

[Second Reprint]

SENATE, No. 2276

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MAY 23, 2016

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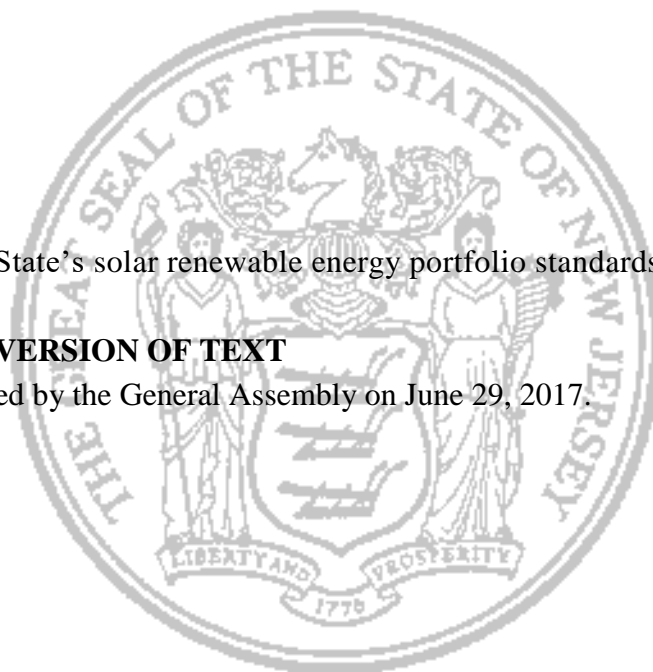
Senator Greenstein, Assemblymen Zwicker, Mukherji, Assemblywoman Pinkin, Assemblymen Gusciora, Benson, Assemblywomen Pintor Marin and Lampitt

SYNOPSIS

Modifies State's solar renewable energy portfolio standards.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 29, 2017.



(Sponsorship Updated As Of: 12/8/2017)

1 AN ACT concerning solar energy generation, ²[establishing the New
2 Jersey Solar Energy Study Commission,]² and amending
3 P.L.1999, c.23.

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

7
8 ²[1. (New section) The Legislature finds and declares that:

9 a. Congress and the President, through enactment of the 2016
10 omnibus spending bill, extended the federal solar investment tax
11 credit and bonus depreciation through 2021;

12 b. New Jersey's current statutory solar renewable energy
13 portfolio standards will likely result in the loss of more than 120
14 megawatts of solar energy per year through 2021 if left unsupported
15 by the necessary complement of an accelerated State renewable
16 energy portfolio policy;

17 c. The lost construction will result in over \$240 million per
18 year in lost solar renewable energy projects in the State,
19 representing 5,000 lost clean energy jobs annually;

20 d. New Jersey's solar renewable energy development
21 employers would lose the ability to leverage approximately \$79
22 million annually in approved federal tax credits, and bonus
23 depreciation expenses of about \$41 million in the first year of
24 project development;

25 e. New Jersey's current statutory solar renewable energy
26 portfolio standards are insufficient to allow the State to capitalize
27 upon this newly extended federal tax incentive and to realize the
28 economic development and the creation of green jobs intended by
29 the federal program;

30 f. Accelerating the current statutory solar renewable energy
31 portfolio standard to match the federal program through 2021 will
32 maximize the job creation program benefits without increasing
33 consumer support above current expectation;

34 g. A failure to act to align New Jersey's solar energy program
35 with the federal solar investment tax credit extension will result in
36 New Jersey not realizing its fair share of the job growth and
37 economic development intended by the extension;

38 h. The next four years would then give the State the
39 opportunity to study the rapid pace of change in the solar energy
40 industry and to thoughtfully create public policies that meaningfully
41 and sustainably balance the environmental, economic, and equity
42 interests for all New Jersey stakeholders;

43 i. The dimensions of these same debates exist in many other
44 states across the nation, each seeking similar public policy solutions

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted June 6, 2016.

²Assembly floor amendments adopted June 29, 2017.

1 that will endure and create the market signals necessary to sustain
2 both public and private investment in renewable solar energy;

3 j. New Jersey's policy interests are best served by carefully
4 evaluating all of the options available as well as the successes and
5 failures of policies adopted by other states; and

6 k. New Jersey possesses a deep field of environmental,
7 technical, economic, and public policy human resources to draw
8 upon to create these new public policies;

9 l. It is therefore appropriate and necessary to accelerate the
10 State's current statutory solar renewable energy portfolio standards
11 to match the federal program through 2021, and create a
12 commission to study the solar energy industry and make
13 recommendations to the Governor and the Legislature regarding
14 future changes in solar energy policy.¹²

