

**48:3-114 to 48:3-120; 13:1B-15.178 et al
LEGISLATIVE HISTORY CHECKLIST**

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LAWS OF: 2021 **CHAPTER:** 169

NJSA: 48:3-114 to 48:3-120; 13:1B-15.178 et al (Establishes successor program to solar renewable energy certificate program in BPU, including solicitation process for certain solar power generation facilities.)

BILL NO: A4554 (Substituted for S2605 (SCS/1R))

SPONSOR(S) Karabinchak, Robert J. and others

DATE INTRODUCED: 8/24/2020

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 6/24//2021

SENATE: 6/30/2021

DATE OF APPROVAL: 7/9/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Assembly Committee Substitute enacted) Yes

A4554

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Budget & Approp. 6/22/2021

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S2605 (SCS/1R)

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes Envir. & Energy 8/24/2020
 Envir. & Energy 5/11/2021
 Budget & Approp. 6/22/2021

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

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NEWSPAPER ARTICLES: Yes

PARRY, WAYNE. "Murphy signs clean energy bills for electric cars and solar." Associated Press State Wire: New Jersey (NJ), July 9, 2021.

RH/CL

§§1-7
C.48:3-114 to
48:3-120
§8
C.13:1B-15.178

P.L. 2021, CHAPTER 169, *approved July 9, 2021*
Assembly Committee Substitute for
Assembly, No. 4554

1 **AN ACT** concerning certain solar energy projects, amending and
2 supplementing P.L.1999, c.23, amending P.L.2016, c.12, and
3 supplementing Title 13 of the Revised Statutes.

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

7
8 1. (New section) The Legislature hereby finds and declares
9 that:

10 a. In order to achieve the State's goal of securing 50 percent of
11 its electricity supply from renewable energy by 2030 with the least
12 cost and the greatest benefit to consumers, it is critical to promote
13 investment in new solar electric power generation facilities,
14 including grid supply solar facilities, community solar facilities,
15 and net metered solar facilities;

16 b. The New Jersey 2019 Energy Master Plan, prepared pursuant
17 to section 12 of P.L.1977, c.146 (C.52:27F-14), found that: (1) the
18 State can achieve its 100 percent clean energy and 80 percent
19 greenhouse gas reduction goals, which will likely lead to net
20 savings when health benefits and climate change mitigation benefits
21 are taken into account, in part by maximizing the development of
22 renewable energy generation, including 17 gigawatts of solar power
23 by 2035 and 32 gigawatts by 2050; and (2) under the least cost path
24 identified by the plan, solar energy could meet 34 percent of the
25 State's clean energy needs by 2050;

26 c. The development of grid supply solar should be directed
27 toward marginal land and the built environment and away from
28 open space, flood zones, and other areas especially vulnerable to
29 climate change, and a coordinated land use policy for grid supply
30 solar siting is needed to affordably expand New Jersey's
31 commitment to renewable energy while not compromising the
32 State's commitment to preserving and protecting open space and
33 farmland;

34 d. New Jersey has the market potential to host thousands of
35 megawatts of solar power generation facilities from grid supply,

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 community solar, and net-metered solar installations, which will
2 create solar jobs and improve the environment; and

3 e. It is therefore in the public interest to develop a new solar
4 program that incentivizes new solar electric power generation
5 facilities, including net metered solar facilities, community solar
6 facilities, and grid supply solar facilities, which are capable of
7 ensuring that clean and reliable solar energy is supplied to New
8 Jersey consumers, and which contribute to meeting the State's
9 energy goals.

10

11 2. (New section) a. There is established in the Board of Public
12 Utilities a program to be known as the SREC-II program, which
13 shall serve as the successor program to the SREC program
14 established pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).
15 The goal of the program shall be to provide incentives for the
16 development of at least 3,750 megawatts of new solar power
17 generation by 2026, although this goal may be extended or revised
18 by the board as necessary to conform to the State's solar energy
19 policies.

20 b. The board shall develop, as part of the SREC-II program, a
21 process for the creation and distribution of renewable energy
22 certificates, to be known as "SREC-IIs," for each megawatt hour of
23 energy produced by a qualifying solar electric power generation
24 facility for a duration established by the board. The board shall also
25 establish a system by which to distribute a renewable energy
26 incentive payment, to be known as the "SREC-II value per
27 megawatt-hour," to the owner of an eligible solar electric power
28 generation facility, which shall be measured in dollars-per-
29 megawatt-hour of solar power generation, and which shall represent
30 the value of the environmental attribute produced by the solar
31 electric power generation facility. SREC-IIs shall be transferable
32 and capable of being used by an electric power supplier or basic
33 generation service provider to satisfy the State's renewable portfolio
34 standards established pursuant to section 38 of P.L.1999, c.23
35 (C.48:3-87). SREC-IIs shall be eligible for use in renewable energy
36 portfolio standards compliance in the energy year in which they are
37 generated, and for the following energy year.

38 c. No later than one year after the effective date of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), the
40 board shall adopt, pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
42 establishing the SREC-II program in accordance with the provisions
43 of P.L. , c. (C.) (pending before the Legislature as this
44 bill).

45 d. The board is authorized to establish, impose, and collect fees,
46 escrows, and other charges the board deems necessary and proper to
47 implement the provisions of P.L. , c. (C.) (pending before
48 the Legislature as this bill).

1 e. The costs of the SREC-II program shall be apportioned to
2 ratepayers using a methodology approved by the board. Except as
3 provided in subsection h. of section 4 of P.L. , c. (C.)
4 (pending before the Legislature as this bill), the methodology shall
5 be similar to that by which the board apportions the costs of SRECs
6 and other renewable energy certificates pursuant to section 38 of
7 P.L.1999, c.23 (C.48:3-87) and consistent with the competitive
8 retail market established by the "Energy Discount and Energy
9 Competition Act," P.L.1999, c.23 (C.48:3-49 et al.).

10
11 3. (New section) a. The board shall develop, as part of the
12 SREC-II program, a small solar facilities incentive program to
13 award SREC-IIs to the owners of community solar facilities and net
14 metered solar facilities less than five megawatts in size, as
15 measured in direct current, or another size specified by the board.
16 The small solar facilities incentive program shall aim to provide
17 SREC-IIs for the generation of at least 300 megawatts of net-
18 metered solar facilities per year and 150 megawatts of community
19 solar facilities per year, for each of the five years after the
20 establishment of the SREC-II program.

21 b. The board shall establish eligibility criteria and an application
22 process by which an owner of a solar electric power generation
23 facility may apply to receive SREC-IIs pursuant to this section,
24 until the program reaches the energy generation target established
25 by subsection a. of this section, as determined by the board. Only
26 solar electric power generation facilities that receive permission to
27 operate from the appropriate regional grid operator after the
28 effective date of P.L. , c. (C.) (pending before the
29 Legislature as this bill), shall be eligible to receive SREC-IIs
30 pursuant to this section, unless otherwise specified by the board. A
31 facility shall be eligible to receive SREC-IIs pursuant to this section
32 for a duration established by the board if it is connected to the
33 distribution or transmission system owned or operated by a New
34 Jersey public utility or local government unit.

35 c. The small solar facilities incentive program shall include
36 criteria by which to assign an SREC-II value per megawatt-hour to a
37 solar electric power generation facility. The criteria shall be designed
38 by the board to incentivize the development of new solar power
39 projects sufficiently so that the goals for solar power development in
40 the State's Energy Master Plan are met, to further other State goals,
41 and to incentivize projects that are especially in the public interest.
42 The SREC-II value per megawatt-hour may include the value of the
43 environmental and other benefits to the State provided by the
44 facility, as determined by the board. The criteria may include, but is
45 not limited to, consideration of the following factors:

- 46 (1) the size of the facility;
47 (2) the costs and revenues associated with representative facilities;

1 (3) for community solar facilities, the economic and demographic
2 characteristics of the area served by the facility, including whether it is
3 located in an overburdened community, as that term is defined in
4 section 2 of P.L.2020, c.92 (C.13:1D-158);

5 (4) whether the facility is located on already developed land or the
6 built environment;

7 (5) the facility's eligibility for net metering pursuant to subsection
8 e. of section 38 of P.L.1999, c.23 (C.48:3-87) or participation in the
9 community solar program established pursuant to subsection f. of
10 section 5 of P.L.2018, c.17 (C.48:3-87.11); and

11 (6) the rate class of the facility, as determined by the appropriate
12 New Jersey electric public utility or local government unit.

13

14 4. (New section) a. The board shall develop and administer, as
15 part of the SREC-II program, a transparent, fair, and competitive
16 solicitation process for awarding SREC-II contracts to promote the
17 construction of solar electric power generation facilities.

18 (1) In order to be eligible to participate in the solicitation process, a
19 solar electric power generation facility shall be:

20 (a) a grid supply solar facility or net metered solar facility
21 greater than five megawatts in size, as measured in direct current, or
22 another size specified by the board;

23 (b) constructed after the effective date of P.L. , c. (C.)
24 (pending before the Legislature as this bill);

25 (c) interconnected to a distribution or transmission system
26 operated by a New Jersey electric public utility or local government
27 unit; and

28 (d) sited in conformance with the siting criteria established by
29 the board pursuant to section 6 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 (2) The board shall develop additional eligibility criteria and
32 application processes for participation in the solicitation process.

33 b. The board may establish a system of distinct bidding
34 categories within the competitive solicitation process set forth in
35 this section, such that only bids from the same category compete
36 with one another. The category system may take into account the
37 size of the facility, location of the facility on a contaminated site or
38 landfill, as determined by the board in consultation with the
39 Department of Environmental Protection, or any other feature of a
40 facility, provided that the category system enhances the continued
41 diversification of the energy resources used to meet consumer
42 demand in this State and results in environmental and public health
43 benefits to New Jersey residents, as determined by the board. The
44 board may revise the category system as it deems appropriate after
45 each solicitation round.

