. Basic gas supply service is not a
15 competitive service and shall be fully regulated by the board;

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

24 "Basic generation service provider" or "provider" means a
25 provider of basic generation service;

26 "Basic generation service transition costs" means the amount by
27 which the payments by an electric public utility for the procurement
28 of power for basic generation service and related ancillary and
29 administrative costs exceeds the net revenues from the basic
30 generation service charge established by the board pursuant to
31 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
32 together with interest on the balance at the board-approved rate, that
33 is reflected in a deferred balance account approved by the board in
34 an order addressing the electric public utility's unbundled rates,
35 stranded costs, and restructuring filings pursuant to P.L.1999, c.23
36 (C.48:3-49 et al.). Basic generation service transition costs shall
37 include, but are not limited to, costs of purchases from the spot
38 market, bilateral contracts, contracts with non-utility generators,
39 parting contracts with the purchaser of the electric public utility's
40 divested generation assets, short-term advance purchases, and
41 financial instruments such as hedging, forward contracts, and
42 options. Basic generation service transition costs shall also include
43 the payments by an electric public utility pursuant to a competitive
44 procurement process for basic generation service supply during the
45 transition period, and costs of any such process used to procure the
46 basic generation service supply;

47 "Board" means the New Jersey Board of Public Utilities or any
48 successor agency;

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

24 "Bondable stranded costs rate order" means one or more
25 irrevocable written orders issued by the board pursuant to P.L.1999,
26 c.23 (C.48:3-49 et al.) which determines the amount of bondable
27 stranded costs and the initial amount of transition bond charges
28 authorized to be imposed to recover such bondable stranded costs,
29 including the costs to be financed from the proceeds of the
30 transition bonds, as well as on-going costs associated with servicing
31 and credit enhancing the transition bonds, and provides the electric
32 public utility specific authority to issue or cause to be issued,
33 directly or indirectly, transition bonds through a financing entity
34 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
35 which order shall become effective immediately upon the written
36 consent of the related electric public utility to such order as
37 provided in P.L.1999, c.23 (C.48:3-49 et al.);

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

1 "British thermal unit" or "Btu" means the amount of heat
2 required to increase the temperature of one pound of water by one
3 degree Fahrenheit;

4 "Broker" means a duly licensed electric power supplier that
5 assumes the contractual and legal responsibility for the sale of
6 electric generation service, transmission or other services to end-use
7 retail customers, but does not take title to any of the power sold, or
8 a duly licensed gas supplier that assumes the contractual and legal
9 obligation to provide gas supply service to end-use retail customers,
10 but does not take title to the gas;

11 "Brownfield" means any former or current commercial or
12 industrial site that is currently vacant or underutilized and on which
13 there has been, or there is suspected to have been, a discharge of a
14 contaminant;

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

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

26 "Class I renewable energy" means electric energy produced from
27 solar technologies, photovoltaic technologies, wind energy, fuel
28 cells, geothermal technologies, wave or tidal action, small scale
29 hydropower facilities with a capacity of three megawatts or less and
30 put into service after the effective date of P.L.2012, c.24, and
31 methane gas from landfills or a biomass facility, provided that the
32 biomass is cultivated and harvested in a sustainable manner;

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

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

43 "Combined cycle power facility" means a generation facility that
44 combines two or more thermodynamic cycles, by producing electric
45 power via the combustion of fuel and then routing the resulting
46 waste heat by-product to a conventional boiler or to a heat recovery
47 steam generator for use by a steam turbine to produce electric

1 power, thereby increasing the overall efficiency of the generating
2 facility;

3 "Combined heat and power facility" or "co-generation facility"
4 means a generation facility which produces electric energy and
5 steam or other forms of useful energy such as heat, which are used
6 for industrial or commercial heating or cooling purposes. A
7 combined heat and power facility or co-generation facility shall not
8 be considered a public utility;

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

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

20 "Comprehensive resource analysis" means an analysis including,
21 but not limited to, an assessment of existing market barriers to the
22 implementation of energy efficiency and renewable technologies
23 that are not or cannot be delivered to customers through a
24 competitive marketplace;

25 "Connected to the distribution system" means, for a solar electric
26 power generation facility, that the facility is: (1) connected to a net
27 metering customer's side of a meter, regardless of the voltage at
28 which that customer connects to the electric grid, (2) an on-site
29 generation facility, (3) qualified for net metering aggregation as
30 provided pursuant to paragraph (4) of subsection e. of section 38 of
31 P.L.1999, c.23 (C.48:3-87), (4) owned or operated by an electric
32 public utility and approved by the board pursuant to section 13 of
33 P.L.2007, c.340 (C.48:3-98.1), (5) directly connected to the electric
34 grid at 69kilovolts or less, regardless of how an electric public
35 utility classifies that portion of its electric grid, and is designated as
36 "connected to the distribution system" by the board pursuant to
37 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
38 87), or (6) is certified by the board, in consultation with the
39 Department of Environmental Protection, as being located on a
40 brownfield, on an area of historic fill, or on a properly closed
41 sanitary landfill facility. Any solar electric power generation
42 facility, other than that of a net metering customer on the customer's
43 side of the meter, connected above 69 kilovolts shall not be
44 considered connected to the distribution system;

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

1 "Customer account service" means metering, billing, or such
2 other administrative activity associated with maintaining a customer
3 account;

4 "Delivery year" or "DY" means the 12-month period from June
5 1st through May 31st, numbered according to the calendar year in
6 which it ends;

7 "Demand side management" means the management of customer
8 demand for energy service through the implementation of cost-
9 effective energy efficiency technologies, including, but not limited
10 to, installed conservation, load management and energy efficiency
11 measures on and in the residential, commercial, industrial,
12 institutional and governmental premises and facilities in this State;

13 "Electric generation service" means the provision of retail
14 electric energy and capacity which is generated off-site from the
15 location at which the consumption of such electric energy and
16 capacity is metered for retail billing purposes, including agreements
17 and arrangements related thereto;

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

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

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

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

1 "Electronic signature" means an electronic sound, symbol or
2 process, attached to, or logically associated with, a contract or other
3 record, and executed or adopted by a person with the intent to sign
4 the record;

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

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

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

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

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

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

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

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

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

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

45 "Gas related service" means a service that is directly related to
46 the consumption of gas by an end user, including, but not limited to,
47 the installation of demand side management measures at the end
48 user's premises, the maintenance, repair or replacement of

1 appliances or other energy-consuming devices at the end user's
2 premises, and the provision of energy consumption measurement
3 and billing services;

4 "Gas supplier" means a person that is duly licensed pursuant to
5 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
6 assume the contractual and legal obligation to provide gas supply
7 service to retail customers, and includes, but is not limited to,
8 marketers and brokers. A non-public utility affiliate of a public
9 utility holding company may be a gas supplier, but a gas public
10 utility or any subsidiary of a gas utility is not a gas supplier. In the
11 event that a gas public utility is not part of a holding company legal
12 structure, a related competitive business segment of that gas public
13 utility may be a gas supplier, provided that related competitive
14 business segment is structurally separated from the gas public
15 utility, and provided that the interactions between the gas public
16 utility and the related competitive business segment are subject to
17 the affiliate relations standards adopted by the board pursuant to
18 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

19 "Gas supply service" means the provision to customers of the
20 retail commodity of gas, but does not include any regulated
21 distribution service;

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

34 "Government energy aggregation program" means a program and
35 procedure pursuant to which a government aggregator enters into a
36 written contract for the provision of electric generation service or
37 gas supply service on behalf of business or residential customers
38 within its territorial jurisdiction;

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

42 "Greenhouse gas emissions portfolio standard" means a
43 requirement that addresses or limits the amount of carbon dioxide
44 emissions indirectly resulting from the use of electricity as applied
45 to any electric power suppliers and basic generation service
46 providers of electricity;

47 "Historic fill" means generally large volumes of non-indigenous
48 material, no matter what date they were emplaced on the site, used