15

16 ²[2. (New section) a. There is established the "New Jersey Solar
17 Energy Study Commission." The commission shall consist of
18 ¹[23] 25¹ members as follows: the President of the Board of
19 Public Utilities, the Commissioner of Environmental Protection,
20 and the Director of the Division of Rate Counsel in but not of the
21 Department of the Treasury, each of whom shall serve ex officio, or
22 their designees; a representative of the Clean Energy Program
23 appointed by the President of the Board of Public Utilities; one
24 member of the Senate appointed by the President of the Senate; one
25 public member appointed by the President of the Senate; one
26 member of the Senate appointed by the Minority Leader of the
27 Senate; one member of the General Assembly appointed by the
28 Speaker of the General Assembly; one public member appointed by
29 the Speaker of the General Assembly; one member of the General
30 Assembly appointed by the Minority Leader of the General
31 Assembly; and ¹[13] 15¹ public members, appointed by the
32 Governor, including one member from each of the four electric
33 public utilities serving New Jersey, two members representing the
34 interests of ratepayers.¹ one member representing the interests of
35 environmental conservation with expertise in energy, one member
36 representing the interests of residential solar energy development,
37 one member representing the interests of grid-connected solar
38 energy development with existing investment in New Jersey, one
39 member representing the interests of roof and ground mounted
40 commercial and industrial solar energy development of at least one
41 megawatt with existing investment in New Jersey, one member
42 representing the interests of roof and ground mounted commercial
43 and industrial solar energy development of under one megawatt
44 with existing investment in New Jersey, one member of the energy
45 storage community, one member of the academic community with
46 expertise in solar energy, one member of the business community
47 with expertise in solar energy representing large industrial and

1 commercial users, and one member representing the interests of the
2 Retail Electric Supply Association.

3 b. All appointments to the commission shall be made within 30
4 days after the date of enactment of this act. Vacancies in the
5 membership of the commission shall be filled in the same manner
6 as the original appointments were made. Members of the
7 commission shall serve without compensation, but there shall be
8 appropriated annually from the revenue collected from the societal
9 benefit charge established pursuant to section 12 of P.L.1999, c.23
10 (C.48:3-60) amounts necessary to cover the members' actual and
11 necessary expenses incurred in the performance of their duties, the
12 creation of a full record of the public hearings held pursuant to
13 subsection e. of this section, and the preparation of the reports
14 issued pursuant to subsection f. of this section.

15 c. The commission shall organize within 30 days after the
16 appointment of its members and shall select a chairperson from
17 among its members. The chairperson shall appoint a secretary who
18 need not be a member of the commission. Staff and related support
19 services shall be provided to the commission by the Board of Public
20 Utilities. The commission shall also be entitled to call to its
21 assistance and avail itself of the services of the employees of any
22 State, county, or municipal department, board, bureau, commission,
23 or agency as it may require and as may be available to it for its
24 purposes.

25 d. It shall be the duty of the commission to study all aspects of
26 New Jersey's solar energy generation industry, and make findings
27 and recommendations thereon to the Governor and the Legislature.
28 In particular, the commission shall:

29 (1) Study and make recommendations as to whether New
30 Jersey's solar renewable energy portfolio standards should be
31 modified and extended appropriately through a prescribed period,
32 but at least through energy year 2031. The study should consider:
33 (a) the expected number of solar energy generation facilities that
34 will be retired during the prescribed period; (b) the expected levels
35 of ratepayer and public support required over the prescribed period;
36 and (c) electric public utility estimates regarding the ability of the
37 current electric grid to incorporate additional solar energy capacity,
38 and cost estimates of grid reinforcement and enhancement measures
39 that would permit the grid to accommodate additional renewable
40 energy capacity;

41 (2) Study current trends in utility interconnection study processes
42 and costs. Specifically, the study shall examine: (a) ways to
43 standardize and streamline the interconnection processes to reduce
44 the associated time and expenses; (b) initiatives that will provide
45 additional utility cost transparency and improved communication
46 between utilities and solar energy developers concerning
47 interconnection issues; (c) the potential for establishing
48 standardized study fees across all of the State's electric distribution

1 utilities; and (d) the potential for regular utility-planned distribution
2 and sub-transmission grid system upgrades to include design and
3 infrastructure that will help accommodate the expansion of
4 renewable energy technologies. The commission shall also
5 recommend if and how the cost of the additional upgrades could be
6 further socialized by incorporating these costs into utility
7 ratemaking; and

8 (3) Examine the current solar renewable energy credit market.
9 Specifically, the commission shall: (a) examine viable options
10 available to encourage the market to provide additional
11 opportunities for long-term solar renewable energy credit contracts;
12 (b) review the current statutory alternative compliance payment
13 schedule, and make recommendations as may be required to factor
14 in the expected changes to the federal solar investment tax credit as
15 it will relate to New Jersey's solar energy industry and project
16 financing; (c) make recommendations as to how the State's tax
17 laws, including the sales and use tax and the corporation business
18 tax, could be amended to create incentives for solar energy
19 development; and (d) review solar energy policies in other states
20 and, if appropriate, make recommendations to incorporate features
21 of those policies that would serve to advance New Jersey's
22 renewable energy policy goals.

23 e. The commission shall hold at least four public hearings at
24 various locations across the State and solicit testimony from interest
25 groups and the general public concerning the issues and studies set
26 forth in subsection d. of this section.

27 f. The commission shall report its findings and
28 recommendations annually to the Governor and, pursuant to section
29 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, for four
30 years following the date of organization of the commission. The
31 commission shall expire on the 90th day after submission of the
32 final report.】²

33

34 ²1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
35 as follows:

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

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

44 "Balanced market" means a market where solar renewable
45 energy portfolio standards are a percentage of retail electric sales
46 that equal or are within 10 percent above or below the amount of
47 SRECs generated in an energy year as approved by the board.

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, basic generation service transition cost
12 recovery, or the transfer or financing of the 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
15 order, or both; and (3) the costs incurred to issue, service or
16 refinance transition bonds, including interest, acquisition or
17 redemption premium, and other financing costs, whether paid upon
18 issuance or over the life of the transition bonds, including, but not
19 limited to, credit enhancements, service charges,
20 overcollateralization, interest rate cap, swap or collar, yield
21 maintenance, maturity guarantee or other hedging agreements,
22 equity investments, operating costs, and other related fees, costs,
23 and charges, or to assign, sell, or otherwise transfer bondable
24 transition property.