46 c. Solicitation rounds shall occur at least as frequently as once
47 every 18 months, beginning on the effective date of P.L. ,
48 c. (C.) (pending before the Legislature as this bill) and

- 1 ending no earlier than January 1, 2026. The solicitation process
2 shall:
- 3 (1) be open on a non-discriminatory basis to any entity seeking
4 to construct a solar electric power generation facility that complies
5 with the provisions of subsection a. of this section;
 - 6 (2) be carried out in accordance with criteria developed by the
7 board and applied equally to all responses to the solicitation;
 - 8 (3) award contracts for SREC-IIs to promote the construction of
9 solar electric power generation facilities for no less than an average
10 of 300 megawatts per year, for five years, with the first awards
11 made no later than 18 months after the effective date P.L. ,
12 c. (C.) (pending before the Legislature as this bill);
 - 13 (4) award projects selected as part of the competitive solicitation
14 process the right to receive a renewable energy incentive payment,
15 in the form of an SREC-II value per megawatt-hour established by
16 the board, for the environmental attribute produced by the solar
17 electric power generation facility, for a duration to be established
18 by the board. The SREC-II value per megawatt-hour may include
19 the value of the environmental and other benefits to the State
20 provided by the facility, as determined by the board;
 - 21 (5) ensure that the length of any award is sufficient to encourage
22 low financing rates, reasonable risks to ratepayers, and to enable the
23 development of affordable renewable energy resources;
 - 24 (6) mitigate price and delivery risks for consumers;
 - 25 (7) include requirements designed to ensure successful
26 completion of projects, including, but not limited to, the imposition
27 of appropriate escrow fees, bid maturity requirements, required
28 interconnection milestones, and conditions on when a project must
29 achieve commercial operation; and
 - 30 (8) ensure that the environmental and public health benefits of
31 solar electric power generation facilities on contaminated sites or
32 landfills are recognized, including accommodating the long
33 development timescale for these projects.
- 34 d. The board may establish confidential high and low bid
35 thresholds prior to conducting a competitive solicitation pursuant to
36 this section, provided that the thresholds promote fiscal
37 responsibility for the State and the likelihood of successful bids, as
38 determined by the board. The thresholds may include a cap on the
39 renewable energy incentive payments required pursuant to
40 paragraph (4) of subsection c. of this section. The board may also
41 procure more than the minimum quantity of solar power required by
42 this section if bids are below the predetermined bid threshold.
- 43 e. The board shall determine, in consultation with the
44 Department of Environmental Protection, if a solar electric power
45 generation facility may be sited on a contaminated site or landfill
46 for the purposes of this section. If the board authorizes a facility to
47 be sited on a contaminated site or landfill, the facility shall be

1 afforded the protections provided in paragraph (2) of subsection t.
2 of section 38 of P.L.1999, c.23 (C.48:3-87).

3 f. At the end of each bidding round, the board shall:

4 (1) rank all bids received based on the bid price, or, pursuant to
5 subsection b. of this section, based on the bid price within each
6 category;

7 (2) select bids in ranked order, up to the procurement budget set
8 by the board, or, pursuant to subsection b. of this section, the
9 procurement budget of each category; and

10 (3) adjust quantities awarded if prices are above or below any
11 confidential pre-determined thresholds established pursuant to
12 subsection d. of this section.

13 g. Any moneys placed in escrow by an applicant as part of the
14 competitive solicitation process shall be reimbursed to the applicant
15 in full or in part upon meeting the conditions set forth by the board
16 when the board established the escrow requirement, including, but
17 not limited to, selection in the competitive solicitation or
18 commencement of commercial operation of the solar electric power
19 generation facility. The escrow amount shall be forfeited to the
20 General Fund if the facility does not meet the conditions set forth
21 by the board when the board established the escrow requirement,
22 including, but not limited to, commencing commercial operation
23 within the term specified by the board's requirements established
24 pursuant to paragraph (7) of subsection c. of this section, including
25 any extensions as may be granted pursuant to procedures
26 established by the board.

27 h. The costs of the competitive solicitation process, including
28 the issuance of renewable energy incentive payments pursuant to
29 paragraph (4) of subsection c. of this section, shall not be subject to
30 the Class I renewable energy requirement cost cap established by
31 paragraph (2) of subsection d. of section 38 of P.L.1999, c.23
32 (C.48:3-87).

33
34 5. (New section) a. No solar electric power generation facility
35 shall simultaneously receive SREC-IIs pursuant to P.L. ,
36 c. (C.) (pending before the Legislature as this bill) and
37 Class I RECs, SRECs, or any other comparable certificates,
38 including those issued under a program developed by the board
39 pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

40 b. A solar electric power generation facility that receives an
41 SREC-II pursuant to P.L. , c. (C.) (pending before the
42 Legislature as this bill) for a unit of energy produced shall not
43 otherwise sell, alienate, or dispose of any of the environmental
44 benefits or attributes associated with that energy.

45 c. A solar electric power generation facility that is selected by
46 the board pursuant to section 4 of P.L. , c. (C.) (pending
47 before the Legislature as this bill) shall be responsible for the
48 payment of:

1 (1) an annual remuneration of one percent of the renewable
2 energy incentive payments pursuant to paragraph (4) of subsection
3 c. of section 4 of P.L. , c. (C.) (pending before the
4 Legislature as this bill), to be submitted to the State Treasurer for
5 deposit into the "Preserve New Jersey Fund Account," established
6 pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46); and

7 (2) an annual administrative fee, in an amount to be determined
8 by the board in the rules and regulations adopted by the board
9 pursuant to section 2 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 d. Each worker employed in the State during the construction of
12 a solar electric power generation facility greater than one megawatt
13 in size, as measured in direct current, that participates in the SREC-
14 II program shall be paid not less than the prevailing wage rate for
15 the worker's craft or trade, as determined by the Commissioner of
16 Labor and Workforce Development pursuant to P.L.1963, c.150
17 (C.34:11-56.25 et seq.).

18 e. The issuance of SREC-IIs pursuant to P.L. , c. (C.)
19 (pending before the Legislature as this bill) shall be deemed "Board
20 of Public Utilities financial assistance" as provided under section 1
21 of P.L.2009, c.89 (C.48:2-29.47).

22 f. The owner of a solar electric power generation facility that
23 participates in the SREC-II program shall obtain all necessary
24 permits and other approvals as may be required pursuant to federal,
25 State, or local law, rule, regulation, or ordinance.

26 g. A solar electric power generation facility that is selected
27 pursuant to section 4 of P.L. , c. (C.) (pending before the
28 Legislature as this bill) shall comply with the standards concerning
29 vegetation adopted by the Department of Environmental Protection
30 pursuant to section 8 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32

33 6. (New section) a. The board shall not authorize a grid
34 supply solar facility or a net metered solar facility greater than five
35 megawatts in size to commence operation, or to interconnect to an
36 electric distribution or transmission system, unless it meets the
37 siting criteria developed pursuant to this section.

38 b. The board shall develop, in consultation with the Department
39 of Environmental Protection and the Secretary of Agriculture, siting
40 criteria for grid supply solar facilities and net metered solar
41 facilities greater than five megawatts in size. In addition to
42 implementing the provisions of subsections c. through f. of this
43 section, the siting criteria shall:

44 (1) facilitate the State's commitment to affordable, clean, and
45 renewable energy, and the carbon dioxide emissions reduction goals
46 established by P.L.2007, c.112 (C.26:2C-37 et al.);

47 (2) minimize, as much as is practicable, potential adverse
48 environmental impacts; and

- 1 (3) where appropriate, include consideration of:
- 2 (a) existing and prior land uses of the property;
- 3 (b) whether the property contains a contaminated site or landfill;
- 4 (c) any conservation or agricultural designations associated with
- 5 the property;
- 6 (d) the amount of soil disturbance, impervious surface, and tree
- 7 cover on the property; and
- 8 (e) other site-specific criteria.
- 9 c. Unless authorized pursuant to subsection f. of this section, a
- 10 grid supply solar facility or a net metered solar facility greater than
- 11 five megawatts in size shall not be sited on:
- 12 (1) land preserved under the Green Acres Program;
- 13 (2) land located within the preservation area of the pinelands
- 14 area, as designated in subsection b. of section 10 of P.L.1979, c.111
- 15 (C.13:18A-11);
- 16 (3) land designated as forest area in the pinelands
- 17 comprehensive management plan adopted pursuant to P.L.1979,
- 18 c.111 (C.13:18A-1 et seq.);
- 19 (4) land designated as freshwater wetlands as defined pursuant
- 20 to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands as
- 21 defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);
- 22 (5) lands located within the Highlands preservation area as
- 23 designated in subsection b. of section 7 of P.L.2004, c.120
- 24 (C.13:20-7);
- 25 (6) forested lands, as defined by the board in consultation with
- 26 the Department of Environmental Protection; or
- 27 (7) prime agricultural soils and soils of Statewide importance, as
- 28 identified by the United States Department of Agriculture's Natural
- 29 Resources Conservation Service, which are located in Agricultural
- 30 Development Areas certified by the State Agriculture Development
- 31 Committee , in excess of the Statewide threshold of 2.5 percent of
- 32 such soils established by paragraph (1) of subsection d. of this
- 33 section.
- 34 d. (1) A grid supply solar facility or a net metered solar
- 35 facility greater than five megawatts in size sited on prime
- 36 agricultural soils or soils of Statewide importance, as identified by
- 37 the United States Department of Agriculture's Natural Resources
- 38 Conservation Service, which are located in Agricultural
- 39 Development Areas certified by the State Agriculture Development
- 40 Committee, shall not require a waiver pursuant to subsection f. of
- 41 this section until the board determines, pursuant to paragraph (2) of
- 42 this subsection, that 2.5 percent of such lands in the State have been
- 43 approved by the board pursuant to P.L. , c. (C.) (pending
- 44 before the Legislature as this bill) to be utilized by a grid supply
- 45 solar facility or a net metered solar facility greater than five
- 46 megawatts in size. After the board makes this determination, a grid
- 47 supply solar facility or a net metered solar facility greater than five
- 48 megawatts in size shall not be sited on prime agricultural soils or

1 soils of Statewide importance, as identified by the United States
2 Department of Agriculture's Natural Resources Conservation
3 Service, which are located in Agricultural Development Areas
4 certified by the State Agriculture Development Committee, unless
5 authorized pursuant to subsection f. of this section.