1 to raise the topographic elevation of a site, which were
2 contaminated prior to emplacement and are in no way connected
3 with the operations at the location of emplacement and which
4 include, but are not limited to, construction debris, dredge spoils,
5 incinerator residue, demolition debris, fly ash, and non-hazardous
6 solid waste. "Historic fill" shall not include any material which is
7 substantially chromate chemical production waste or any other
8 chemical production waste or waste from processing of metal or
9 mineral ores, residues, slags, or tailings;

10 "Incremental auction" means an auction conducted by PJM, as
11 part of PJM's reliability pricing model, prior to the start of the
12 delivery year to secure electric capacity as necessary to satisfy the
13 capacity requirements for that delivery year, that is not otherwise
14 provided for in the base residual auction;

15 "Incremental electrical energy" means electrical energy
16 generated by a combined heat and power facility that is either
17 greater than, expressed as a positive amount, or less than, expressed
18 as a negative amount, the electrical energy generated by the
19 combined heat and power facility prior to the addition, on or after
20 the effective date of P.L. , c. (C.) (pending before the
21 Legislature as this bill), of new electrical generation nameplate
22 capacity, useful thermal energy, or incremental useful thermal
23 energy;

24 "Incremental fuel" means the amount of additional fuel used by a
25 combined heat and power facility which is attributable to the
26 production of incremental useful thermal energy or incremental
27 electrical energy;

28 "Incremental useful thermal energy" means useful thermal
29 energy produced by a combined heat and power facility that is
30 distinct in its site of end-use, magnitude of output, and metering
31 from useful thermal energy produced by the combined heat and
32 power facility prior to the effective date of P.L. , c. (C.)
33 (pending before the Legislature as this bill), but only to the extent
34 that the incremental useful thermal energy does not reduce the
35 useful thermal energy previously produced;

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

41 "Locational deliverability area" or "LDA" means one or more of
42 the zones within the PJM region which are used to evaluate area
43 transmission constraints and reliability issues including electric
44 public utility company zones, sub-zones, and combinations of
45 zones;

46 "Long-term capacity agreement pilot program" or "LCAPP"
47 means a pilot program established by the board that includes
48 participation by eligible generators, to seek offers for financially-

1 settled standard offer capacity agreements with eligible generators
2 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.);

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

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

19 "Mid-merit electric power generation facility" means a
20 generation facility that operates at a capacity factor between
21 baseload generation facilities and peaker generation facilities;

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

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

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

34 "Offshore wind energy" means electric energy produced by a
35 qualified offshore wind project;

36 "Offshore wind renewable energy certificate" or "OREC" means
37 a certificate, issued by the board or its designee, representing the
38 environmental attributes of one megawatt hour of electric
39 generation from a qualified offshore wind project;

40 "Off-site end use thermal energy services customer" means an
41 end use customer that purchases thermal energy services from an
42 on-site generation facility, combined heat and power facility, or co-
43 generation facility, and that is located on property that is separated
44 from the property on which the on-site generation facility,
45 combined heat and power facility, or co-generation facility is
46 located by more than one easement, public thoroughfare, or
47 transportation or utility-owned right-of-way;

1 "On-site generation facility" means a generation facility,
2 including, but not limited to, a generation facility that produces
3 Class I or Class II renewable energy, and equipment and services
4 appurtenant to electric sales by such facility to the end use customer
5 located on the property or on property contiguous to the property on
6 which the end user is located. An on-site generation facility shall
7 not be considered a public utility. The property of the end use
8 customer and the property on which the on-site generation facility is
9 located shall be considered contiguous if they are geographically
10 located next to each other, but may be otherwise separated by an
11 easement, public thoroughfare, transportation or utility-owned
12 right-of-way, or if the end use customer is purchasing thermal
13 energy services produced by the on-site generation facility, for use
14 for heating or cooling, or both, regardless of whether the customer
15 is located on property that is separated from the property on which
16 the on-site generation facility is located by more than one easement,
17 public thoroughfare, or transportation or utility-owned right-of-
18 way;

19 "Person" means an individual, partnership, corporation,
20 association, trust, limited liability company, governmental entity or
21 other legal entity;

22 "PJM Interconnection, L.L.C." or "PJM" means the privately-
23 held, limited liability corporation that is a FERC-approved Regional
24 Transmission Organization, or its successor, that manages the
25 regional, high-voltage electricity grid serving all or parts of 13
26 states including New Jersey and the District of Columbia, operates
27 the regional competitive wholesale electric market, manages the
28 regional transmission planning process, and establishes systems and
29 rules to ensure that the regional and in-State energy markets operate
30 fairly and efficiently;

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

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

40 "Properly closed sanitary landfill facility" means a sanitary
41 landfill facility, or a portion of a sanitary landfill facility, for which
42 performance is complete with respect to all activities associated
43 with the design, installation, purchase, or construction of all
44 measures, structures, or equipment required by the Department of
45 Environmental Protection, pursuant to law, in order to prevent,
46 minimize, or monitor pollution or health hazards resulting from a
47 sanitary landfill facility subsequent to the termination of operations
48 at any portion thereof, including, but not necessarily limited to, the

1 placement of earthen or vegetative cover, and the installation of
2 methane gas vents or monitors and leachate monitoring wells or
3 collection systems at the site of any sanitary landfill facility;

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

23 "Qualified alternative energy generating facility" means an
24 alternative energy generating facility certified by the board pursuant
25 to subparagraphs (b) and (c) of paragraph 5 of subsection d. of
26 section 38 of P.L.1999, c.23 (C.48:3-87);

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

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

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

45 "Related competitive business segment of an electric public
46 utility or gas public utility" means any business venture of an
47 electric public utility or gas public utility including, but not limited

1 to, functionally separate business units, joint ventures, and
2 partnerships, that offers to provide or provides competitive services;

3 "Related competitive business segment of a public utility holding
4 company" means any business venture of a public utility holding
5 company, including, but not limited to, functionally separate
6 business units, joint ventures, and partnerships and subsidiaries, that
7 offers to provide or provides competitive services, but does not
8 include any related competitive business segments of an electric
9 public utility or gas public utility;

10 "Reliability pricing model" or "RPM" means PJM's capacity-
11 market model, and its successors, that secures capacity on behalf of
12 electric load serving entities to satisfy load obligations not satisfied
13 through the output of electric generation facilities owned by those
14 entities, or otherwise secured by those entities through bilateral
15 contracts;

16 "Renewable energy certificate" or "REC" means a certificate
17 representing the environmental benefits or attributes of one
18 megawatt-hour of generation from a generating facility that
19 produces Class I or Class II renewable energy, but shall not include
20 a solar renewable energy certificate or an offshore wind renewable
21 energy certificate;

22 "Resource clearing price" or "RCP" means the clearing price
23 established for the applicable locational deliverability area by the
24 base residual auction or incremental auction, as determined by the
25 optimization algorithm for each auction, conducted by PJM as part
26 of PJM's reliability pricing model;

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

34 "Restructuring related costs" means reasonably incurred costs
35 directly related to the restructuring of the electric power industry,
36 including the closure, sale, functional separation and divestiture of
37 generation and other competitive utility assets by a public utility, or
38 the provision of competitive services as such costs are determined
39 by the board, and which are not stranded costs as defined in
40 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
41 to, investments in management information systems, and which
42 shall include expenses related to employees affected by
43 restructuring which result in efficiencies and which result in
44 benefits to ratepayers, such as training or retraining at the level
45 equivalent to one year's training at a vocational or technical school
46 or county community college, the provision of severance pay of two
47 weeks of base pay for each year of full-time employment, and a
48 maximum of 24 months' continued health care coverage. Except as

1 to expenses related to employees affected by restructuring,
2 "restructuring related costs" shall not include going forward costs;

