

SENATE, No. 217

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Adds fusion to types of Class I renewable energies as defined for purposes of “Electric Discount and Energy Competition Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning fusion energy and amending P.L.1999, c.23.

2

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

5

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

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

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

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

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

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

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

39 "Basic generation service provider" or "provider" means a
40 provider of basic generation service.

41 "Basic generation service transition costs" means the amount by
42 which the payments by an electric public utility for the procurement
43 of power for basic generation service and related ancillary and
44 administrative costs exceeds the net revenues from the basic
45 generation service charge established by the board pursuant to

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

Matter underlined thus is new matter.

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

17 "Board" means the New Jersey Board of Public Utilities or any
18 successor agency.

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

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

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

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

20 "British thermal unit" or "Btu" means the amount of heat
21 required to increase the temperature of one pound of water by one
22 degree Fahrenheit.

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

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

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

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

45 "Class I renewable energy" means electric energy produced from
46 solar technologies, photovoltaic technologies, wind energy, fuel
47 cells, geothermal technologies, fusion, wave or tidal action, small
48 scale hydropower facilities with a capacity of three megawatts or

1 less and put into service after the effective date of P.L.2012, c.24,
2 and methane gas from landfills or a biomass facility, provided that
3 the biomass is cultivated and harvested in a sustainable manner.

4 "Class II renewable energy" means electric energy produced at a
5 hydropower facility with a capacity of greater than three megawatts,
6 but less than 30 megawatts, or a resource recovery facility, provided
7 that the facility is located where retail competition is permitted and
8 provided further that the Commissioner of Environmental
9 Protection has determined that the facility meets the highest
10 environmental standards and minimizes any impacts to the
11 environment and local communities. Class II renewable energy
12 shall not include electric energy produced at a hydropower facility
13 with a capacity of greater than 30 megawatts on or after the
14 effective date of P.L.2015, c.51.

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

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

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

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

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

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

47 "Connected to the distribution system" means, for a solar electric
48 power generation facility, that the facility is: (1) connected to a net

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

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

23 "Customer account service" means metering, billing, or such
24 other administrative activity associated with maintaining a customer
25 account.

26 "Delivery year" or "DY" means the 12-month period from June
27 1st through May 31st, numbered according to the calendar year in
28 which it ends.

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

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

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

1 generator under the Public Utility Holding Company Act of 1935,
2 15 U.S.C. s.79 et seq., or its successor act.

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

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

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

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

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

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

37 "Energy consumer" means a business or residential consumer of
38 electric generation service or gas supply service located within the
39 territorial jurisdiction of a government aggregator.

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

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

47 "Existing business relationship" means a relationship formed by
48 a voluntary two-way communication between an electric power

1 supplier, gas supplier, broker, energy agent, marketer, private
2 aggregator, sales representative, or telemarketer and a customer,
3 regardless of an exchange of consideration, on the basis of an
4 inquiry, application, purchase, or transaction initiated by the
5 customer regarding products or services offered by the electric
6 power supplier, gas supplier, broker, energy agent, marketer,
7 private aggregator, sales representative, or telemarketer; however, a
8 consumer's use of electric generation service or gas supply service
9 through the consumer's electric public utility or gas public utility
10 shall not constitute or establish an existing business relationship for
11 the purpose of P.L.2013, c.263.

12 "Farmland" means land actively devoted to agricultural or
13 horticultural use that is valued, assessed, and taxed pursuant to the
14 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
15 23.1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of gas supply service, on behalf of multiple end-use customers by
2 combining the loads of those customers.

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

15 "Public utility holding company" means: (1) any company that,
16 directly or indirectly, owns, controls, or holds with power to vote,
17 10 percent or more of the outstanding voting securities of an
18 electric public utility or a gas public utility or of a company which
19 is a public utility holding company by virtue of this definition,
20 unless the Securities and Exchange Commission, or its successor,
21 by order declares such company not to be a public utility holding
22 company under the Public Utility Holding Company Act of 1935,
23 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
24 Securities and Exchange Commission, or its successor, determines,
25 after notice and opportunity for hearing, directly or indirectly, to
26 exercise, either alone or pursuant to an arrangement or
27 understanding with one or more other persons, such a controlling
28 influence over the management or policies of an electric public
29 utility or a gas public utility or public utility holding company as to
30 make it necessary or appropriate in the public interest or for the
31 protection of investors or consumers that such person be subject to
32 the obligations, duties, and liabilities imposed in the Public Utility
33 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
34 successor act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20

21 2. This act shall take effect immediately.

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23

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STATEMENT

25

26 This bill revises the provisions of the "Electric Discount and
27 Energy Competition Act," P.L.1999, c.23 (C.48:3-51 et al.) to
28 include fusion within the definition of Class I renewable energy.
29 Although electricity generation from nuclear fusion has not yet been
30 achieved, experts predict that fusion reactors will not produce air
31 pollutants or carbon dioxide. In addition, fusion reactors will cause
32 radioactivity that is of lesser magnitude and shorter duration than
33 that produced by nuclear fission reactors. New Jersey is home to
34 the Princeton Plasma Physics Laboratory (PPPL), one of the
35 foremost centers for fusion energy research in the world.