6 (2) The board, in consultation with the Secretary of Agriculture,
7 shall track and record the Statewide area of prime agricultural soils
8 or soils of Statewide importance, which are located in Agricultural
9 Development Areas certified by the State Agriculture Development
10 Committee, and which are utilized for solar energy production by
11 grid supply solar facilities and net metered solar facilities greater
12 than five megawatts in size, in order to implement the provisions of
13 this section.

14 e. (1) In no case shall a grid supply solar facility be located on
15 preserved farmland.

16 (2) Nothing in P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall be construed to affect the provisions of
18 P.L.2009, c.213 (C.4:1C-32.4 et al.), including those related to the
19 construction of solar electric power generation facilities on
20 preserved farmland.

21 f. A developer may petition the board for a waiver to site a solar
22 power electric generation facility in an area proscribed by
23 subsection c. of this section. The petition shall set out the unique
24 factors that make the project consistent with the character of the
25 specific parcel, including whether the property is a contaminated
26 site or landfill, otherwise marginal land, or whether the project
27 utilizes existing development or existing areas of impervious
28 coverage. The board shall, in consultation with the Department of
29 Environmental Protection or Secretary of Agriculture, as
30 appropriate, consider the petition and may grant a waiver to a
31 project deemed to be in the public interest. However, in no case
32 shall the projects approved by the board pursuant to this section
33 occupy more than five percent of the unreserved land containing
34 prime agricultural soils and soils of Statewide importance, as
35 identified by the United States Department of Agriculture's Natural
36 Resources Conservation Service, located within any county's
37 designated Agricultural Development Area, as determined by the
38 State Agriculture Development Committee.

39 g. No later than five years after the adoption of rules and
40 regulations pursuant to section 2 of P.L. , c. (C.) (pending
41 before the Legislature as this bill), the board, in consultation with
42 the Department of Environmental Protection and the Secretary of
43 Agriculture, shall conduct a review of the rules and regulations to
44 assess program performance, identify problems, and recommend
45 changes to the siting criteria to better effectuate the policy goals set
46 forth in subsection a. of this section. The board shall prepare a
47 report summarizing this review and submit it to the Governor and to

1 the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-
2 19.1).

3

4 7. (New section) The board shall submit a report on the SREC-
5 II program to the Governor and, pursuant to section 2 of P.L.1991,
6 c.164 (C.52:14-19.1), to the Legislature no later than 12 months
7 after the adoption of rules and regulations pursuant to section 2 of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 and annually thereafter. The report shall include, but not be limited
10 to:

11 a. information about the number and price of SREC-IIs
12 distributed;

13 b. information about the progress of the program towards
14 meeting its solar energy generation goals, including the individual
15 goals for net-metered solar facilities, community solar facilities,
16 and grid supply solar facilities;

17 c. an assessment of the competitive solicitation process,
18 including any recommendations to improve the functioning of the
19 program; and

20 d. a summary of the siting criteria developed pursuant to
21 section 6 of P.L. , c. (C.) (pending before the Legislature
22 as this bill), including any recommendations to improve the criteria.
23

24 8. (New section) No later than one year after the effective date
25 of P.L. , c. (C.) (pending before the Legislature as this
26 bill), the Department of Environmental Protection, in consultation
27 with the board, shall establish standards for the use of pollinator-
28 friendly native plant species and seed mixes in grid supply solar
29 facilities, which are designed to reduce stormwater runoff and
30 erosion, and provide native perennial vegetation and foraging
31 habitat beneficial to gamebirds, songbirds, and pollinators, and
32 which consider compatibility with the security and reliability of
33 grid supply solar facilities.
34

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

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

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

45 "Base load electric power generation facility" means an electric
46 power generation facility intended to be operated at a greater than
47 50 percent capacity factor including, but not limited to, a combined
48 cycle power facility and a combined heat and power facility.

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

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

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

20 "Basic generation service provider" or "provider" means a
21 provider of basic generation service.

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

43 "Board" means the New Jersey Board of Public Utilities or any
44 successor agency.

45 "Bondable stranded costs" means any stranded costs or basic
46 generation service transition costs of an electric public utility
47 approved by the board for recovery pursuant to the provisions of
48 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the

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

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

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

46 "British thermal unit" or "Btu" means the amount of heat
47 required to increase the temperature of one pound of water by one
48 degree Fahrenheit.

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

8 "Brownfield" means any former or current commercial or
9 industrial site that is currently vacant or underutilized and on which
10 there has been, or there is suspected to have been, a discharge of a
11 contaminant.

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

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

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

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

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

46 "Combined cycle power facility" means a generation facility that
47 combines two or more thermodynamic cycles, by producing electric
48 power via the combustion of fuel and then routing the resulting

1 waste heat by-product to a conventional boiler or to a heat recovery
2 steam generator for use by a steam turbine to produce electric
3 power, thereby increasing the overall efficiency of the generating
4 facility.

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

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

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

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

27 "Community solar facility" means a solar electric power generation
28 facility participating in the Community Solar Energy Pilot Program or
29 the Community Solar Energy Program developed by the board
30 pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11).

31 "Connected to the distribution system" means, for a solar electric
32 power generation facility, that the facility is: (1) connected to a net
33 metering customer's side of a meter, regardless of the voltage at
34 which that customer connects to the electric grid; (2) an on-site
35 generation facility; (3) qualified for net metering aggregation as
36 provided pursuant to paragraph (4) of subsection e. of section 38 of
37 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
38 public utility and approved by the board pursuant to section 13 of
39 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric
40 grid at 69 kilovolts or less, regardless of how an electric public
41 utility classifies that portion of its electric grid, and is designated as
42 "connected to the distribution system" by the board pursuant to
43 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
44 87); or (6) is certified by the board, in consultation with the
45 Department of Environmental Protection, as being located on a
46 brownfield, on an area of historic fill, or on a properly closed
47 sanitary landfill facility. Any solar electric power generation
48 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 “Contaminated site or landfill” means: (1) any currently
4 contaminated portion of a property on which industrial or
5 commercial operations were conducted and a discharge occurred,
6 and its associated disturbed areas, where “discharge” means the
7 same as the term is defined in section 23 of P.L.1993, c.139
8 (C.58:10B-1); or (2) a properly closed sanitary landfill facility and
9 its associated disturbed areas.

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

14 "Customer account service" means metering, billing, or such
15 other administrative activity associated with maintaining a customer
16 account.

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

20 "Demand side management" means the management of customer
21 demand for energy service through the implementation of cost-
22 effective energy efficiency technologies, including, but not limited
23 to, installed conservation, load management, and energy efficiency
24 measures on and in the residential, commercial, industrial,
25 institutional, and governmental premises and facilities in this State.

26 "Electric generation service" means the provision of retail
27 electric energy and capacity which is generated off-site from the
28 location at which the consumption of such electric energy and
29 capacity is metered for retail billing purposes, including agreements
30 and arrangements related thereto.

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

42 "Electric power supplier" means a person or entity that is duly
43 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
44 al.) to offer and to assume the contractual and legal responsibility to
45 provide electric generation service to retail customers, and includes
46 load serving entities, marketers, and brokers that offer or provide
47 electric generation service to retail customers. The term excludes
48 an electric public utility that provides electric generation service

1 only as a basic generation service pursuant to section 9 of P.L.1999,
2 c.23 (C.48:3-57).

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

6 "Electric related service" means a service that is directly related
7 to the consumption of electricity by an end user, including, but not
8 limited to, the installation of demand side management measures at
9 the end user's premises, the maintenance, repair, or replacement of
10 appliances, lighting, motors, or other energy-consuming devices at
11 the end user's premises, and the provision of energy consumption
12 measurement and billing services.

13 "Electronic signature" means an electronic sound, symbol, or
14 process, attached to, or logically associated with, a contract or other
15 record, and executed or adopted by a person with the intent to sign
16 the record.

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

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

28 "Energy consumer" means a business or residential consumer of
29 electric generation service or gas supply service located within the
30 territorial jurisdiction of a government aggregator.

31 "Energy efficiency portfolio standard" means a requirement to
32 procure a specified amount of energy efficiency or demand side
33 management resources as a means of managing and reducing energy
34 usage and demand by customers.

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

38 "Existing business relationship" means a relationship formed by
39 a voluntary two-way communication between an electric power
40 supplier, gas supplier, broker, energy agent, marketer, private
41 aggregator, sales representative, or telemarketer and a customer,
42 regardless of an exchange of consideration, on the basis of an
43 inquiry, application, purchase, or transaction initiated by the
44 customer regarding products or services offered by the electric
45 power supplier, gas supplier, broker, energy agent, marketer,
46 private aggregator, sales representative, or telemarketer; however, a
47 consumer's use of electric generation service or gas supply service
48 through the consumer's electric public utility or gas public utility

1 shall not constitute or establish an existing business relationship for
2 the purpose of P.L.2013, c.263.

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

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

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

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

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

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

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

44 "Gas supply service" means the provision to customers of the
45 retail commodity of gas, but does not include any regulated
46 distribution service.