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

39 "Bondable transition property" means the property consisting of
40 the irrevocable right to charge, collect, and receive, and be paid
41 from collections of, transition bond charges in the amount necessary
42 to provide for the full recovery of bondable stranded costs which
43 are determined to be recoverable in a bondable stranded costs rate
44 order, all rights of the related electric public utility under the
45 bondable stranded costs rate order including, without limitation, all
46 rights to obtain periodic adjustments of the related transition bond
47 charges pursuant to subsection b. of section 15 of P.L.1999, c.23

1 (C.48:3-64), and all revenues, collections, payments, money, and
2 proceeds arising under, or with respect to, all of the foregoing.

3 "British thermal unit" or "Btu" means the amount of heat
4 required to increase the temperature of one pound of water by one
5 degree Fahrenheit.

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

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

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

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

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

35 "Class II renewable energy" means electric energy produced at a
36 hydropower facility with a capacity of greater than three megawatts,
37 but less than 30 megawatts, or a resource recovery facility, provided
38 that the facility is located where retail competition is permitted and
39 provided further that the Commissioner of Environmental
40 Protection has determined that the facility meets the highest
41 environmental standards and minimizes any impacts to the
42 environment and local communities. Class II renewable energy
43 shall not include electric energy produced at a hydropower facility
44 with a capacity of greater than 30 megawatts on or after the
45 effective date of P.L.2015, c.51.

46 "Co-generation" means the sequential production of electricity
47 and steam or other forms of useful energy used for industrial or
48 commercial heating and cooling purposes.

1 "Combined cycle power facility" means a generation facility that
2 combines two or more thermodynamic cycles, by producing electric
3 power via the combustion of fuel and then routing the resulting
4 waste heat by-product to a conventional boiler or to a heat recovery
5 steam generator for use by a steam turbine to produce electric
6 power, thereby increasing the overall efficiency of the generating
7 facility.

8 "Combined heat and power facility" or "co-generation facility"
9 means a generation facility which produces electric energy and
10 steam or other forms of useful energy such as heat, which are used
11 for industrial or commercial heating or cooling purposes. A
12 combined heat and power facility or co-generation facility shall not
13 be considered a public utility.

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

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

25 "Comprehensive resource analysis" means an analysis including,
26 but not limited to, an assessment of existing market barriers to the
27 implementation of energy efficiency and renewable technologies
28 that are not or cannot be delivered to customers through a
29 competitive marketplace.

30 "Connected to the distribution system" means, for a solar electric
31 power generation facility, that the facility is: (1) connected to a net
32 metering customer's side of a meter, regardless of the voltage at
33 which that customer connects to the electric grid; (2) an on-site
34 generation facility; (3) qualified for net metering aggregation as
35 provided pursuant to paragraph (4) of subsection e. of section 38 of
36 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
37 public utility and approved by the board pursuant to section 13 of
38 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric
39 grid at 69 kilovolts or less, regardless of how an electric public
40 utility classifies that portion of its electric grid, and is designated as
41 "connected to the distribution system" by the board pursuant to
42 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
43 87); or (6) is certified by the board, in consultation with the
44 Department of Environmental Protection, as being located on a
45 brownfield, on an area of historic fill, or on a properly closed
46 sanitary landfill facility. Any solar electric power generation
47 facility, other than that of a net metering customer on the customer's

1 side of the meter, connected above 69 kilovolts shall not be
2 considered connected to the distribution system.

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

7 "Customer account service" means metering, billing, or such
8 other administrative activity associated with maintaining a customer
9 account.

10 "Delivery year" or "DY" means the 12-month period from June
11 1st through May 31st, numbered according to the calendar year in
12 which it ends.

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

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

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

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

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

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

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

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

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

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

21 "Energy consumer" means a business or residential consumer of
22 electric generation service or gas supply service located within the
23 territorial jurisdiction of a government aggregator.

24 "Energy efficiency portfolio standard" means a requirement to
25 procure a specified amount of energy efficiency or demand side
26 management resources as a means of managing and reducing energy
27 usage and demand by customers.

28 "Energy year" or "EY" means the 12-month period from June 1st
29 through May 31st, numbered according to the calendar year in
30 which it ends.

31 "Existing business relationship" means a relationship formed by
32 a voluntary two-way communication between an electric power
33 supplier, gas supplier, broker, energy agent, marketer, private
34 aggregator, sales representative, or telemarketer and a customer,
35 regardless of an exchange of consideration, on the basis of an
36 inquiry, application, purchase, or transaction initiated by the
37 customer regarding products or services offered by the electric
38 power supplier, gas supplier, broker, energy agent, marketer,
39 private aggregator, sales representative, or telemarketer; however, a
40 consumer's use of electric generation service or gas supply service
41 through the consumer's electric public utility or gas public utility
42 shall not constitute or establish an existing business relationship for
43 the purpose of P.L.2013, c.263.

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

1 "Federal Energy Regulatory Commission" or "FERC" means the
2 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
3 regulate the interstate transmission of electricity, natural gas, and
4 oil.