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

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

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

22 "School district" means a local or regional school district
23 established pursuant to chapter 8 or chapter 13 of Title 18A of the
24 New Jersey Statutes, a county special services school district
25 established pursuant to article 8 of chapter 46 of Title 18A of the
26 New Jersey Statutes, a county vocational school district established
27 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
28 Statutes, and a district under full State intervention pursuant to
29 P.L.1987, c.399 (C.18A:7A-34 et al.);

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

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

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

45 "Social program" means a program implemented with board
46 approval to provide assistance to a group of disadvantaged
47 customers, to provide protection to consumers, or to accomplish a
48 particular societal goal, and includes, but is not limited to, the

1 winter moratorium program, utility practices concerning "bad debt"
2 customers, low income assistance, deferred payment plans,
3 weatherization programs, and late payment and deposit policies, but
4 does not include any demand side management program or any
5 environmental requirements or controls;

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

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

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

19 "Standard offer capacity agreement" or "SOCA" means a
20 financially-settled transaction agreement, approved by board order,
21 that provides for eligible generators to receive payments from the
22 electric public utilities for a defined amount of electric capacity for
23 a term to be determined by the board but not to exceed 15 years,
24 and for such payments to be a fully non-bypassable charge, with
25 such an order, once issued, being irrevocable;

26 "Standard offer capacity price" or "SOCP" means the capacity
27 price that is fixed for the term of the SOCA and which is the price
28 to be received by eligible generators under a board-approved
29 SOCA;

30 "Standby charge" means a charge imposed by an electric public
31 utility upon a distributed generation facility for the recovery of
32 costs necessary to make energy available to the distributed
33 generation facility during a facility power outage, including, but not
34 limited to, the allocation of reasonable capital investment costs and
35 operating and maintenance expenses associated with the electric
36 public utility's infrastructure needed to provide such service;

37 "State entity" means a department, agency, or office of State
38 government, a State university or college, or an authority created by
39 the State;

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

47 "Stranded costs recovery order" means each order issued by the
48 board in accordance with subsection c. of section 13 of P.L.1999,

1 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if
2 any, the board has determined an electric public utility is eligible to
3 recover and collect in accordance with the standards set forth in
4 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
5 mechanisms therefor;

6 "Thermal efficiency" means the useful electric energy output of a
7 facility, plus the useful thermal energy output of the facility,
8 expressed as a percentage of the total energy input to the facility;

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

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

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

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

36 "Universal service" means any service approved by the board
37 with the purpose of assisting low-income residential customers in
38 obtaining or retaining electric generation or delivery service; and

39 "Useful thermal energy" means energy: (1) in the form of direct
40 heat, steam, hot water, or other thermal form that is used in
41 production and beneficial measures for heating, cooling, humidity
42 control, process use, or other valid thermal end use energy
43 requirements; and (2) for which fuel or electricity would otherwise
44 be consumed.

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

46

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (b) Exempt the provision of basic generation service pursuant to
22 a basic generation service purchase and sale agreement effective
23 prior to the date of the regulation.

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

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

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

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

1 1, 2006, one percent of the kilowatt hours sold in this State by each
2 electric power supplier and each basic generation service provider
3 shall be from Class I renewable energy sources and shall
4 additionally increase the required percentage for Class I renewable
5 energy sources by one-half of one percent each year until January 1,
6 2012, when four percent of the kilowatt hours sold in this State by
7 each electric power supplier and each basic generation service
8 provider shall be from Class I renewable energy sources.

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

13 (3) that the board establish a multi-year schedule, applicable to
14 each electric power supplier or basic generation service provider in
15 this State, beginning with the one-year period commencing on June
16 1, 2010, and continuing for each subsequent one-year period up to
17 and including, the one-year period commencing on June 1, 2028,
18 that requires the following number or percentage, as the case may
19 be, of kilowatt-hours sold in this State by each electric power
20 supplier and each basic generation service provider to be from solar
21 electric power generators connected to the distribution system in
22 this State:

23 EY 2011	306 Gigawatthours (Gwhrs)
24 EY 2012	442 Gwhrs
25 EY 2013	596 Gwhrs
26 EY 2014	2.050%
27 EY 2015	2.450%
28 EY 2016	2.750%
29 EY 2017	3.000%
30 EY 2018	3.200%
31 EY 2019	3.290%
32 EY 2020	3.380%
33 EY 2021	3.470%
34 EY 2022	3.560%
35 EY 2023	3.650%
36 EY 2024	3.740%
37 EY 2025	3.830%
38 EY 2026	3.920%
39 EY 2027	4.010%

40 EY 2028 4.100%, and for every energy year thereafter, at least
41 4.100% per energy year to reflect an increasing number of kilowatt-
42 hours to be purchased by suppliers or providers from solar electric
43 power generators connected to the distribution system in this State,
44 and to establish a framework within which, of the electricity that the
45 generators sell in this State, suppliers and providers shall each
46 obtain at least 3.470% in the energy year 2021 and 4.100% in the
47 energy year 2028 from solar electric power generators connected to
48 the distribution system in this State, provided, however, that:

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

5 (b) No more than 24 months following the date of enactment of
6 P.L.2012, c.24, the board shall complete a proceeding to investigate
7 approaches to mitigate solar development volatility and prepare and
8 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
9 report to the Legislature, detailing its findings and
10 recommendations. As part of the proceeding, the board shall
11 evaluate other techniques used nationally and internationally;

12 (c) The solar renewable portfolio standards requirements in this
13 paragraph shall exempt those existing supply contracts which are
14 effective prior to the date of enactment of P.L.2012, c.24 from any
15 increase beyond the number of SRECs mandated by the solar
16 renewable portfolio standards requirements that were in effect on
17 the date that the providers executed their existing supply contracts.
18 This limited exemption for providers' existing supply contracts shall
19 not be construed to lower the Statewide solar sourcing requirements
20 set forth in this paragraph. Such incremental requirements that
21 would have otherwise been imposed on exempt providers shall be
22 distributed over the providers not subject to the existing supply
23 contract exemption until such time as existing supply contracts
24 expire and all providers are subject to the new requirement in a
25 manner that is competitively neutral among all providers and
26 suppliers. The board shall implement the provisions of this
27 subsection in a manner so as to prevent any subsidies between
28 suppliers and providers and to promote competition in the
29 electricity supply industry.

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

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

44 The renewable energy portfolio standards adopted by the board
45 pursuant to this paragraph shall be effective as regulations
46 immediately upon filing with the Office of Administrative Law and
47 shall be effective for a period not to exceed 30 months after such
48 filing, and shall, thereafter, be amended, adopted or readopted by

1 the board in accordance with the "Administrative Procedure Act";
2 and

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

10 The percentage established by the board pursuant to this
11 paragraph shall serve as an offset to the renewable energy portfolio
12 standard established pursuant to paragraphs (1) and (2) of this
13 subsection and shall reduce the corresponding Class I renewable
14 energy requirement.

15 The percentage established by the board pursuant to this
16 paragraph shall reflect the projected OREC production of each
17 qualified offshore wind project, approved by the board pursuant to
18 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the
19 commercial operation start date of the qualified offshore wind
20 project which production projection and OREC purchase
21 requirement, once approved by the board, shall not be subject to
22 reduction.

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

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

40 (5) beginning with the energy year commencing after the
41 effective date of P.L. , c. (C.) (pending before the
42 Legislature as this bill), that a minimum percentage of the kilowatt
43 hours sold in this State by each electric power supplier and each
44 basic generation service provider shall be from qualified alternative
45 energy generating facilities. The minimum percentage established
46 by the board pursuant to this paragraph shall be at least one percent
47 during the first energy year in which the alternative energy sourcing
48 requirement is in effect. During the second through sixth energy

1 year that the energy sourcing requirement is in effect, the minimum
2 percentage shall increase annually by at least one half of one
3 percent of the kilowatt hours sold in this State by those suppliers.
4 The minimum percentage shall increase annually thereafter at a rate
5 of at least one quarter of one percent until it reaches five percent.
6 If, for any energy year, the total alternative energy production of all
7 of the qualified alternative energy generating facilities within the
8 State is projected to exceed the minimum percentage established by
9 the board, the board may increase the minimum percentage for that
10 energy year above the minimum set forth in this paragraph.