47 "Government aggregator" means any government entity subject
48 to the requirements of the "Local Public Contracts Law," P.L.1971,

1 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
2 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
3 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
4 contract with a licensed electric power supplier or a licensed gas
5 supplier for: (1) the provision of electric generation service, electric
6 related service, gas supply service, or gas related service for its own
7 use or the use of other government aggregators; or (2) if a
8 municipal or county government, the provision of electric
9 generation service or gas supply service on behalf of business or
10 residential customers within its territorial jurisdiction.

11 "Government energy aggregation program" means a program and
12 procedure pursuant to which a government aggregator enters into a
13 written contract for the provision of electric generation service or
14 gas supply service on behalf of business or residential customers
15 within its territorial jurisdiction.

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

19 "Green Acres program" means the program for the acquisition of
20 lands for recreation and conservation purposes pursuant to
21 P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et
22 seq.), P.L.1975, c.155 (C.13:8A-35 et seq.), any Green Acres bond
23 act, P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12
24 (C.13:8C-43 et seq.)

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

30 "Grid supply solar facility" means a solar electric power
31 generation facility that sells electricity at wholesale and is
32 connected to the State's electric distribution or transmission
33 systems. "Grid supply solar facility" does not include: (1) a net
34 metered solar facility; (2) an on-site generation facility; (3) a
35 facility participating in net metering aggregation pursuant to section
36 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in
37 remote net metering; or (5) a community solar facility.

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

1 "Incremental auction" means an auction conducted by PJM, as
2 part of PJM's reliability pricing model, prior to the start of the
3 delivery year to secure electric capacity as necessary to satisfy the
4 capacity requirements for that delivery year, that is not otherwise
5 provided for in the base residual auction.

6 "Leakage" means an increase in greenhouse gas emissions
7 related to generation sources located outside of the State that are not
8 subject to a state, interstate, or regional greenhouse gas emissions
9 cap or standard that applies to generation sources located within the
10 State.

11 "Locational deliverability area" or "LDA" means one or more of
12 the zones within the PJM region which are used to evaluate area
13 transmission constraints and reliability issues including electric
14 public utility company zones, sub-zones, and combinations of
15 zones.

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

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

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

37 "Mid-merit electric power generation facility" means a
38 generation facility that operates at a capacity factor between
39 baseload generation facilities and peaker generation facilities.

40 "Net metered solar facility" means a solar electric power generation
41 facility participating in the net metering program developed by the
42 board pursuant to subsection e. of section 38 of P.L.1999, c.23
43 (C.48:3-87) or in a substantially similar program operated by a
44 utility owned or operated by a local government unit.

45 "Net metering aggregation" means a procedure for calculating
46 the combination of the annual energy usage for all facilities owned
47 by a single customer where such customer is a State entity, school
48 district, county, county agency, county authority, municipality,

1 municipal agency, or municipal authority, and which are served by
2 a solar electric power generating facility as provided pursuant to
3 paragraph (4) of subsection e. of section 38 of P.L.1999, c.23
4 (C.48:3-87).

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

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

9 "Offshore wind energy" means electric energy produced by a
10 qualified offshore wind project.

11 "Offshore wind renewable energy certificate" or "OREC" means
12 a certificate, issued by the board or its designee, representing the
13 environmental attributes of one megawatt hour of electric
14 generation from a qualified offshore wind project.

15 "Off-site end use thermal energy services customer" means an
16 end use customer that purchases thermal energy services from an
17 on-site generation facility, combined heat and power facility, or co-
18 generation facility, and that is located on property that is separated
19 from the property on which the on-site generation facility,
20 combined heat and power facility, or co-generation facility is
21 located by more than one easement, public thoroughfare, or
22 transportation or utility-owned right-of-way.

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

40 "Open access offshore wind transmission facility" means an open
41 access transmission facility, located either in the Atlantic Ocean or
42 offshore, used to facilitate the collection of offshore wind energy or
43 its delivery to the electronic transmission system in this State.

44 "Person" means an individual, partnership, corporation,
45 association, trust, limited liability company, governmental entity, or
46 other legal entity.

47 "PJM Interconnection, L.L.C." or "PJM" means the privately-
48 held, limited liability corporation that serves as a FERC-approved

1 Regional Transmission Organization, or its successor, that manages
2 the regional, high-voltage electricity grid serving all or parts of 13
3 states including New Jersey and the District of Columbia, operates
4 the regional competitive wholesale electric market, manages the
5 regional transmission planning process, and establishes systems and
6 rules to ensure that the regional and in-State energy markets operate
7 fairly and efficiently.

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

10 "Preserved farmland" means land on which a development
11 easement was conveyed to, or retained by, the State Agriculture
12 Development Committee, a county agriculture development board,
13 or a qualifying tax exempt nonprofit organization pursuant to the
14 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
15 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
16 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
17 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
18 other State law enacted for farmland preservation purposes.

19 "Private aggregator" means a non-government aggregator that is
20 a duly-organized business or non-profit organization authorized to
21 do business in this State that enters into a contract with a duly
22 licensed electric power supplier for the purchase of electric energy
23 and capacity, or with a duly licensed gas supplier for the purchase
24 of gas supply service, on behalf of multiple end-use customers by
25 combining the loads of those customers.

26 "Properly closed sanitary landfill facility" means a sanitary
27 landfill facility, or a portion of a sanitary landfill facility, for which
28 performance is complete with respect to all activities associated
29 with the design, installation, purchase, or construction of all
30 measures, structures, or equipment required by the Department of
31 Environmental Protection, pursuant to law, in order to prevent,
32 minimize, or monitor pollution or health hazards resulting from a
33 sanitary landfill facility subsequent to the termination of operations
34 at any portion thereof, including, but not necessarily limited to, the
35 placement of earthen or vegetative cover, and the installation of
36 methane gas vents or monitors and leachate monitoring wells or
37 collection systems at the site of any sanitary landfill facility.

38 "Public utility holding company" means: (1) any company that,
39 directly or indirectly, owns, controls, or holds with power to vote,
40 10 percent or more of the outstanding voting securities of an
41 electric public utility or a gas public utility or of a company which
42 is a public utility holding company by virtue of this definition,
43 unless the Securities and Exchange Commission, or its successor,
44 by order declares such company not to be a public utility holding
45 company under the Public Utility Holding Company Act of 1935,
46 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
47 Securities and Exchange Commission, or its successor, determines,
48 after notice and opportunity for hearing, directly or indirectly, to

1 exercise, either alone or pursuant to an arrangement or
2 understanding with one or more other persons, such a controlling
3 influence over the management or policies of an electric public
4 utility or a gas public utility or public utility holding company as to
5 make it necessary or appropriate in the public interest or for the
6 protection of investors or consumers that such person be subject to
7 the obligations, duties, and liabilities imposed in the Public Utility
8 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
9 successor act.

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

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

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

28 "Related competitive business segment of an electric public
29 utility or gas public utility" means any business venture of an
30 electric public utility or gas public utility including, but not limited
31 to, functionally separate business units, joint ventures, and
32 partnerships, that offers to provide or provides competitive services.

33 "Related competitive business segment of a public utility holding
34 company" means any business venture of a public utility holding
35 company, including, but not limited to, functionally separate
36 business units, joint ventures, and partnerships and subsidiaries, that
37 offers to provide or provides competitive services, but does not
38 include any related competitive business segments of an electric
39 public utility or gas public utility.

40 "Reliability pricing model" or "RPM" means PJM's capacity-
41 market model, and its successors, that secures capacity on behalf of
42 electric load serving entities to satisfy load obligations not satisfied
43 through the output of electric generation facilities owned by those
44 entities, or otherwise secured by those entities through bilateral
45 contracts.

46 "Renewable energy certificate" or "REC" means a certificate
47 representing the environmental benefits or attributes of one
48 megawatt-hour of generation from a generating facility that

1 produces Class I or Class II renewable energy, but shall not include
2 a solar renewable energy certificate or an offshore wind renewable
3 energy certificate.

4 "Resource clearing price" or "RCP" means the clearing price
5 established for the applicable locational deliverability area by the
6 base residual auction or incremental auction, as determined by the
7 optimization algorithm for each auction, conducted by PJM as part
8 of PJM's reliability pricing model.

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

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

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

39 "Retail margin" means an amount, reflecting differences in
40 prices that electric power suppliers and electric public utilities may
41 charge in providing electric generation service and basic generation
42 service, respectively, to retail customers, excluding residential
43 customers, which the board may authorize to be charged to
44 categories of basic generation service customers of electric public
45 utilities in this State, other than residential customers, under the
46 board's continuing regulation of basic generation service pursuant to
47 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the

1 purpose of promoting a competitive retail market for the supply of
2 electricity.

3 "Sales representative" means a person employed by, acting on
4 behalf of, or as an independent contractor for, an electric power
5 supplier, gas supplier, broker, energy agent, marketer, or private
6 aggregator who, by any means, solicits a potential residential
7 customer for the provision of electric generation service or gas
8 supply service.

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

11 "School district" means a local or regional school district
12 established pursuant to chapter 8 or chapter 13 of Title 18A of the
13 New Jersey Statutes, a county special services school district
14 established pursuant to article 8 of chapter 46 of Title 18A of the
15 New Jersey Statutes, a county vocational school district established
16 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
17 Statutes, and a district under full State intervention pursuant to
18 P.L.1987, c.399 (C.18A:7A-34 et al.).

19 "Shopping credit" means an amount deducted from the bill of an
20 electric public utility customer to reflect the fact that the customer
21 has switched to an electric power supplier and no longer takes basic
22 generation service from the electric public utility.