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

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

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

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

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

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

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

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

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

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

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

18 "Historic fill" means generally large volumes of non-indigenous
19 material, no matter what date they were emplaced on the site, used
20 to raise the topographic elevation of a site, which were
21 contaminated prior to emplacement and are in no way connected
22 with the operations at the location of emplacement and which
23 include, but are not limited to, construction debris, dredge spoils,
24 incinerator residue, demolition debris, fly ash, and non-hazardous
25 solid waste. "Historic fill" shall not include any material which is
26 substantially chromate chemical production waste or any other
27 chemical production waste or waste from processing of metal or
28 mineral ores, residues, slags, or tailings.

29 "Incremental auction" means an auction conducted by PJM, as
30 part of PJM's reliability pricing model, prior to the start of the
31 delivery year to secure electric capacity as necessary to satisfy the
32 capacity requirements for that delivery year, that is not otherwise
33 provided for in the base residual auction.

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

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

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

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

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

17 "Mid-merit electric power generation facility" means a
18 generation facility that operates at a capacity factor between
19 baseload generation facilities and peaker generation facilities.

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

28 "Net proceeds" means proceeds less transaction and other related
29 costs as determined by the board.

30 "Net revenues" means revenues less related expenses, including
31 applicable taxes, as determined by the board.

32 "Offshore wind energy" means electric energy produced by a
33 qualified offshore wind project.

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

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

46 "On-site generation facility" means a generation facility,
47 including, but not limited to, a generation facility that produces
48 Class I or Class II renewable energy, and equipment and services

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

15 "Person" means an individual, partnership, corporation,
16 association, trust, limited liability company, governmental entity, or
17 other legal entity.

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

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

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

36 "Properly closed sanitary landfill facility" means a sanitary
37 landfill facility, or a portion of a sanitary landfill facility, for which
38 performance is complete with respect to all activities associated
39 with the design, installation, purchase, or construction of all
40 measures, structures, or equipment required by the Department of
41 Environmental Protection, pursuant to law, in order to prevent,
42 minimize, or monitor pollution or health hazards resulting from a
43 sanitary landfill facility subsequent to the termination of operations
44 at any portion thereof, including, but not necessarily limited to, the
45 placement of earthen or vegetative cover, and the installation of
46 methane gas vents or monitors and leachate monitoring wells or
47 collection systems at the site of any sanitary landfill facility.

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

21 "Qualified offshore wind project" means a wind turbine
22 electricity generation facility in the Atlantic Ocean and connected
23 to the electric transmission system in this State, and includes the
24 associated transmission-related interconnection facilities and
25 equipment, and approved by the board pursuant to section 3 of
26 P.L.2010, c.57 (C.48:3-87.1).

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

34 "Regulatory asset" means an asset recorded on the books of an
35 electric public utility or gas public utility pursuant to the Statement
36 of Financial Accounting Standards, No. 71, entitled "Accounting for
37 the Effects of Certain Types of Regulation," or any successor
38 standard and as deemed recoverable by the board.

39 "Related competitive business segment of an electric public
40 utility or gas public utility" means any business venture of an
41 electric public utility or gas public utility including, but not limited
42 to, functionally separate business units, joint ventures, and
43 partnerships, that offers to provide or provides competitive services.

44 "Related competitive business segment of a public utility holding
45 company" means any business venture of a public utility holding
46 company, including, but not limited to, functionally separate
47 business units, joint ventures, and partnerships and subsidiaries, that
48 offers to provide or provides competitive services, but does not

1 include any related competitive business segments of an electric
2 public utility or gas public utility.

3 "Reliability pricing model" or "RPM" means PJM's capacity-
4 market model, and its successors, that secures capacity on behalf of
5 electric load serving entities to satisfy load obligations not satisfied
6 through the output of electric generation facilities owned by those
7 entities, or otherwise secured by those entities through bilateral
8 contracts.

9 "Renewable energy certificate" or "REC" means a certificate
10 representing the environmental benefits or attributes of one
11 megawatt-hour of generation from a generating facility that
12 produces Class I or Class II renewable energy, but shall not include
13 a solar renewable energy certificate or an offshore wind renewable
14 energy certificate.

15 "Resource clearing price" or "RCP" means the clearing price
16 established for the applicable locational deliverability area by the
17 base residual auction or incremental auction, as determined by the
18 optimization algorithm for each auction, conducted by PJM as part
19 of PJM's reliability pricing model.

20 "Resource recovery facility" means a solid waste facility
21 constructed and operated for the incineration of solid waste for
22 energy production and the recovery of metals and other materials
23 for reuse, which the Department of Environmental Protection has
24 determined to be in compliance with current environmental
25 standards, including, but not limited to, all applicable requirements
26 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

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

44 "Retail choice" means the ability of retail customers to shop for
45 electric generation or gas supply service from electric power or gas
46 suppliers, or opt to receive basic generation service or basic gas
47 service, and the ability of an electric power or gas supplier to offer

1 electric generation service or gas supply service to retail customers,
2 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

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

14 "Sales representative" means a person employed by, acting on
15 behalf of, or as an independent contractor for, an electric power
16 supplier, gas supplier, broker, energy agent, marketer, or private
17 aggregator who, by any means, solicits a potential residential
18 customer for the provision of electric generation service or gas
19 supply service.

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 the 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 "State entity" means a department, agency, or office of State
31 government, a State university or college, or an authority created by
32 the State.