11 Beginning in the energy year in which the minimum percentage
12 established by the board reaches or exceeds four percent and
13 decennially thereafter, the board shall establish a schedule for the
14 percentage to incrementally increase over the subsequent 10 energy
15 years, except that no incremental increase shall be more than one
16 quarter of one percent. The board may, in its discretion, modify its
17 10 year plan by adjusting the minimum percentage required for an
18 energy year prior to the commencement of that energy year. At no
19 time shall the board establish a percentage that is below the
20 minimum required by this paragraph for that energy year. The
21 board shall base its determination of the appropriate percentage
22 increases on the current capacity of existing qualified alternative
23 energy generating facilities, the goal of 1,500MW of combined
24 heat and power electrical capacity as established in the applicable
25 energy master plan, adopted pursuant to section 12 of P.L.1977,
26 c.146 (C.52:27F-14), for the amount of energy derived from
27 alternative energy generating facilities, the current state and
28 reasonable projected advancement of alternative energy
29 technologies, and the conditions in the energy market and State
30 economy.

31 The percentages established by the board pursuant to this
32 paragraph shall not serve as an offset to the renewable energy
33 portfolio standards established pursuant paragraphs (1) and (2) of
34 this subsection, or as an offset to the solar renewable portfolio
35 standards established in paragraph (3) of this subsection, or as an
36 offset to the offshore wind energy portfolio standards established in
37 paragraph (4) of this subsection.

38 (a) Within 180 days after the date of enactment of P.L. _____, c.
39 (C. _____) (pending before the Legislature as this bill), the board shall
40 establish an alternative energy certificate program under which the
41 board or its designee shall issue to the owner or operator of a
42 qualifying alternative energy generating facility in this State a
43 certificate representing the amount of alternative energy attributed
44 to that facility as determined by the formulas applied by the board
45 under this paragraph.

46 An electric power supplier or basic generation service provider
47 may comply with the alternative energy sourcing requirement
48 established pursuant to this paragraph by purchasing alternative

1 energy certificates through a clearinghouse established, monitored,
2 and tracked by the board or its designee. In the event there are
3 insufficient alternative energy certificates available to allow an
4 electric power supplier or basic generation service provider to meet
5 the alternative energy sourcing requirement for an energy year
6 applicable to that supplier or provider pursuant to this paragraph,
7 the board shall require that electric power supplier or basic
8 generation service provider to make an alternative energy
9 compliance payment to satisfy that energy year's alternative energy
10 sourcing requirement. The board shall set the price of an electric
11 power supplier's or basic generation service provider's alternative
12 energy compliance payment to ensure that the price will be higher
13 than the cost of purchasing the required amount of alternative
14 energy certificates through the clearinghouse. Any alternative
15 energy compliance payment collected by the board may be utilized
16 by the board to award grants to subsidize the cost of installing an
17 alternative energy generating facility at a State, county, or
18 municipal owned facility that the board, in accordance with such
19 procedures as the board shall establish by regulation, shall have
20 certified as being capable of producing a return on investment
21 within four years of operation. Any money collected by the board
22 through an alternative energy compliance payment that is not
23 awarded as a grant shall be proportionally refunded directly to the
24 ratepayers. A project funded partially or wholly by a grant from
25 money collected through alternative energy compliance payments
26 shall be ineligible to receive alternative energy certificates.

27 (b) The board, in consultation with the Department of
28 Environmental Protection, shall establish for all qualifying
29 alternative generating facilities: (i) emission performance standards
30 and fuel conversion standards that are consistent with the State's
31 environmental goals; and (ii) a maximum net carbon dioxide
32 emissions rate not to exceed the average emissions rate of existing
33 natural gas plants in the State, which shall include all emissions
34 related to combustion and fuel processing, whether or not such
35 activities occur at the alternative energy generating facility or at
36 another location and, in the case of combined heat and power, shall
37 also include thermal delivery. At least once every two years, the
38 board shall review and update all standards for alternative energy
39 generating facilities to strengthen them, as appropriate, as
40 technology improvements occur.

41 (c) Only an alternative energy generating facility that
42 commences operation after the date of enactment of P.L. _____, c.
43 (C. _____) (pending before the Legislature as this bill) may be
44 certified as a qualified alternative energy generating facility and
45 eligible to be awarded alternative energy certificates, except that an
46 alternative energy generating facility that was in operation prior to
47 the date of enactment of P.L. _____, c. (C. _____) (pending before the
48 Legislature as this bill may be eligible to be qualified as an

1 alternative energy generating facility if a system enhancement, no
2 part of which involves the introduction of generating equipment not
3 powered by combined heat and power, results in a demonstrable
4 increase in electrical output or reduction in emissions, but the
5 facility owner or operator shall only be awarded alternative energy
6 certificates for the portion of the increase in electrical output that is
7 demonstrably attributable to the system enhancement.

8 (d) The board, in consultation with the Department of
9 Environmental Protection, shall establish a uniform application
10 process for projects that utilize alternative energy generating
11 facilities and are seeking to be awarded alternative energy
12 certificates. The application process established by the board
13 pursuant to this subparagraph shall require the applicant to disclose,
14 at a minimum, all relevant financial information and operational
15 data, including the overall efficiency of the system and its fuel
16 source. The board shall review all applications submitted pursuant
17 to the application process established by the board and certify those
18 meeting the requirements established under subparagraphs (b) and
19 (c) of this paragraph as qualified alternative energy generating
20 facilities within 90 days of the receipt of a completed application.
21 A system certified by the board as a qualified alternative energy
22 generating facility shall remain certified for a maximum period of
23 10 years, at the end of which period it will no longer be eligible to
24 be awarded alternative energy certificates unless a system
25 enhancement results in a demonstrable increase in electrical output
26 or reduction in emissions. If a system enhancement results in a
27 demonstrable increase in electrical output or reduction in emissions,
28 the qualified alternative energy generating facility may be eligible
29 to be awarded alternative energy certificates for the portion of the
30 increase in electrical output that is demonstrably attributable to the
31 system enhancement.

32 (e) The board, in consultation with the Department of
33 Environmental Protection, shall establish efficiency-based formulas
34 for each type of alternative energy generating facility to determine,
35 with respect to such period of time as the board shall designate, the
36 amount of alternative energy certificates that the owner or operator
37 of a qualified alternative energy generating facility will be credited.
38 The period designated shall be no longer than one energy year, and
39 the determination shall be made within 30 days of the board's
40 receipt of a completed application from the owner or operator of the
41 facility.

42 (i) For a qualified alternative energy generating facility that did
43 not produce either electrical energy or useful thermal energy prior
44 to the effective date of P.L. _____, c. (C. _____) (pending before the
45 Legislature as this bill), the board shall utilize the following
46 formula to award alternative energy certificates based upon the
47 system's efficiency: $EE / .33 + UTE / .80 - FE$, where "EE" means
48 the electrical energy generated by the system expressed in MWh;

1 “.33” represents an adjustment of EE to reflect the overall
2 efficiency (33 percent) characteristic of the delivery of electrical
3 energy to end users from the electrical grid; “UTE” means the
4 useful thermal energy generated by the system expressed in MWh;
5 “.80” represents an adjustment of UTE to reflect the overall
6 efficiency (80 percent) characteristic of delivery of useful thermal
7 energy to end users from a standalone heating unit; and “FE” means
8 the total of the energy content of all fuel plus any other energy
9 consumed by the qualified alternative energy generating facility in
10 the period expressed in MWh and calculated based on its higher
11 heating value.