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

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

34 "Social program" means a program implemented with board
35 approval to provide assistance to a group of disadvantaged
36 customers, to provide protection to consumers, or to accomplish a
37 particular societal goal, and includes, but is not limited to, the
38 winter moratorium program, utility practices concerning "bad debt"
39 customers, low income assistance, deferred payment plans,
40 weatherization programs, and late payment and deposit policies, but
41 does not include any demand side management program or any
42 environmental requirements or controls.

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

46 "Solar alternative compliance payment" or "SACP" means a
47 payment of a certain dollar amount per megawatt hour (MWh)
48 which an electric power supplier or provider may submit to the

1 board in order to comply with the solar electric generation
2 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

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

8 "Solar renewable energy certificate II" or "SREC-II" means a
9 transferable certificate, issued by the board or its designee pursuant to
10 P.L. , c. (C.) (pending before the Legislature as this bill),
11 which is capable of counting towards the renewable energy portfolio
12 standards of an electric power supplier or basic generation service
13 provider in the State pursuant to section 38 of P.L.1999, c.23 (C.48:3-
14 87).

15 "SREC-II program" means the program established pursuant to
16 section 2 of P.L. , c. (C.) (pending before the Legislature
17 as this bill) to distribute SREC-IIs.

18 "SREC-II value per megawatt-hour" means the value, in dollars-
19 per-megawatt-hour, assigned by the board to each solar electric
20 power generation facility eligible to receive SREC-IIs, which is
21 paid to the facility and which represents the environmental
22 attributes of the facility.

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

30 "Standard offer capacity price" or "SOCP" means the capacity
31 price that is fixed for the term of the SOCA and which is the price
32 to be received by eligible generators under a board-approved
33 SOCA.

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

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

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

1 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
2 mechanisms therefor.

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

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

16 "Thermal efficiency" means the useful electric energy output of a
17 facility, plus the useful thermal energy output of the facility,
18 expressed as a percentage of the total energy input to the facility.

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

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

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

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

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

1 "Unsolicited advertisement" means any advertising claims of the
2 commercial availability or quality of services provided by an
3 electric power supplier, gas supplier, broker, energy agent,
4 marketer, private aggregator, sales representative, or telemarketer
5 which is transmitted to a potential customer without that customer's
6 prior express invitation or permission.

7 (cf: P.L.2020, c.24, s.7)

8

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) Exempt the provision of basic generation service pursuant to
32 a basic generation service purchase and sale agreement effective
33 prior to the date of the regulation.

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

45 d. Notwithstanding any provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public
2 hearing, renewable energy portfolio standards that shall require:

3 (1) that two and one-half percent of the kilowatt hours sold in
4 this State by each electric power supplier and each basic generation
5 service provider be from Class II renewable energy sources;

6 (2) beginning on January 1, 2020, that 21 percent of the kilowatt
7 hours sold in this State by each electric power supplier and each
8 basic generation service provider be from Class I renewable energy
9 sources. The board shall increase the required percentage for Class
10 I renewable energy sources so that by January 1, 2025, 35 percent
11 of the kilowatt hours sold in this State by each electric power
12 supplier and each basic generation service provider shall be from
13 Class I renewable energy sources, and by January 1, 2030, 50
14 percent of the kilowatt hours sold in this State by each electric
15 power supplier and each basic generation service provider shall be
16 from Class I renewable energy sources. Notwithstanding the
17 requirements of this subsection, the board shall ensure that the cost
18 to customers of the Class I renewable energy requirement imposed
19 pursuant to this subsection shall not exceed nine percent of the total
20 paid for electricity by all customers in the State for energy year
21 2019, energy year 2020, and energy year 2021, respectively, and
22 shall not exceed seven percent of the total paid for electricity by all
23 customers in the State in any energy year thereafter ; provided that,
24 if in energy years 2019 through 2021 the cost to customers of the
25 Class I renewable energy requirement is less than nine percent of
26 the total paid for electricity by all customers in the State, the board
27 may increase the cost to customers of the Class I renewable energy
28 requirement in energy years 2022 through 2024 to a rate greater
29 than seven percent, as long as the total costs to customers for
30 energy years 2019 through 2024 does not exceed the sum of nine
31 percent of the total paid for electricity by all customers in the State
32 in energy years 2019 through 2021 and seven percent of the total
33 paid for electricity by all customers in the State in energy years
34 2022 through 2024. In calculating the cost to customers of the
35 Class I renewable energy requirement imposed pursuant to this
36 subsection, the board shall not include the costs of the offshore
37 wind energy certificate program established pursuant to paragraph
38 (4) of this subsection. In calculating the cost to customers of the
39 Class I renewable energy requirement, the board shall reflect any
40 energy and environmental savings attributable to the Class I
41 program in its calculation, which shall include, but not be limited
42 to, the social cost of carbon dioxide emissions at a value no less
43 than the most recently published three percent discount rate
44 scenario of the United States Government Interagency Working
45 Group on Social Cost of Greenhouse Gases. The board shall take
46 any steps necessary to prevent the exceedance of the cap on the cost
47 to customers including, but not limited to, adjusting the Class I
48 renewable energy requirement.

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

5 (3) that the board establish a multi-year schedule, applicable to
6 each electric power supplier or basic generation service provider in
7 this State, beginning with the one-year period commencing on June
8 1, 2010, and continuing for each subsequent one-year period up to
9 and including, the one-year period commencing on June 1, 2033,
10 that requires the following number or percentage, as the case may
11 be, of kilowatt-hours sold in this State by each electric power
12 supplier and each basic generation service provider to be from solar
13 electric power generators connected to the distribution system or
14 transmission system in this State:

15	EY 2011	306 Gigawatthours (Gwhrs)
16	EY 2012	442 Gwhrs
17	EY 2013	596 Gwhrs
18	EY 2014	2.050%
19	EY 2015	2.450%
20	EY 2016	2.750%
21	EY 2017	3.000%
22	EY 2018	3.200%
23	EY 2019	4.300%
24	EY 2020	4.900%
25	EY 2021	5.100%
26	EY 2022	5.100%
27	EY 2023	5.100%
28	EY 2024	4.900%
29	EY 2025	4.800%
30	EY 2026	4.500%
31	EY 2027	4.350%
32	EY 2028	3.740%
33	EY 2029	3.070%
34	EY 2030	2.210%
35	EY 2031	1.580%
36	EY 2032	1.400%
37	EY 2033	1.100%

38 No later than 180 days after the date of enactment of P.L.2018,
39 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations
40 to close the SREC program to new applications upon the attainment
41 of 5.1 percent of the kilowatt-hours sold in the State by each
42 electric power supplier and each basic generation provider from
43 solar electric power generators connected to the distribution system.
44 The board shall continue to consider any application filed before the
45 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board
46 shall provide for an orderly and transparent mechanism that will
47 result in the closing of the existing SREC program on a date certain
48 but no later than June 1, 2021.

1 No later than 24 months after the date of enactment of P.L.2018,
2 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
3 evaluates how to modify or replace the SREC program to encourage
4 the continued efficient and orderly development of solar renewable
5 energy generating sources throughout the State. The board shall
6 submit the written report thereon to the Governor and, pursuant to
7 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
8 board shall consult with public utilities, industry experts, regional
9 grid operators, solar power providers and financiers, and other State
10 agencies to determine whether the board can modify the SREC
11 program such that the program will:

- 12 - continually reduce, where feasible, the cost of achieving the
13 solar energy goals set forth in this subsection;
- 14 - provide an orderly transition from the SREC program to a
15 new or modified program;
- 16 - develop megawatt targets for grid connected and distribution
17 systems, including residential and small commercial rooftop
18 systems, community solar systems, and large scale behind the meter
19 systems, as a share of the overall solar energy requirement, which
20 targets the board may modify periodically based on the cost,
21 feasibility, or social impacts of different types of projects;
- 22 - establish and update market-based maximum incentive
23 payment caps periodically for each of the above categories of solar
24 electric power generation facilities;
- 25 - encourage and facilitate market-based cost recovery through
26 long-term contracts and energy market sales; and
- 27 - where cost recovery is needed for any portion of an efficient
28 solar electric power generation facility when costs are not
29 recoverable through wholesale market sales and direct payments
30 from customers, utilize competitive processes such as competitive
31 procurement and long-term contracts where possible to ensure such
32 recovery, without exceeding the maximum incentive payment cap
33 for that category of facility.

34 The board shall approve, conditionally approve, or disapprove
35 any application for designation as connected to the distribution
36 system of a solar electric power generation facility filed with the
37 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et
38 al.), no more than 90 days after receipt by the board of a completed
39 application. For any such application for a project greater than 25
40 kilowatts, the board shall require the applicant to post a notice
41 escrow with the board in an amount of \$40 per kilowatt of DC
42 nameplate capacity of the facility, not to exceed \$40,000. The
43 notice escrow amount shall be reimbursed to the applicant in full
44 upon either denial of the application by the board or upon
45 commencement of commercial operation of the solar electric power
46 generation facility. The escrow amount shall be forfeited to the
47 State if the facility is designated as connected to the distribution
48 system pursuant to this subsection but does not commence

1 commercial operation within two years following the date of the
2 designation by the board.

3 For all applications for designation as connected to the
4 distribution system of a solar electric power generation facility filed
5 with the board after the date of enactment of P.L.2018, c.17
6 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

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

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

18 (c) The solar renewable portfolio standards requirements in this
19 paragraph shall exempt those existing supply contracts which are
20 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
21 87.8 et al.) from any increase beyond the number of SRECs
22 mandated by the solar renewable energy portfolio standards
23 requirements that were in effect on the date that the providers
24 executed their existing supply contracts. This limited exemption for
25 providers' existing supply contracts shall not be construed to lower
26 the Statewide solar sourcing requirements set forth in this
27 paragraph. Such incremental requirements that would have
28 otherwise been imposed on exempt providers shall be distributed
29 over the providers not subject to the existing supply contract
30 exemption until such time as existing supply contracts expire and
31 all providers are subject to the new requirement in a manner that is
32 competitively neutral among all providers and suppliers.
33 Notwithstanding any rule or regulation to the contrary, the board
34 shall recognize these new solar purchase obligations as a change
35 required by operation of law and implement the provisions of this
36 subsection in a manner so as to prevent any subsidies between
37 suppliers and providers and to promote competition in the
38 electricity supply industry.