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

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

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

1 "Telemarketing sales call" means a telephone call made by a
2 telemarketer to a potential residential customer as part of a plan,
3 program, or campaign to encourage the customer to change the
4 customer's electric power supplier or gas supplier. A telephone call
5 made to an existing customer of an electric power supplier, gas
6 supplier, broker, energy agent, marketer, private aggregator, or
7 sales representative, for the sole purpose of collecting on accounts
8 or following up on contractual obligations, shall not be deemed a
9 telemarketing sales call. A telephone call made in response to an
10 express written request of a customer shall not be deemed a
11 telemarketing sales call.

12 "Thermal efficiency" means the useful electric energy output of a
13 facility, plus the useful thermal energy output of the facility,
14 expressed as a percentage of the total energy input to the facility.

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

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

33 "Transition period" means the period from August 1, 1999
34 through July 31, 2003.

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

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

45 "Unsolicited advertisement" means any advertising claims of the
46 commercial availability or quality of services provided by an
47 electric power supplier, gas supplier, broker, energy agent,
48 marketer, private aggregator, sales representative, or telemarketer

1 which is transmitted to a potential customer without that customer's
2 prior express invitation or permission.²

3 (cf: P.L.2015, c.51, s.1)

4

5 ²[3.] 2.² Section 38 of P.L.1999, c.23 (C.48:3-87) is amended
6 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (3) that the board establish a multi-year schedule, applicable to
 19 each electric power supplier or basic generation service provider in
 20 this State, beginning with the one-year period commencing on June
 21 1, 2010, and continuing for each subsequent one-year period up to
 22 and including, the one-year period commencing on June 1, **[2028]**
 23 ²**[2022]** 2033², that requires the following number or percentage,
 24 as the case may be, of kilowatt-hours sold in this State by each
 25 electric power supplier and each basic generation service provider
 26 to be from solar electric power generators connected to the
 27 distribution system in this State:

28	EY 2011	306 Gigawatthours (Gwhrs)
29	EY 2012	442 Gwhrs
30	EY 2013	596 Gwhrs
31	EY 2014	2.050%
32	EY 2015	2.450%
33	EY 2016	2.750%
34	EY 2017	[3.000%] <u>3.00%</u>
35	EY 2018	[3.200%] ² [3.28%] <u>3.200%</u> ²
36	EY 2019	[3.290%] ² [3.55%] <u>4.640%</u> ²
37	EY 2020	[3.380%] ² [3.83%] <u>5.300%</u> ²
38	EY 2021	[3.470%] ² [4.10%] <u>5.300%</u> ²
39	EY 2022	[3.560%
40	EY 2023	3.650%
41	EY 2024	3.740%
42	EY 2025	3.830%
43	EY 2026	3.920%
44	EY 2027	4.010%

45 EY 2028 **4.100%,]** ²**[4.10%]**, and for every energy year thereafter,
 46 at least **[4.100%]** 4.10% per energy year to reflect an increasing
 47 number of kilowatt-hours to be purchased by suppliers or providers

1 from solar electric power generators connected to the distribution
 2 system in this State, and to establish a framework within which, of
 3 the electricity that the generators sell in this State, suppliers and
 4 providers shall each obtain at least ~~【3.470%】~~ 4.10% in the energy
 5 year 2021 and ~~【4.100%】~~ 4.10% in the energy year ~~【2028】~~ 2022
 6 from solar electric power generators connected to the distribution
 7 system in this State, provided, however, that: **】**

8	<u>EY 2022</u>	<u>5.300%</u>
9	<u>EY 2023</u>	<u>5.300%</u>
10	<u>EY 2024</u>	<u>5.140%</u>
11	<u>EY 2025</u>	<u>5.050%</u>
12	<u>EY 2026</u>	<u>4.850%</u>
13	<u>EY 2027</u>	<u>4.350%</u>
14	<u>EY 2028</u>	<u>3.740%</u>
15	<u>EY 2029</u>	<u>3.070%</u>
16	<u>EY 2030</u>	<u>2.210%</u>
17	<u>EY 2031</u>	<u>1.580%</u>
18	<u>EY 2032</u>	<u>1.030%</u>
19	<u>EY 2033</u>	<u>0.330%</u>

20 The board shall adopt rules and regulations pursuant to the
 21 “Administrative Procedure Act,” P.L.1968, c.410 (C.52: 14B-1 et
 22 seq.), within 120 days after the effective date of P.L. , c. (pending
 23 before the Legislature as this bill) to provide for the closure of the
 24 market for new applications for solar electric power generation
 25 facility projects and to sustain a balanced market upon the
 26 attainment of 5.30% of kilowatt-hours of solar electric power sold
 27 in the State by each electric power supplier and each basic
 28 generation service provider. The rules and regulations shall create
 29 an orderly and transparent mechanism that will result in the closing
 30 of the SREC program on a date certain. The board shall provide for
 31 the cessation of the SREC program by June 1, 2021.

32 The board shall approve, conditionally approve, or disapprove
 33 any application for designation as connected to the distribution
 34 system of a solar electric power generation facility filed with the
 35 board after the effective date of P.L. , c. (pending before the
 36 Legislature as this bill), no more than 90 days after receipt by the
 37 board of a completed application. For any such application for a
 38 project greater than 25 kilowatts, the board shall require the
 39 applicant to post a notice escrow with the board in an amount of
 40 \$40 per kilowatt of DC nameplate capacity of the facility. The
 41 notice escrow amount shall be reimbursed to the applicant in full
 42 upon either denial of the application by the board, or upon
 43 commencement of commercial operation of the facility. The
 44 escrow amount shall be forfeited to the State if the facility is
 45 designated as connected to the distribution system pursuant to this
 46 subsection but does not commence commercial operation within
 47 two years following the date of the designation by the board.