12 (ii) For a qualified alternative energy generating facility that
13 produced either or both electrical and useful thermal energy prior to
14 the date of enactment of P.L. _____, c. _____ (C. _____) (pending before the
15 Legislature as this bill) and added either or both incremental useful
16 thermal energy or incremental electrical energy after such date, the
17 board shall utilize the following formula to award alternative
18 energy certificates based upon the efficiency of the system’s
19 generation of either or both the incremental use thermal energy or
20 incremental electrical energy: $IEE / .33 + IUTE / .80 - IFE$, where
21 “IEE” means the incremental electrical energy generated by the
22 system expressed in MWh; “.33” represents an adjustment of EE to
23 reflect the overall efficiency (33 percent) characteristic of the
24 delivery of electrical energy to end users from the electrical grid;
25 “IUTE” means the incremental useful thermal energy generated by
26 the system expressed in MWh; “.80” represents an adjustment of
27 UTE to reflect the overall efficiency (80 percent) characteristic of
28 delivery of useful thermal energy to end users from a standalone
29 heating unit; and “IFE” means the total of the energy content of all
30 incremental fuel plus any other incremental energy consumed by
31 the combined heat and power facility in the period expressed in
32 MWh and calculated based on its higher heating value.

33 (f) The board shall establish criteria for fixing of rates
34 associated with the assessment and imposition of standby charges
35 upon owners or operators of qualified alternative energy generating
36 facilities, and shall require electric power suppliers and basic
37 generation service providers to file tariff rates with the board in
38 accordance with such criteria. In establishing such criteria, the
39 board shall ensure equality between the owners or operators of
40 qualified alternative energy generating facilities and other
41 customers with regard to the imposition of standby charges and, in
42 addition to any other factors it deems relevant and such factors it
43 may consider pursuant to R.S.48:2-21: (i) the actual risk that an
44 alternative energy generating facility will require standby electric
45 service; and (ii) the economic and environmental benefits
46 associated with that qualified alternative energy generating facility.

47 (g) The rules established by the board pursuant to this paragraph
48 shall be effective as regulations immediately upon filing with the

1 Office of Administrative Law and shall be effective for a period not
2 to exceed 18 months and may, thereafter, be amended, adopted, or
3 readopted by the board in accordance with the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.).

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

11 (1) net metering standards for electric power suppliers and basic
12 generation service providers. The standards shall require electric
13 power suppliers and basic generation service providers to offer net
14 metering at non-discriminatory rates to industrial, large
15 commercial, residential and small commercial customers, as those
16 customers are classified or defined by the board, that generate
17 electricity, on the customer's side of the meter, using a Class I
18 renewable energy source or fuel cells using non-combustible
19 chemical reactions, for the net amount of electricity supplied by the
20 electric power supplier or basic generation service provider over an
21 annualized period. Systems of any sized capacity, as measured in
22 watts, are eligible for net metering. If the amount of electricity
23 generated by the customer-generator, plus any kilowatt hour credits
24 held over from the previous billing periods, exceeds the electricity
25 supplied by the electric power supplier or basic generation service
26 provider, then the electric power supplier or basic generation
27 service provider, as the case may be, shall credit the customer-
28 generator for the excess kilowatt hours until the end of the
29 annualized period at which point the customer-generator will be
30 compensated for any remaining credits or, if the customer-generator
31 chooses, credit the customer-generator on a real-time basis, at the
32 electric power supplier's or basic generation service provider's
33 avoided cost of wholesale power or the PJM electric power pool's
34 real-time locational marginal pricing rate, adjusted for losses, for
35 the respective zone in the PJM electric power pool. Alternatively,
36 the customer-generator may execute a bilateral agreement with an
37 electric power supplier or basic generation service provider for the
38 sale and purchase of the customer-generator's excess generation.
39 The customer-generator may be credited on a real-time basis, so
40 long as the customer-generator follows applicable rules prescribed
41 by the PJM electric power pool for its capacity requirements for the
42 net amount of electricity supplied by the electric power supplier or
43 basic generation service provider. The board may authorize an
44 electric power supplier or basic generation service provider to cease
45 offering net metering whenever the total rated generating capacity
46 owned and operated by net metering customer-generators Statewide
47 equals 2.5 percent of the State's peak electricity demand;

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

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

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

16 (4) net metering aggregation standards to require electric public
17 utilities to provide net metering aggregation to single electric public
18 utility customers that operate a solar electric power generation
19 system installed at one of the customer's facilities or on property
20 owned by the customer, provided that any such customer is a State
21 entity, school district, county, county agency, county authority,
22 municipality, municipal agency, or municipal authority. The
23 standards shall provide that, in order to qualify for net metering
24 aggregation, the customer must operate a solar electric power
25 generation system using a net metering billing account, which
26 system is located on property owned by the customer, provided that:
27 (a) the property is not land that has been actively devoted to
28 agricultural or horticultural use and that is valued, assessed, and
29 taxed pursuant to the "Farmland Assessment Act of 1964,"
30 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
31 period prior to the effective date of P.L.2012, c.24, provided,
32 however, that the municipal planning board of a municipality in
33 which a solar electric power generation system is located may
34 waive the requirement of this subparagraph (a), (b) the system is not
35 an on-site generation facility, (c) all of the facilities of the single
36 customer combined for the purpose of net metering aggregation are
37 facilities owned or operated by the single customer and are located
38 within its territorial jurisdiction except that all of the facilities of a
39 State entity engaged in net metering aggregation shall be located
40 within five miles of one another, and (d) all of those facilities are
41 within the service territory of a single electric public utility and are
42 all served by the same basic generation service provider or by the
43 same electric power supplier. The standards shall provide that in
44 order to qualify for net metering aggregation, the customer's solar
45 electric power generation system shall be sized so that its annual
46 generation does not exceed the combined metered annual energy
47 usage of the qualified customer facilities, and the qualified
48 customer facilities shall all be in the same customer rate class under

1 the applicable electric public utility tariff. For the customer's
2 facility or property on which the solar electric generation system is
3 installed, the electricity generated from the customer's solar electric
4 generation system shall be accounted for pursuant to the provisions
5 of paragraph (1) of this subsection to provide that the electricity
6 generated in excess of the electricity supplied by the electric power
7 supplier or the basic generation service provider, as the case may
8 be, for the customer's facility on which the solar electric generation
9 system is installed, over the annualized period, is credited at the
10 electric power supplier's or the basic generation service provider's
11 avoided cost of wholesale power or the PJM electric power pool
12 real-time locational marginal pricing rate. All electricity used by
13 the customer's qualified facilities, with the exception of the facility
14 or property on which the solar electric power generation system is
15 installed, shall be billed at the full retail rate pursuant to the electric
16 public utility tariff applicable to the customer class of the customer
17 using the electricity. A customer may contract with a third party to
18 operate a solar electric power generation system, for the purpose of
19 net metering aggregation. Any contractual relationship entered into
20 for operation of a solar electric power generation system related to
21 net metering aggregation shall include contractual protections that
22 provide for adequate performance and provision for construction
23 and operation for the term of the contract, including any appropriate
24 bonding or escrow requirements. Any incremental cost to an
25 electric public utility for net metering aggregation shall be fully and
26 timely recovered in a manner to be determined by the board. The
27 board shall adopt net metering aggregation standards within 270
28 days after the effective date of P.L.2012, c.24.

29 Such rules shall require the board or its designee to issue a credit
30 or other incentive to those generators that do not use a net meter but
31 otherwise generate electricity derived from a Class I renewable
32 energy source and to issue an enhanced credit or other incentive,
33 including, but not limited to, a solar renewable energy credit, to
34 those generators that generate electricity derived from solar
35 technologies.