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

46 The renewable energy portfolio standards adopted by the board
47 pursuant to paragraphs (1) and (2) of this subsection shall be
48 effective as regulations immediately upon filing with the Office of

1 Administrative Law and shall be effective for a period not to exceed
2 18 months, and may, thereafter, be amended, adopted or readopted
3 by the board in accordance with the provisions of the
4 "Administrative Procedure Act."

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

12 (4) within 180 days after the date of enactment of P.L.2010,
13 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
14 renewable energy certificate program to require that a percentage of
15 the kilowatt hours sold in this State by each electric power supplier
16 and each basic generation service provider be from offshore wind
17 energy in order to support at least 3,500 megawatts of generation
18 from qualified offshore wind projects.

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

24 The percentage established by the board pursuant to this
25 paragraph shall reflect the projected OREC production of each
26 qualified offshore wind project, approved by the board pursuant to
27 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
28 commercial operation start date of the qualified offshore wind
29 project which production projection and OREC purchase
30 requirement, once approved by the board, shall not be subject to
31 reduction.

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

42 The rules established by the board pursuant to this paragraph
43 shall be effective as regulations immediately upon filing with the
44 Office of Administrative Law and shall be effective for a period not
45 to exceed 18 months, and may, thereafter, be amended, adopted or
46 readopted by the board in accordance with the provisions of the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 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 5.8 percent of
42 the total annual kilowatt-hours sold in this State by each electric
43 power supplier and each basic generation service provider during
44 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 Electronics Engineers. The board shall allow electric public
5 utilities to recover the costs of any new net meters, upgraded net
6 meters, system reinforcements or upgrades, and interconnection
7 costs 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.

1 g. The board shall adopt, pursuant to the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
3 energy efficiency program in order to ensure investment in cost-
4 effective energy efficiency measures, ensure universal access to
5 energy efficiency measures, and serve the needs of low-income
6 communities that shall require each electric public utility to
7 implement energy efficiency measures that reduce electricity usage
8 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
9 Nothing in this subsection shall be construed to prevent an electric
10 public utility from meeting the requirements of this subsection by
11 contracting with another entity for the performance of the
12 requirements.

13 h. The board shall adopt, pursuant to the "Administrative
14 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
15 efficiency program in order to ensure investment in cost-effective
16 energy efficiency measures, ensure universal access to energy
17 efficiency measures, and serve the needs of low-income
18 communities that shall require each gas public utility to implement
19 energy efficiency measures that reduce natural gas usage in the
20 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
21 Nothing in this subsection shall be construed to prevent a gas public
22 utility from meeting the requirements of this subsection by
23 contracting with another entity for the performance of the
24 requirements.

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

34 j. The board shall determine an appropriate level of solar
35 alternative compliance payment, and permit each supplier or
36 provider to submit an SACP to comply with the solar electric
37 generation requirements of paragraph (3) of subsection d. of this
38 section. The value of the SACP for each Energy Year, for Energy
39 Years 2014 through 2033 per megawatt hour from solar electric
40 generation required pursuant to this section, shall be:

41	EY 2014	\$339
42	EY 2015	\$331
43	EY 2016	\$323
44	EY 2017	\$315
45	EY 2018	\$308
46	EY 2019	\$268
47	EY 2020	\$258
48	EY 2021	\$248

1	EY 2022	\$238
2	EY 2023	\$228
3	EY 2024	\$218
4	EY 2025	\$208
5	EY 2026	\$198
6	EY 2027	\$188
7	EY 2028	\$178
8	EY 2029	\$168
9	EY 2030	\$158
10	EY 2031	\$148
11	EY 2032	\$138
12	EY 2033	\$128.

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

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

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

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

40 (2) maintain adequate regulatory authority over non-competitive
41 public utility services;

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

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

47 (5) make energy services more affordable for low and moderate
48 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 four 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 (3) Notwithstanding the provisions of paragraph (2) of this
31 subsection, a solar electric power generation facility project that as
32 of May 31, 2017 was designated as "connected to the distribution
33 system," but failed to commence commercial operations as of that
34 date, shall maintain that designation if it commences commercial
35 operations by May 31, 2018.

36 r. (1) For all proposed solar electric power generation facility
37 projects except for those solar electric power generation facility
38 projects approved pursuant to subsection q. of this section, and for
39 all projects proposed in energy year 2019 and energy year 2020, the
40 board may approve projects for up to 50 megawatts annually in
41 auctioned capacity in two auctions per year as long as the board is
42 accepting applications. If the board approves projects for less than
43 50 megawatts in energy year 2019 or less than 50 megawatts in
44 energy year 2020, the difference in each year shall be carried over
45 into the successive energy year until 100 megawatts of auctioned
46 capacity has been approved by the board pursuant to this
47 subsection. A proposed solar electric power generation facility that
48 is neither net metered nor an on-site generation facility, may be

1 considered "connected to the distribution system" only upon
2 designation as such by the board, after notice to the public and
3 opportunity for public comment or hearing. A proposed solar
4 **[power]** electric power generation facility seeking board
5 designation as "connected to the distribution system" shall submit
6 an application to the board that includes for the proposed facility:
7 the nameplate capacity; the estimated energy and number of SRECs
8 to be produced and sold per year; the estimated annual rate impact
9 on ratepayers; the estimated capacity of the generator as defined by
10 PJM for sale in the PJM capacity market; the point of
11 interconnection; the total project acreage and location; the current
12 land use designation of the property; the type of solar technology to
13 be used; and such other information as the board shall require.

14 (2) The board shall approve the designation of the proposed
15 solar **[power]** electric power generation facility as "connected to
16 the distribution system" if the board determines that:

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

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

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

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

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

40 s. In addition to any other requirements of P.L.1999, c.23 or
41 any other law, rule, regulation or order, a solar electric power
42 generation facility that is not net metered or an on-site generation
43 facility and which is located on land that has been actively devoted
44 to agricultural or horticultural use that is valued, assessed, and
45 taxed pursuant to the "Farmland Assessment Act of 1964,"
46 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
47 period prior to the effective date of P.L.2012, c.24, shall only be
48 considered "connected to the distribution system" if (1) the board

1 approves the facility's designation pursuant to subsection q. of this
2 section; or (2) (a) PJM issued a System Impact Study for the facility
3 on or before June 30, 2011, (b) the facility files a notice with the
4 board within 60 days of the effective date of P.L.2012, c.24,
5 indicating its intent to qualify under this subsection, and (c) the
6 facility has been approved as "connected to the distribution system"
7 by the board. Nothing in this subsection shall limit the board's
8 authority concerning the review and oversight of facilities, unless
9 such facilities are exempt from such review as a result of having
10 been approved pursuant to subsection q. of this section.

11 t. (1) No more than 180 days after the date of enactment of
12 P.L.2012, c.24, the board shall, in consultation with the Department
13 of Environmental Protection and the New Jersey Economic
14 Development Authority, and, after notice and opportunity for public
15 comment and public hearing, complete a proceeding to establish a
16 program to provide SRECs to owners of solar electric power
17 generation facility projects certified by the board, in consultation
18 with the Department of Environmental Protection, as being located
19 on a brownfield, on an area of historic fill or on a properly closed
20 sanitary landfill facility, including those owned or operated by an
21 electric public utility and approved pursuant to section 13 of
22 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
23 subsection shall be considered "connected to the distribution
24 system", shall not require such designation by the board, and shall
25 not be subject to board review required pursuant to subsections q.
26 and r. of this section. Notwithstanding the provisions of section 3
27 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
28 order to the contrary, for projects certified under this subsection, the
29 board shall establish a financial incentive that is designed to
30 supplement the SRECs generated by the facility in order to cover
31 the additional cost of constructing and operating a solar electric
32 power generation facility on a brownfield, on an area of historic fill
33 or on a properly closed sanitary landfill facility. Any financial
34 benefit realized in relation to a project owned or operated by an
35 electric public utility and approved by the board pursuant to section
36 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
37 financial incentive established by the board pursuant to this
38 subsection, shall be credited to ratepayers. The issuance of SRECs
39 for all solar electric power generation facility projects pursuant to
40 this subsection shall be deemed "Board of Public Utilities financial
41 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
42 29.47).

43 (2) Notwithstanding the provisions of the "Spill Compensation
44 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
45 other law, rule, regulation, or order to the contrary, the board, in
46 consultation with the Department of Environmental Protection, may
47 find that a person who operates a solar electric power generation
48 facility project that has commenced operation on or after the

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

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

19 (b) the person did not discharge the hazardous substance, is not
20 in any way responsible for the hazardous substance, and is not a
21 successor to the discharger or to any person in any way responsible
22 for the hazardous substance or to anyone liable for cleanup and
23 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
24 23.11g);

25 (c) the person, within 30 days after acquisition of the property,
26 gave notice of the discharge to the Department of Environmental
27 Protection in a manner the Department of Environmental Protection
28 prescribes;

29 (d) the person does not disrupt or change, without prior written
30 permission from the Department of Environmental Protection, any
31 engineering or institutional control that is part of a remedial action
32 for the contaminated site or any landfill closure or post-closure
33 requirement;

34 (e) the person does not exacerbate the contamination at the
35 property;

36 (f) the person does not interfere with any necessary remediation
37 of the property;

38 (g) the person complies with any regulations and any permit the
39 Department of Environmental Protection issues pursuant to section
40 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
41 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

42 (h) with respect to an area of historic fill, the person has
43 demonstrated pursuant to a preliminary assessment and site
44 investigation, that hazardous substances have not been discharged;
45 and

46 (i) with respect to a properly closed sanitary landfill facility, no
47 person who owns or controls the facility receives, has received, or
48 will receive, with respect to such facility, any funds from any post-

1 closure escrow account established pursuant to section 10 of
2 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
3 the facility.