1 For all applications for designation as connected to the
2 distribution system of a solar electric power generation facility filed
3 with the board after the effective date of P.L. , c. (pending
4 before the Legislature as this bill), the SREC term shall be 10
5 years.²

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

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

17 (c) The solar renewable energy portfolio standards requirements
18 in this paragraph shall exempt those existing supply contracts which
19 are effective prior to the date of enactment of **[P.L.2012, c.24]**
20 P.L. , c. (C.) (pending before the Legislature as this bill)
21 from any increase beyond the number of SRECs mandated by the
22 solar renewable energy portfolio standards requirements that were
23 in effect on the date that the providers executed their existing
24 supply contracts. This limited exemption for providers' existing
25 supply contracts shall not be construed to lower the Statewide solar
26 sourcing requirements set forth in this paragraph. Such incremental
27 requirements that would have otherwise been imposed on exempt
28 providers shall be distributed over the providers not subject to the
29 existing supply contract exemption until such time as existing
30 supply contracts expire and all providers are subject to the new
31 requirement in a manner that is competitively neutral among all
32 providers and suppliers. **[The board shall]** Notwithstanding any
33 rule or regulation to the contrary, the board shall recognize these
34 new solar purchase obligations as a change required by operation of
35 law and implement the provisions of this subsection in a manner so
36 as to prevent any subsidies between suppliers and providers and to
37 promote competition in the electricity supply industry.

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

45 The renewable energy portfolio standards adopted by the board
46 pursuant to paragraphs (1) and (2) of this subsection shall be
47 effective as regulations immediately upon filing with the Office of
48 Administrative Law and shall be effective for a period not to exceed

1 18 months, and may, thereafter, be amended, adopted or readopted
2 by the board in accordance with the provisions of the
3 "Administrative Procedure Act."

4 The renewable energy portfolio standards adopted by the board
5 pursuant to this paragraph shall be effective as regulations
6 immediately upon filing with the Office of Administrative Law and
7 shall be effective for a period not to exceed 30 months after such
8 filing, and shall, thereafter, be amended, adopted or readopted by
9 the board in accordance with the "Administrative Procedure Act";
10 and

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

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

23 The percentage established by the board pursuant to this
24 paragraph shall reflect the projected OREC production of each
25 qualified offshore wind project, approved by the board pursuant to
26 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the
27 commercial operation start date of the qualified offshore wind
28 project which production projection and OREC purchase
29 requirement, once approved by the board, shall not be subject to
30 reduction.

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

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

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

6 (1) net metering standards for electric power suppliers and basic
7 generation service providers. The standards shall require electric
8 power suppliers and basic generation service providers to offer net
9 metering at non-discriminatory rates to industrial, large
10 commercial, residential and small commercial customers, as those
11 customers are classified or defined by the board, that generate
12 electricity, on the customer's side of the meter, using a Class I
13 renewable energy source, for the net amount of electricity supplied
14 by the electric power supplier or basic generation service provider
15 over an annualized period. Systems of any sized capacity, as
16 measured in watts, are eligible for net metering. If the amount of
17 electricity generated by the customer-generator, plus any kilowatt
18 hour credits held over from the previous billing periods, exceeds the
19 electricity supplied by the electric power supplier or basic
20 generation service provider, then the electric power supplier or
21 basic generation service provider, as the case may be, shall credit
22 the customer-generator for the excess kilowatt hours until the end of
23 the annualized period at which point the customer-generator will be
24 compensated for any remaining credits or, if the customer-generator
25 chooses, credit the customer-generator on a real-time basis, at the
26 electric power supplier's or basic generation service provider's
27 avoided cost of wholesale power or the PJM electric power pool's
28 real-time locational marginal pricing rate, adjusted for losses, for
29 the respective zone in the PJM electric power pool. Alternatively,
30 the customer-generator may execute a bilateral agreement with an
31 electric power supplier or basic generation service provider for the
32 sale and purchase of the customer-generator's excess generation.
33 The customer-generator may be credited on a real-time basis, so
34 long as the customer-generator follows applicable rules prescribed
35 by the PJM electric power pool for its capacity requirements for the
36 net amount of electricity supplied by the electric power supplier or
37 basic generation service provider. The board may authorize an
38 electric power supplier or basic generation service provider to cease
39 offering net metering to customers that are not already net metered
40 whenever the total rated generating capacity owned and operated by
41 net metering customer-generators Statewide equals ²[2.9] 5.8²
42 percent of the total annual kilowatt-hours sold in this State by each
43 electric power supplier and each basic generation service provider
44 during the prior one-year period;

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

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

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

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

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

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

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

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

1 energy efficiency portfolio standard adopted pursuant to subsection
2 h. of this section.