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

42 f. The board may assess, by written order and after notice and
43 opportunity for comment, a separate fee to cover the cost of
44 implementing and overseeing an emission disclosure system or
45 emission portfolio standard, which fee shall be assessed based on an
46 electric power supplier's or basic generation service provider's share
47 of the retail electricity supply market. The board shall not impose a
48 fee for the cost of implementing and overseeing a greenhouse gas

1 emissions portfolio standard adopted pursuant to paragraph (2) of
2 subsection c. of this section, the electric energy efficiency portfolio
3 standard adopted pursuant to subsection g. of this section, or the gas
4 energy efficiency portfolio standard adopted pursuant to subsection
5 h. of this section.

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

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

26 i. After the board establishes a schedule of solar kilowatt-hour
27 sale or purchase requirements pursuant to paragraph (3) of
28 subsection d. of this section, the board may initiate subsequent
29 proceedings and adopt, after appropriate notice and opportunity for
30 public comment and public hearing, increased minimum solar
31 kilowatt-hour sale or purchase requirements, provided that the
32 board shall not reduce previously established minimum solar
33 kilowatt-hour sale or purchase requirements, or otherwise impose
34 constraints that reduce the requirements by any means.

35 j. The board shall determine an appropriate level of solar
36 alternative compliance payment, and permit each supplier or
37 provider to submit an SACP to comply with the solar electric
38 generation requirements of paragraph (3) of subsection d. of this
39 section. The value of the SACP for each Energy Year, for Energy
40 Years 2014 through 2028 per megawatt hour from solar electric
41 generation required pursuant to this section, shall be:

42	EY 2014	\$339
43	EY 2015	\$331
44	EY 2016	\$323
45	EY 2017	\$315
46	EY 2018	\$308
47	EY 2019	\$300
48	EY 2020	\$293

1	EY 2021	\$286
2	EY 2022	\$279
3	EY 2023	\$272
4	EY 2024	\$266
5	EY 2025	\$260
6	EY 2026	\$253
7	EY 2027	\$250
8	EY 2028	\$239.

9 The board may initiate subsequent proceedings and adopt, after
10 appropriate notice and opportunity for public comment and public
11 hearing, an increase in solar alternative compliance payments,
12 provided that the board shall not reduce previously established
13 levels of solar alternative compliance payments, nor shall the board
14 provide relief from the obligation of payment of the SACP by the
15 electric power suppliers or basic generation service providers in any
16 form. Any SACP payments collected shall be refunded directly to
17 the ratepayers by the electric public utilities.

18 k. The board may allow electric public utilities to offer long-
19 term contracts through a competitive process, direct electric public
20 utility investment and other means of financing, including but not
21 limited to loans, for the purchase of SRECs and the resale of SRECs
22 to suppliers or providers or others, provided that after such
23 contracts have been approved by the board, the board's approvals
24 shall not be modified by subsequent board orders. If the board
25 allows the offering of contracts pursuant to this subsection, the
26 board may establish a process, after hearing, and opportunity for
27 public comment, to provide that a designated segment of the
28 contracts approved pursuant to this subsection shall be contracts
29 involving solar electric power generation facility projects with a
30 capacity of up to 250 kilowatts.

31 1. The board shall implement its responsibilities under the
32 provisions of this section in such a manner as to:

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

36 (2) maintain adequate regulatory authority over non-competitive
37 public utility services;

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

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

43 (5) make energy services more affordable for low and moderate
44 income customers;

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

1 (7) achieve the goals put forth under the renewable energy
2 portfolio standards;

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

4 (9) allow all market segments to participate.

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

12 n. For projects which are owned, or directly invested in, by a
13 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
14 98.1), the board shall determine the number of SRECs with which
15 such projects shall be credited; and in determining such number the
16 board shall ensure that the market for SRECs does not detrimentally
17 affect the development of non-utility solar projects and shall
18 consider how its determination may impact the ratepayers.

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

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

29 (2) reductions in peak demand for electricity and natural gas,
30 and the overall impact on the costs to customers of electricity and
31 natural gas;

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

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

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

42 q. (1) During the energy years of 2014, 2015, and 2016, a solar
43 electric power generation facility project that is not: (a) net
44 metered; (b) an on-site generation facility; (c) qualified for net
45 metering aggregation; or (d) certified as being located on a
46 brownfield, on an area of historic fill or on a properly closed
47 sanitary landfill facility, as provided pursuant to subsection t. of this
48 section may file an application with the board for approval of a

1 designation pursuant to this subsection that the facility is connected
2 to the distribution system. An application filed pursuant to this
3 subsection shall include a notice escrow of \$40,000 per megawatt of
4 the proposed capacity of the facility. The board shall approve the
5 designation if: the facility has filed a notice in writing with the
6 board applying for designation pursuant to this subsection, together
7 with the notice escrow; and the capacity of the facility, when added
8 to the capacity of other facilities that have been previously
9 approved for designation prior to the facility's filing under this
10 subsection, does not exceed 80 megawatts in the aggregate for each
11 year. The capacity of any one solar electric power supply project
12 approved pursuant to this subsection shall not exceed 10 megawatts.
13 No more than 90 days after its receipt of a completed application
14 for designation pursuant to this subsection, the board shall approve,
15 conditionally approve, or disapprove the application. The notice
16 escrow shall be reimbursed to the facility in full upon either
17 rejection by the board or the facility entering commercial operation,
18 or shall be forfeited to the State if the facility is designated pursuant
19 to this subsection but does not enter commercial operation pursuant
20 to paragraph (2) of this subsection.

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

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

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

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

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

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

9 (d) there will be no impingement on the ability of an electric
10 public utility to maintain its property and equipment in such a
11 condition as to enable it to provide safe, adequate, and proper
12 service to each of its customers.

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

24 s. In addition to any other requirements of P.L.1999, c.23 or
25 any other law, rule, regulation or order, a solar electric power
26 generation facility that is not net metered or an on-site generation
27 facility and which is located on land that has been actively devoted
28 to agricultural or horticultural use that is valued, assessed, and
29 taxed pursuant to the "Farmland Assessment Act of 1964,"
30 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
31 period prior to the effective date of P.L.2012, c.24, shall only be
32 considered "connected to the distribution system" if (1) the board
33 approves the facility's designation pursuant to subsection q. of this
34 section; or (2) (a) PJM issued a System Impact Study for the facility
35 on or before June 30, 2011, (b) the facility files a notice with the
36 board within 60 days of the effective date of P.L.2012, c.24,
37 indicating its intent to qualify under this subsection, and (c) the
38 facility has been approved as "connected to the distribution system"
39 by the board. Nothing in this subsection shall limit the board's
40 authority concerning the review and oversight of facilities, unless
41 such facilities are exempt from such review as a result of having
42 been approved pursuant to subsection q. of this section.

43 t. (1) No more than 180 days after the date of enactment of
44 P.L.2012, c.24, the board shall, in consultation with the Department
45 of Environmental Protection and the New Jersey Economic
46 Development Authority, and, after notice and opportunity for public
47 comment and public hearing, complete a proceeding to establish a
48 program to provide SRECs to owners of solar electric power

1 generation facility projects certified by the board, in consultation
2 with the Department of Environmental Protection, as being located
3 on a brownfield, on an area of historic fill or on a properly closed
4 sanitary landfill facility, including those owned or operated by an
5 electric public utility and approved pursuant to section 13 of
6 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
7 subsection shall be considered "connected to the distribution
8 system", shall not require such designation by the board, and shall
9 not be subject to board review required pursuant to subsections q.
10 and r. of this section. Notwithstanding the provisions of section 3
11 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
12 order to the contrary, for projects certified under this subsection, the
13 board shall establish a financial incentive that is designed to
14 supplement the SRECs generated by the facility in order to cover
15 the additional cost of constructing and operating a solar electric
16 power generation facility on a brownfield, on an area of historic fill
17 or on a properly closed sanitary landfill facility. Any financial
18 benefit realized in relation to a project owned or operated by an
19 electric public utility and approved by the board pursuant to section
20 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
21 financial incentive established by the board pursuant to this
22 subsection, shall be credited to ratepayers. The issuance of SRECs
23 for all solar electric power generation facility projects pursuant to
24 this subsection shall be deemed "Board of Public Utilities financial
25 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
26 29.47).