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

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

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

24 w. No more than 270 days after the date of enactment of
25 P.L.2012, c.24, the board shall, after notice and opportunity for
26 public comment and public hearing, complete a proceeding to
27 consider whether to establish a program to provide, to owners of
28 solar electric power generation facility projects certified by the
29 board as being three megawatts or greater in capacity and being net
30 metered, including facilities which are owned or operated by an
31 electric public utility and approved by the board pursuant to section
32 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
33 designed to supplement the SRECs generated by the facility to
34 further the goal of improving the economic competitiveness of
35 commercial and industrial customers taking power from such
36 projects. If the board determines to establish such a program
37 pursuant to this subsection, the board may establish a financial
38 incentive to provide that the board shall issue one SREC for no less
39 than every 750 kilowatt-hours of solar energy generated by the
40 certified projects. Any financial benefit realized in relation to a
41 project owned or operated by an electric public utility and approved
42 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
43 98.1), as a result of the provisions of a financial incentive
44 established by the board pursuant to this subsection, shall be
45 credited to ratepayers.

46 x. Solar electric power generation facility projects that are
47 located on an existing or proposed commercial, retail, industrial,
48 municipal, professional, recreational, transit, commuter,

1 entertainment complex, multi-use, or mixed-use parking lot with a
2 capacity to park 350 or more vehicles where the area to be utilized
3 for the facility is paved, or an impervious surface may be owned or
4 operated by an electric public utility and may be approved by the
5 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
6 (cf: P.L.2019, c.448, s.1)

7
8 11. Section 4 of P.L.2016, c.12 (C.13:8C-46) is amended to read
9 as follows:

10 4. There is established in the General Fund a special account to
11 be known as the "Preserve New Jersey Fund Account."

12 a. The State Treasurer shall credit to this account:

13 (1) (a) (i) For State fiscal year 2016, an amount equal to 71
14 percent of the four percent of the revenue annually derived from the
15 tax imposed pursuant to the "Corporation Business Tax Act
16 (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and
17 supplemented, or any other State law of similar effect, dedicated for
18 recreation and conservation, farmland preservation, and historic
19 preservation purposes pursuant to subparagraph (a) of Article VIII,
20 Section II, paragraph 6 of the State Constitution, less \$19,972,000
21 already appropriated and expended for parks management in
22 P.L.2015, c.63; and

23 (ii) in each State fiscal year 2017 through and including State
24 fiscal year 2019 an amount equal to 71 percent of the four percent
25 of the revenue annually derived from the tax imposed pursuant to
26 the "Corporation Business Tax Act (1945)," P.L.1945, c.162
27 (C.54:10A-1 et seq.), as amended and supplemented, or any other
28 State law of similar effect, dedicated to recreation and conservation,
29 farmland preservation, and historic preservation purposes pursuant
30 to subparagraph (a) of Article VIII, Section II, paragraph 6 of the
31 State Constitution; and

32 (b) (i) in each State fiscal year commencing in State fiscal year
33 2020 and annually thereafter, an amount equal to 78 percent of the
34 six percent of the revenue annually derived from the tax imposed
35 pursuant to the "Corporation Business Tax Act (1945)," P.L.1945,
36 c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any
37 other State law of similar effect, dedicated to recreation and
38 conservation, farmland preservation, and historic preservation
39 purposes pursuant to subparagraph (a) of Article VIII, Section II,
40 paragraph 6 of the State Constitution; and

41 (ii) any amount received from a solar electric power generation
42 facility pursuant to section 5 of P.L. , c. (C.) (pending
43 before the Legislature as this bill); and

44 (2) in each State fiscal year, an amount equal to the amount
45 dedicated pursuant to subparagraph (b) of Article VIII, Section II,
46 paragraph 6 of the State Constitution.

47 b. In each State fiscal year, the amount credited to the Preserve
48 New Jersey Fund Account shall be appropriated from time to time

1 by the Legislature only for the applicable purposes set forth in
2 Article VIII, Section II, paragraph 6 of the State Constitution and
3 **【this act】** P.L.2016, c.12 (C.13:8C-43 et seq.) for:

4 (1) providing funding, including loans or grants, for the
5 preservation, including acquisition, development, and stewardship,
6 of lands for recreation and conservation purposes, including lands
7 that protect water supplies and lands that have incurred flood or
8 storm damage or are likely to do so, or that may buffer or protect
9 other properties from flood or storm damage;

10 (2) providing funding, including loans or grants, for the
11 preservation and stewardship of land for agricultural or horticultural
12 use and production;

13 (3) providing funding, including loans or grants, for historic
14 preservation; and

15 (4) paying administrative costs associated with (1) through (3)
16 of this subsection.

17 c. Nothing in **【this act】** P.L.2016, c.12 (C.13:8C-43 et seq.)
18 shall authorize any State entity to use constitutionally dedicated
19 CBT moneys for the purpose of making any payments relating to
20 any bonds, notes, or other debt obligations, other than those relating
21 to obligations arising from land purchase agreements made with
22 landowners.

23 d. In each State fiscal year after the enactment of P.L. ,
24 c. (C.) (pending before the Legislature as this bill), the State
25 Treasurer shall notify, in writing, the chairperson of the Garden
26 State Preservation Trust of the amount received from a solar electric
27 power generation facility pursuant to section 5 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill) and
29 credited to the Preserve New Jersey Fund Account pursuant to
30 subsubparagraph (ii) of subparagraph (b) of paragraph (1) of
31 subsection a. of this section to be used for the purposes of
32 subsection b. of this section.

33 (cf: P.L.2016, c.12, s.4)

34

35 12. This act shall take effect immediately.

36

37

38

39

40 Establishes successor program to solar renewable energy
41 certificate program in BPU, including solicitation process for
42 certain solar power generation facilities.

CHAPTER 169

AN ACT concerning certain solar energy projects, amending and supplementing P.L.1999, c.23, amending P.L.2016, c.12, and supplementing Title 13 of the Revised Statutes.

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

C.48:3-114 Findings, declarations relative to certain solar energy projects.

1. The Legislature hereby finds and declares that:

a. In order to achieve the State's goal of securing 50 percent of its electricity supply from renewable energy by 2030 with the least cost and the greatest benefit to consumers, it is critical to promote investment in new solar electric power generation facilities, including grid supply solar facilities, community solar facilities, and net metered solar facilities;

b. The New Jersey 2019 Energy Master Plan, prepared pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), found that: (1) the State can achieve its 100 percent clean energy and 80 percent greenhouse gas reduction goals, which will likely lead to net savings when health benefits and climate change mitigation benefits are taken into account, in part by maximizing the development of renewable energy generation, including 17 gigawatts of solar power by 2035 and 32 gigawatts by 2050; and (2) under the least cost path identified by the plan, solar energy could meet 34 percent of the State's clean energy needs by 2050;

c. The development of grid supply solar should be directed toward marginal land and the built environment and away from open space, flood zones, and other areas especially vulnerable to climate change, and a coordinated land use policy for grid supply solar siting is needed to affordably expand New Jersey's commitment to renewable energy while not compromising the State's commitment to preserving and protecting open space and farmland;

d. New Jersey has the market potential to host thousands of megawatts of solar power generation facilities from grid supply, community solar, and net-metered solar installations, which will create solar jobs and improve the environment; and

e. It is therefore in the public interest to develop a new solar program that incentivizes new solar electric power generation facilities, including net metered solar facilities, community solar facilities, and grid supply solar facilities, which are capable of ensuring that clean and reliable solar energy is supplied to New Jersey consumers, and which contribute to meeting the State's energy goals.

C.48:3-115 SREC-II program.

2. a. There is established in the Board of Public Utilities a program to be known as the SREC-II program, which shall serve as the successor program to the SREC program established pursuant to section 38 of P.L.1999, c.23 (C.48:3-87). The goal of the program shall be to provide incentives for the development of at least 3,750 megawatts of new solar power generation by 2026, although this goal may be extended or revised by the board as necessary to conform to the State's solar energy policies.

b. The board shall develop, as part of the SREC-II program, a process for the creation and distribution of renewable energy certificates, to be known as "SREC-IIs," for each megawatt hour of energy produced by a qualifying solar electric power generation facility for a duration established by the board. The board shall also establish a system by which to distribute a renewable energy incentive payment, to be known as the "SREC-II value per megawatt-hour," to the owner of an eligible solar electric power generation facility, which shall be measured in dollars-per-megawatt-hour of solar power generation, and which shall represent the value of the environmental attribute produced by the solar electric power generation facility. SREC-IIs shall be transferable and capable of being used by an electric

power supplier or basic generation service provider to satisfy the State's renewable portfolio standards established pursuant to section 38 of P.L.1999, c.23 (C.48:3-87). SREC-IIs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following energy year.

c. No later than one year after the effective date of P.L.2021, c.169 (C.48:3-114 et al.), the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing the SREC-II program in accordance with the provisions of P.L.2021, c.169 (C.48:3-114 et al.).

d. The board is authorized to establish, impose, and collect fees, escrows, and other charges the board deems necessary and proper to implement the provisions of P.L.2021, c.169 (C.48:3-114 et al.).

e. The costs of the SREC-II program shall be apportioned to ratepayers using a methodology approved by the board. Except as provided in subsection h. of section 4 of P.L.2021, c.169 (C.48:3-117), the methodology shall be similar to that by which the board apportions the costs of SRECs and other renewable energy certificates pursuant to section 38 of P.L.1999, c.23 (C.48:3-87) and consistent with the competitive retail market established by the "Energy Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.).