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

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

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

32 j. The board shall determine an appropriate level of solar
33 alternative compliance payment, and permit each supplier or
34 provider to submit an SACP to comply with the solar electric
35 generation requirements of paragraph (3) of subsection d. of this
36 section. The value of the SACP for each Energy Year, for Energy
37 Years 2014 through ²[2028] 2033² per megawatt hour from solar
38 electric generation required pursuant to this section, shall be:

39 EY 2014	\$339
40 EY 2015	\$331
41 EY 2016	\$323
42 EY 2017	\$315
43 EY 2018	\$308
44 EY 2019	\$300
45 EY 2020	\$293
46 EY 2021	\$286
47 EY 2022	\$279
48 EY 2023	\$272

1	EY 2024	\$266
2	EY 2025	\$260
3	EY 2026	\$253
4	EY 2027	\$250
5	EY 2028	\$239
6	² <u>EY 2029</u>	<u>\$204</u>
7	<u>EY 2030</u>	<u>\$199</u>
8	<u>EY 2031</u>	<u>\$194</u>
9	<u>EY 2032</u>	<u>\$189</u>
10	<u>EY 2033</u>	<u>\$184²</u> .

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

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

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

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

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

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

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

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

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

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

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

7 (9) allow all market segments to participate.

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

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

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

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

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

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

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

39 p. Class I RECs and ORECs shall be eligible for use in
40 renewable energy portfolio standards compliance in the energy year
41 in which they are generated, and for the following two energy years.
42 SRECs shall be eligible for use in renewable energy portfolio
43 standards compliance in the energy year in which they are
44 generated, and for the following ²~~four~~ two² energy years.

45 q. (1) During the energy years of 2014, 2015, and 2016, a solar
46 electric power generation facility project that is not: (a) net
47 metered; (b) an on-site generation facility; (c) qualified for net
48 metering aggregation; or (d) certified as being located on a

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

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

30 r. (1) For all proposed solar electric power generation facility
31 projects except for those solar electric power generation facility
32 projects approved pursuant to subsection q. of this section, and for
33 all projects proposed in ²[each energy year following energy year
34 2016, a] energy year 2019 and energy year 2020, the board may
35 approve projects for up to 50 megawatts annually in auctioned
36 capacity in two auctions per year as long as the board is accepting
37 applications. If the board approves projects for less than 50
38 megawatts in energy year 2019 or less than 50 megawatts in energy
39 year 2020, the difference in each year shall be carried over into the
40 successive energy year until 100 megawatts of auctioned capacity
41 has been approved by the board pursuant to this subsection. A²
42 proposed solar electric power generation facility that is neither net
43 metered nor an on-site generation facility, may be considered
44 "connected to the distribution system" only upon designation as
45 such by the board, after notice to the public and opportunity for
46 public comment or hearing. A proposed solar power electric
47 generation facility seeking board designation as "connected to the
48 distribution system" shall submit an application to the board that

1 includes for the proposed facility: the nameplate capacity; the
2 estimated energy and number of SRECs to be produced and sold per
3 year; the estimated annual rate impact on ratepayers; the estimated
4 capacity of the generator as defined by PJM for sale in the PJM
5 capacity market; the point of interconnection; the total project
6 acreage and location; the current land use designation of the
7 property; the type of solar technology to be used; and such other
8 information as the board shall require.

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

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

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

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

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

24 (3) The board shall act within 90 days of its receipt of a
25 completed application for designation of a solar power electric
26 generation facility as "connected to the distribution system," to
27 either approve, conditionally approve, or disapprove the
28 application. If the proposed solar electric power generation facility
29 does not commence commercial operations within two years
30 following the date of the designation by the board pursuant to this
31 subsection, the designation of the facility as "connected to the
32 distribution system" shall be deemed to be null and void, and the
33 facility shall thereafter be considered not "connected to the
34 distribution system."

35 s. In addition to any other requirements of P.L.1999, c.23 or
36 any other law, rule, regulation or order, a solar electric power
37 generation facility that is not net metered or an on-site generation
38 facility and which is located on land that has been actively devoted
39 to agricultural or horticultural use that is valued, assessed, and
40 taxed pursuant to the "Farmland Assessment Act of 1964,"
41 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
42 period prior to the effective date of P.L.2012, c.24, shall only be
43 considered "connected to the distribution system" if (1) the board
44 approves the facility's designation pursuant to subsection q. of this
45 section; or (2) (a) PJM issued a System Impact Study for the facility
46 on or before June 30, 2011, (b) the facility files a notice with the
47 board within 60 days of the effective date of P.L.2012, c.24,
48 indicating its intent to qualify under this subsection, and (c) the

1 facility has been approved as "connected to the distribution system"
2 by the board. Nothing in this subsection shall limit the board's
3 authority concerning the review and oversight of facilities, unless
4 such facilities are exempt from such review as a result of having
5 been approved pursuant to subsection q. of this section.

6 t. (1) No more than 180 days after the date of enactment of
7 P.L.2012, c.24, the board shall, in consultation with the Department
8 of Environmental Protection and the New Jersey Economic
9 Development Authority, and, after notice and opportunity for public
10 comment and public hearing, complete a proceeding to establish a
11 program to provide SRECs to owners of solar electric power
12 generation facility projects certified by the board, in consultation
13 with the Department of Environmental Protection, as being located
14 on a brownfield, on an area of historic fill or on a properly closed
15 sanitary landfill facility, including those owned or operated by an
16 electric public utility and approved pursuant to section 13 of
17 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
18 subsection shall be considered "connected to the distribution
19 system", shall not require such designation by the board, and shall
20 not be subject to board review required pursuant to subsections q.
21 and r. of this section. Notwithstanding the provisions of section 3
22 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
23 order to the contrary, for projects certified under this subsection, the
24 board shall establish a financial incentive that is designed to
25 supplement the SRECs generated by the facility in order to cover
26 the additional cost of constructing and operating a solar electric
27 power generation facility on a brownfield, on an area of historic fill
28 or on a properly closed sanitary landfill facility. Any financial
29 benefit realized in relation to a project owned or operated by an
30 electric public utility and approved by the board pursuant to section
31 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
32 financial incentive established by the board pursuant to this
33 subsection, shall be credited to ratepayers. The issuance of SRECs
34 for all solar electric power generation facility projects pursuant to
35 this subsection shall be deemed "Board of Public Utilities financial
36 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
37 29.47).