27 (2) Notwithstanding the provisions of the "Spill Compensation
28 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
29 other law, rule, regulation, or order to the contrary, the board, in
30 consultation with the Department of Environmental Protection, may
31 find that a person who operates a solar electric power generation
32 facility project that has commenced operation on or after the
33 effective date of P.L.2012, c.24, which project is certified by the
34 board, in consultation with the Department of Environmental
35 Protection pursuant to paragraph (1) of this subsection, as being
36 located on a brownfield for which a final remediation document has
37 been issued, on an area of historic fill or on a properly closed
38 sanitary landfill facility, which projects shall include, but not be
39 limited to projects located on a brownfield for which a final
40 remediation document has been issued, on an area of historic fill or
41 on a properly closed sanitary landfill facility owned or operated by
42 an electric public utility and approved pursuant to section 13 of
43 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
44 acquired on or after the effective date of P.L.2012, c.24 on which
45 such a solar electric power generation facility project is constructed
46 and operated, shall not be liable for cleanup and removal costs to
47 the Department of Environmental Protection or to any other person
48 for the discharge of a hazardous substance provided that:

- 1 (a) the person acquired or leased the real property after the
2 discharge of that hazardous substance at the real property;
- 3 (b) the person did not discharge the hazardous substance, is not
4 in any way responsible for the hazardous substance, and is not a
5 successor to the discharger or to any person in any way responsible
6 for the hazardous substance or to anyone liable for cleanup and
7 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
8 23.11g);
- 9 (c) the person, within 30 days after acquisition of the property,
10 gave notice of the discharge to the Department of Environmental
11 Protection in a manner the Department of Environmental Protection
12 prescribes;
- 13 (d) the person does not disrupt or change, without prior written
14 permission from the Department of Environmental Protection, any
15 engineering or institutional control that is part of a remedial action
16 for the contaminated site or any landfill closure or post-closure
17 requirement;
- 18 (e) the person does not exacerbate the contamination at the
19 property;
- 20 (f) the person does not interfere with any necessary remediation
21 of the property;
- 22 (g) the person complies with any regulations and any permit the
23 Department of Environmental Protection issues pursuant to section
24 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
25 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);
- 26 (h) with respect to an area of historic fill, the person has
27 demonstrated pursuant to a preliminary assessment and site
28 investigation, that hazardous substances have not been discharged;
29 and
- 30 (i) with respect to a properly closed sanitary landfill facility, no
31 person who owns or controls the facility receives, has received, or
32 will receive, with respect to such facility, any funds from any post-
33 closure escrow account established pursuant to section 10 of
34 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
35 the facility.
- 36 Only the person who is liable to clean up and remove the
37 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
38 23.11g) and who does not have a defense to liability pursuant to
39 subsection d. of that section shall be liable for cleanup and removal
40 costs.
- 41 u. No more than 180 days after the date of enactment of
42 P.L.2012, c.24, the board shall complete a proceeding to establish a
43 registration program. The registration program shall require the
44 owners of solar electric power generation facility projects
45 connected to the distribution system to make periodic milestone
46 filings with the board in a manner and at such times as determined
47 by the board to provide full disclosure and transparency regarding

1 the overall level of development and construction activity of those
2 projects Statewide.

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

9 w. No more than 270 days after the date of enactment of
10 P.L.2012, c.24, the board shall, after notice and opportunity for
11 public comment and public hearing, complete a proceeding to
12 consider whether to establish a program to provide, to owners of
13 solar electric power generation facility projects certified by the
14 board as being three megawatts or greater in capacity and being net
15 metered, including facilities which are owned or operated by an
16 electric public utility and approved by the board pursuant to section
17 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
18 designed to supplement the SRECs generated by the facility to
19 further the goal of improving the economic competitiveness of
20 commercial and industrial customers taking power from such
21 projects. If the board determines to establish such a program
22 pursuant to this subsection, the board may establish a financial
23 incentive to provide that the board shall issue one SREC for no less
24 than every 750 kilowatt-hours of solar energy generated by the
25 certified projects. Any financial benefit realized in relation to a
26 project owned or operated by an electric public utility and approved
27 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
28 98.1), as a result of the provisions of a financial incentive
29 established by the board pursuant to this subsection, shall be
30 credited to ratepayers.

31 x. Solar electric power generation facility projects that are
32 located on an existing or proposed commercial, retail, industrial,
33 municipal, professional, recreational, transit, commuter,
34 entertainment complex, multi-use, or mixed-use parking lot with a
35 capacity to park 350 or more vehicles where the area to be utilized
36 for the facility is paved, or an impervious surface may be owned or
37 operated by an electric public utility and may be approved by the
38 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
39 (cf: P.L.2012, c.24, s.2)

40
41 4. (New section) a. An entity seeking to construct a qualified
42 alternative energy generating facility eligible to receive AECs under
43 the program established pursuant to paragraph (5) of subsection d.
44 of P.L.1999, c.23 (C.48:3-87) shall submit an application to the
45 board for approval by the board as a qualified alternative energy
46 generating facility project, which application shall include, but not
47 be limited to, the following information:

- 1 (1) a detailed description of the project. This description shall
2 include, but not be limited to, the type, size, anticipated thermal
3 efficiency, and other relevant data as required by the board;
- 4 (2) a complete financial analysis of the project, and the federal
5 tax benefits that may be associated with the project;
- 6 (3) the proposed method of financing the project, including
7 identification of equity investors, fixed income investors, and any
8 other sources of capital;
- 9 (4) documentation that the entity has applied for all eligible
10 federal funds and programs available to offset the cost of the project
11 or provide tax advantages;
- 12 (5) the projected electrical output and anticipated revenues from
13 the sale of any AECs, RECs, air emission credits or offsets, or any
14 tradable environmental attributes created by the project;
- 15 (6) an operations and maintenance plan for the initial 20-year
16 operation of the project that:
 - 17 (a) details routine, intermittent, and emergency protocols; and
 - 18 (b) identifies the primary weather-related risks to the built
19 infrastructure and how the potential risks shall be mitigated;
- 20 (7) the anticipated carbon dioxide emissions' impact of the
21 project;
- 22 (8) a list of all State and federal regulatory agency approvals,
23 permits, or other authorizations required pursuant to State and
24 federal law for the qualified alternative energy generating facility
25 project, and copies of all submitted permit applications and any
26 issued approvals and permits for the qualified alternative energy
27 generating facility project;
- 28 (9) a cost-benefit analysis for the project including at a
29 minimum:
 - 30 (a) a detailed input-output analysis of the impact of the project
31 on income, employment, wages, indirect business taxes, and output
32 in the State with particular emphasis on in-State manufacturing
33 employment;
 - 34 (b) an explanation of the location, type, and salary of
35 employment opportunities to be created by the project with job
36 totals expressed as full-time equivalent positions assuming at least
37 1,820 hours worked per position per year;
 - 38 (c) an analysis of the anticipated environmental benefits and
39 environmental impacts of the project;
 - 40 (d) an analysis of the potential impacts on residential and
41 industrial ratepayers of retail electricity service rates over the life of
42 the project that may be caused by incorporating any State subsidy
43 into such rates; and
 - 44 (e) an analysis of the overall potential economic impact to the
45 State and community if a storm-related emergency were to shutter
46 the facility due to an extended electric grid supply outage;
- 47 (10) a timeline for the permitting, licensing, and construction of
48 the proposed qualified alternative energy generating facility project;

1 (11) a plan for interconnection, including engineering
2 specifications and costs; and

3 (12) any other information deemed necessary by the board in
4 order to conduct a thorough evaluation of the proposal. The board
5 may hire consultants or other experts if the board determines that
6 obtaining such outside expertise would be beneficial to the review
7 of the proposal.