38 (2) Notwithstanding the provisions of the "Spill Compensation
39 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
40 other law, rule, regulation, or order to the contrary, the board, in
41 consultation with the Department of Environmental Protection, may
42 find that a person who operates a solar electric power generation
43 facility project that has commenced operation on or after the
44 effective date of P.L.2012, c.24, which project is certified by the
45 board, in consultation with the Department of Environmental
46 Protection pursuant to paragraph (1) of this subsection, as being
47 located on a brownfield for which a final remediation document has
48 been issued, on an area of historic fill or on a properly closed

1 sanitary landfill facility, which projects shall include, but not be
2 limited to projects located on a brownfield for which a final
3 remediation document has been issued, on an area of historic fill or
4 on a properly closed sanitary landfill facility owned or operated by
5 an electric public utility and approved pursuant to section 13 of
6 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
7 acquired on or after the effective date of P.L.2012, c.24 on which
8 such a solar electric power generation facility project is constructed
9 and operated, shall not be liable for cleanup and removal costs to
10 the Department of Environmental Protection or to any other person
11 for the discharge of a hazardous substance provided that:

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

14 (b) the person did not discharge the hazardous substance, is not
15 in any way responsible for the hazardous substance, and is not a
16 successor to the discharger or to any person in any way responsible
17 for the hazardous substance or to anyone liable for cleanup and
18 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
19 23.11g);

20 (c) the person, within 30 days after acquisition of the property,
21 gave notice of the discharge to the Department of Environmental
22 Protection in a manner the Department of Environmental Protection
23 prescribes;

24 (d) the person does not disrupt or change, without prior written
25 permission from the Department of Environmental Protection, any
26 engineering or institutional control that is part of a remedial action
27 for the contaminated site or any landfill closure or post-closure
28 requirement;

29 (e) the person does not exacerbate the contamination at the
30 property;

31 (f) the person does not interfere with any necessary remediation
32 of the property;

33 (g) the person complies with any regulations and any permit the
34 Department of Environmental Protection issues pursuant to section
35 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
36 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

37 (h) with respect to an area of historic fill, the person has
38 demonstrated pursuant to a preliminary assessment and site
39 investigation, that hazardous substances have not been discharged;
40 and

41 (i) with respect to a properly closed sanitary landfill facility, no
42 person who owns or controls the facility receives, has received, or
43 will receive, with respect to such facility, any funds from any post-
44 closure escrow account established pursuant to section 10 of
45 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
46 the facility.

47 Only the person who is liable to clean up and remove the
48 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-

1 23.11g) and who does not have a defense to liability pursuant to
2 subsection d. of that section shall be liable for cleanup and removal
3 costs.

4 u. No more than 180 days after the date of enactment of
5 P.L.2012, c.24, the board shall complete a proceeding to establish a
6 registration program. The registration program shall require the
7 owners of solar electric power generation facility projects
8 connected to the distribution system to make periodic milestone
9 filings with the board in a manner and at such times as determined
10 by the board to provide full disclosure and transparency regarding
11 the overall level of development and construction activity of those
12 projects Statewide.

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

19 w. No more than 270 days after the date of enactment of
20 P.L.2012, c.24, the board shall, after notice and opportunity for
21 public comment and public hearing, complete a proceeding to
22 consider whether to establish a program to provide, to owners of
23 solar electric power generation facility projects certified by the
24 board as being three megawatts or greater in capacity and being net
25 metered, including facilities which are owned or operated by an
26 electric public utility and approved by the board pursuant to section
27 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
28 designed to supplement the SRECs generated by the facility to
29 further the goal of improving the economic competitiveness of
30 commercial and industrial customers taking power from such
31 projects. If the board determines to establish such a program
32 pursuant to this subsection, the board may establish a financial
33 incentive to provide that the board shall issue one SREC for no less
34 than every 750 kilowatt-hours of solar energy generated by the
35 certified projects. Any financial benefit realized in relation to a
36 project owned or operated by an electric public utility and approved
37 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
38 98.1), as a result of the provisions of a financial incentive
39 established by the board pursuant to this subsection, shall be
40 credited to ratepayers.

41 x. Solar electric power generation facility projects that are
42 located on an existing or proposed commercial, retail, industrial,
43 municipal, professional, recreational, transit, commuter,
44 entertainment complex, multi-use, or mixed-use parking lot with a
45 capacity to park 350 or more vehicles where the area to be utilized
46 for the facility is paved, or an impervious surface may be owned or

1 operated by an electric public utility and may be approved by the
2 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
3 (cf: P.L.2015, c.94, s.1)

4

5 ²~~4.~~ 3.² This act shall take effect immediately ²~~4.~~, and section
6 1 thereof shall expire upon expiration of the New Jersey Solar
7 Energy Study Commission as provided in subsection f. of that
8 section².