8 b. (1) In considering approval of an application for a qualified
9 alternative energy generating facility project, submitted pursuant to
10 subsection a. of this section, the board shall determine whether the
11 application satisfies the following conditions:

12 (a) the filing is consistent with the energy master plan, adopted
13 pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), in effect at
14 the time the board is considering the application;

15 (b) the cost-benefit analysis, submitted pursuant to paragraph
16 (9) of subsection a. of this section, demonstrates positive economic
17 and environmental net benefits to the State;

18 (c) the financing mechanism is based upon the actual electrical
19 output of the project, fairly balances the risks and rewards of the
20 project between ratepayers and shareholders, and ensures that any
21 costs of non-performance, in either the construction or operational
22 phase of the project, shall be borne by shareholders; and

23 (d) the entity proposing the project demonstrates financial
24 integrity and sufficient access to capital to allow for a reasonable
25 expectation of completion of construction of the project.

26 (2) In considering approval of an application for a qualified
27 alternative energy generating facility project submitted pursuant to
28 subsection a. of this section, the board shall also consider:

29 (a) the total level of subsidies to be paid by ratepayers for
30 qualified alternative energy generating facility projects over the life
31 of the projects; and

32 (b) any other elements the board deems appropriate in
33 conjunction with the application.

34 c. An order issued by the board to approve an application for a
35 qualified alternative energy generating facility project pursuant to
36 this section shall, at a minimum, include conditions to ensure the
37 following:

38 (1) that no AEC shall be paid until electricity is produced by the
39 qualified alternative energy generating facility;

40 (2) that AECs shall be paid on the actual electrical output of the
41 project; and

42 (3) the applicant will reimburse the board and the State for all
43 reasonable costs incurred for regulatory review of the project,
44 including, but not limited to, consulting services, oversight,
45 inspections, and audits. An order issued by the board pursuant to
46 this subsection shall specify the value of the AEC and the term of
47 the order.

1 An order issued by the board pursuant to this subsection shall not be
2 modified by subsequent board orders, unless the modifications are
3 jointly agreed to by the board and the facility owner.

4 d. The board shall review and approve, conditionally approve,
5 or deny an application submitted pursuant to this section within 90
6 days after the date a complete application is submitted to the board.

7
8 5. (New section) Within 180 days after the date of enactment of
9 P.L. , c. (pending before the Legislature as this bill), the
10 board shall, in consultation with the Department of Environmental
11 Protection, the Department of Community Affairs, and the New
12 Jersey Economic Development Authority, and, after notice and
13 opportunity for public comment and public hearing, complete a
14 proceeding to establish a program to financially support the
15 replacement of diesel backup generation for identified critical assets
16 with natural gas fired high duty cycle standby generation for
17 identified critical facilities that do not possess the thermal load
18 necessary to economically support a combined heat and power
19 installation.

20

21 6. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill establishes an alternative energy portfolio standard and
27 certificate program. The program incentivizes the development of
28 combined heat and power facilities and facilities utilizing fuel cell
29 technology and allows qualifying facilities to receive alternative
30 energy credits (AECs).

31 The bill directs the New Jersey Board of Public Utilities (BPU)
32 to establish a targeted energy portfolio standard requirement and
33 certificate program to assist in the creation of 1500 MW of new
34 combined heat and power generation facility projects targeted to
35 New Jersey's critical institutional assets and commercial projects
36 that meets the specific requirements set forth in a net positive
37 benefits test.

38 The bill requires entities seeking to obtain BPU approval to
39 receive AECs under the program, to provide certain information
40 during application including: (1) a detailed description of the
41 project; (2) a complete financial analysis of the project, and the
42 federal tax benefits that may be associated with the project; (3) the
43 proposed method of financing; (4) documentation that the entity has
44 applied for all eligible federal funds; (5) the projected electrical
45 output and anticipated revenues from the sale the sale of any AECs,
46 renewable energy certificates, air emission credits or offsets, or any
47 tradable environmental attributes created by the project; (6) an
48 operations and maintenance plan for the initial 20-year operation of

1 the project; (7) the anticipated carbon dioxide emissions impact of
2 the project; (8) a list of all State and federal regulatory agency
3 approvals, permits, or other authorizations applicable to the project;
4 (9) a cost-benefit analysis for the project; (10) a timeline for the
5 permitting, licensing, and construction of the proposed combined
6 heat and power project; (11) a plan for interconnection, including
7 engineering specifications and costs; and (12) any other information
8 deemed necessary by the BPU in order to conduct a thorough
9 evaluation of the proposal.

10 In considering an application, the BPU shall determine that the
11 application satisfies the following conditions:

12 (a) the filing is consistent with the New Jersey Energy Master
13 Plan, in effect at the time the BPU is considering the application;

14 (b) the cost-benefit analysis demonstrates positive economic and
15 environmental net benefits to the State;

16 (c) the financing mechanism is based upon the actual electrical
17 output of the project, fairly balances the risks and rewards of the
18 project between ratepayers and shareholders, and ensures that any
19 costs of non-performance, in either the construction or operational
20 phase of the project, shall be borne by shareholders; and

21 (d) the entity proposing the project demonstrates financial
22 integrity and sufficient access to capital to allow for a reasonable
23 expectation of completion of construction of the project.

24 The BPU shall also take into consideration:

25 (a) the total level of subsidies to be paid by ratepayers for
26 qualified combined heat and power projects over the life of the
27 projects; and

28 (b) any other elements the BPU deems appropriate in conjunction
29 with the application.

30 The bill requires that an order issued by the BPU to approve an
31 application for a qualified combined heat and power facility project
32 must require the project to include the following: (1) no AEC shall
33 be paid until electricity is produced by the project; (2) AECs shall
34 be paid on the actual electrical output of the project; (3) the
35 applicant will reimburse the BPU and the State for all reasonable
36 costs incurred for regulatory review of the project.

37 The bill directs the BPU to establish regulations directing each
38 electric power supplier and each basic generation service provider
39 to obtain a percentage of the kilowatt hours sold in this State from
40 qualified alternative energy generating facilities. The electric power
41 suppliers and basic generation service providers may comply with
42 this sourcing requirement through the purchase of alternative
43 energy certificates. The bill sets forth a schedule for increasing the
44 minimum percentage of kilowatt hours sold in this State that must
45 come from qualified alternative energy generating sources but
46 provides the BPU with discretion to require a greater percentage
47 than called for in the bill. Under the bill's requirements, the
48 minimum percentage must reach five percent by the 12th year of the

1 program. Once that required percentage is satisfied, BPU has sole
2 discretion over any additional increases.

3 The bill requires the BPU to establish a clearinghouse for the
4 purchase of alternative energy certificates. If at any point there is an
5 insufficient number of alternative energy certificates to satisfy the
6 required percentage for all electric power suppliers and basic
7 generation service providers, the BPU is required to establish an
8 alternative energy compliance payment. Funds collected by the
9 BPU through the alternative energy compliance payment may be
10 utilized as grants to install alternative energy generating facilities at
11 State, county, or municipal facilities that demonstrate a return on
12 investment within five years; otherwise the funds must be
13 proportionally refunded to ratepayers.

14 The bill directs the BPU to establish an application process for
15 alternative energy generating facilities to become certified for the
16 receipt of alternative energy certificates. The bill requires the BPU
17 to make a determination on those applications within 90 days. It
18 authorizes those certified as qualified alternative energy generating
19 facilities to receive alternative energy certificates for 10 years. The
20 amount of certificates to be awarded is based upon formulas that
21 reward system efficiency.

22 The bill directs the BPU, in consultation with the DEP, EDA,
23 and DCA, to establish a program to financially support replacement
24 of certain diesel backup generators for identified critical assets with
25 natural gas high duty cycle standby generation.

26 Finally, the bill authorizes the BPU to regulate the standby
27 charges charged by electric power suppliers and basic generation
28 service providers.