C.48:3-116 Development of small solar facilities incentive program.

3. a. The board shall develop, as part of the SREC-II program, a small solar facilities incentive program to award SREC-IIs to the owners of community solar facilities and net metered solar facilities less than five megawatts in size, as measured in direct current, or another size specified by the board. The small solar facilities incentive program shall aim to provide SREC-IIs for the generation of at least 300 megawatts of net-metered solar facilities per year and 150 megawatts of community solar facilities per year, for each of the five years after the establishment of the SREC-II program.

b. The board shall establish eligibility criteria and an application process by which an owner of a solar electric power generation facility may apply to receive SREC-IIs pursuant to this section, until the program reaches the energy generation target established by subsection a. of this section, as determined by the board. Only solar electric power generation facilities that receive permission to operate from the appropriate regional grid operator after the effective date of P.L.2021, c.169 (C.48:3-114 et al.), shall be eligible to receive SREC-IIs pursuant to this section, unless otherwise specified by the board. A facility shall be eligible to receive SREC-IIs pursuant to this section for a duration established by the board if it is connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit.

c. The small solar facilities incentive program shall include criteria by which to assign an SREC-II value per megawatt-hour to a solar electric power generation facility. The criteria shall be designed by the board to incentivize the development of new solar power projects sufficiently so that the goals for solar power development in the State's Energy Master Plan are met, to further other State goals, and to incentivize projects that are especially in the public interest. The SREC-II value per megawatt-hour may include the value of the environmental and other benefits to the State provided by the facility, as determined by the board. The criteria may include, but is not limited to, consideration of the following factors:

- (1) the size of the facility;
- (2) the costs and revenues associated with representative facilities;

(3) for community solar facilities, the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92 (C.13:1D-158);

(4) whether the facility is located on already developed land or the built environment;

(5) the facility's eligibility for net metering pursuant to subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87) or participation in the community solar program established pursuant to subsection f. of section 5 of P.L.2018, c.17 (C.48:3-87.11); and

(6) the rate class of the facility, as determined by the appropriate New Jersey electric public utility or local government unit.

C.48:3-117 Solicitation process for awarding contracts.

4. a. The board shall develop and administer, as part of the SREC-II program, a transparent, fair, and competitive solicitation process for awarding SREC-II contracts to promote the construction of solar electric power generation facilities.

(1) In order to be eligible to participate in the solicitation process, a solar electric power generation facility shall be:

(a) a grid supply solar facility or net metered solar facility greater than five megawatts in size, as measured in direct current, or another size specified by the board;

(b) constructed after the effective date of P.L.2021, c.169 (C.48:3-114 et al.);

(c) interconnected to a distribution or transmission system operated by a New Jersey electric public utility or local government unit; and

(d) sited in conformance with the siting criteria established by the board pursuant to section 6 of P.L.2021, c.169 (C.48:3-119).

(2) The board shall develop additional eligibility criteria and application processes for participation in the solicitation process.

b. The board may establish a system of distinct bidding categories within the competitive solicitation process set forth in this section, such that only bids from the same category compete with one another. The category system may take into account the size of the facility, location of the facility on a contaminated site or landfill, as determined by the board in consultation with the Department of Environmental Protection, or any other feature of a facility, provided that the category system enhances the continued diversification of the energy resources used to meet consumer demand in this State and results in environmental and public health benefits to New Jersey residents, as determined by the board. The board may revise the category system as it deems appropriate after each solicitation round.

c. Solicitation rounds shall occur at least as frequently as once every 18 months, beginning on the effective date of P.L.2021, c.169 (C.48:3-114 et al.) and ending no earlier than January 1, 2026. The solicitation process shall:

(1) be open on a non-discriminatory basis to any entity seeking to construct a solar electric power generation facility that complies with the provisions of subsection a. of this section;

(2) be carried out in accordance with criteria developed by the board and applied equally to all responses to the solicitation;

(3) award contracts for SREC-IIs to promote the construction of solar electric power generation facilities for no less than an average of 300 megawatts per year, for five years, with the first awards made no later than 18 months after the effective date of P.L.2021, c.169 (C.48:3-114 et al.);

(4) award projects selected as part of the competitive solicitation process the right to receive a renewable energy incentive payment, in the form of an SREC-II value per

megawatt-hour established by the board, for the environmental attribute produced by the solar electric power generation facility, for a duration to be established by the board. The SREC-II value per megawatt-hour may include the value of the environmental and other benefits to the State provided by the facility, as determined by the board;

(5) ensure that the length of any award is sufficient to encourage low financing rates, reasonable risks to ratepayers, and to enable the development of affordable renewable energy resources;

(6) mitigate price and delivery risks for consumers;

(7) include requirements designed to ensure successful completion of projects, including, but not limited to, the imposition of appropriate escrow fees, bid maturity requirements, required interconnection milestones, and conditions on when a project must achieve commercial operation; and

(8) ensure that the environmental and public health benefits of solar electric power generation facilities on contaminated sites or landfills are recognized, including accommodating the long development timescale for these projects.

d. The board may establish confidential high and low bid thresholds prior to conducting a competitive solicitation pursuant to this section, provided that the thresholds promote fiscal responsibility for the State and the likelihood of successful bids, as determined by the board. The thresholds may include a cap on the renewable energy incentive payments required pursuant to paragraph (4) of subsection c. of this section. The board may also procure more than the minimum quantity of solar power required by this section if bids are below the predetermined bid threshold.

e. The board shall determine, in consultation with the Department of Environmental Protection, if a solar electric power generation facility may be sited on a contaminated site or landfill for the purposes of this section. If the board authorizes a facility to be sited on a contaminated site or landfill, the facility shall be afforded the protections provided in paragraph (2) of subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87).

f. At the end of each bidding round, the board shall:

(1) rank all bids received based on the bid price, or, pursuant to subsection b. of this section, based on the bid price within each category;

(2) select bids in ranked order, up to the procurement budget set by the board, or, pursuant to subsection b. of this section, the procurement budget of each category; and

(3) adjust quantities awarded if prices are above or below any confidential pre-determined thresholds established pursuant to subsection d. of this section.

g. Any moneys placed in escrow by an applicant as part of the competitive solicitation process shall be reimbursed to the applicant in full or in part upon meeting the conditions set forth by the board when the board established the escrow requirement, including, but not limited to, selection in the competitive solicitation or commencement of commercial operation of the solar electric power generation facility. The escrow amount shall be forfeited to the General Fund if the facility does not meet the conditions set forth by the board when the board established the escrow requirement, including, but not limited to, commencing commercial operation within the term specified by the board's requirements established pursuant to paragraph (7) of subsection c. of this section, including any extensions as may be granted pursuant to procedures established by the board.

h. The costs of the competitive solicitation process, including the issuance of renewable energy incentive payments pursuant to paragraph (4) of subsection c. of this section, shall not be subject to the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87).

C.48:3-118 Requirements for solar electric power generation facilities receiving SREC-II grants.

5. a. No solar electric power generation facility shall simultaneously receive SREC-IIs pursuant to P.L.2021, c.169 (C.48:3-114 et al.) and Class I RECs, SRECs, or any other comparable certificates, including those issued under a program developed by the board pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

b. A solar electric power generation facility that receives an SREC-II pursuant to P.L.2021, c.169 (C.48:3-114 et al.) for a unit of energy produced shall not otherwise sell, alienate, or dispose of any of the environmental benefits or attributes associated with that energy.

c. A solar electric power generation facility that is selected by the board pursuant to section 4 of P.L.2021, c.169 (C.48:3-117) shall be responsible for the payment of:

(1) an annual remuneration of one percent of the renewable energy incentive payments pursuant to paragraph (4) of subsection c. of section 4 of P.L.2021, c.169 (C.48:3-117), to be submitted to the State Treasurer for deposit into the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46); and

(2) an annual administrative fee, in an amount to be determined by the board in the rules and regulations adopted by the board pursuant to section 2 of P.L.2021, c.169 (C.48:3-115).

d. Each worker employed in the State during the construction of a solar electric power generation facility greater than one megawatt in size, as measured in direct current, that participates in the SREC-II program shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

e. The issuance of SREC-IIs pursuant to P.L.2021, c.169 (C.48:3-114 et al.) shall be deemed "Board of Public Utilities financial assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

f. The owner of a solar electric power generation facility that participates in the SREC-II program shall obtain all necessary permits and other approvals as may be required pursuant to federal, State, or local law, rule, regulation, or ordinance.

g. A solar electric power generation facility that is selected pursuant to section 4 of P.L.2021, c.169 (C.48:3-117) shall comply with the standards concerning vegetation adopted by the Department of Environmental Protection pursuant to section 8 of P.L.2021, c.169 (C.13:1B-15.178).

C.48:3-119 Siting criteria required to commence operation.

6. a. The board shall not authorize a grid supply solar facility or a net metered solar facility greater than five megawatts in size to commence operation, or to interconnect to an electric distribution or transmission system, unless it meets the siting criteria developed pursuant to this section.

b. The board shall develop, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. In addition to implementing the provisions of subsections c. through f. of this section, the siting criteria shall:

(1) facilitate the State's commitment to affordable, clean, and renewable energy, and the carbon dioxide emissions reduction goals established by P.L.2007, c.112 (C.26:2C-37 et al.);

(2) minimize, as much as is practicable, potential adverse environmental impacts; and

(3) where appropriate, include consideration of:

(a) existing and prior land uses of the property;

(b) whether the property contains a contaminated site or landfill;
(c) any conservation or agricultural designations associated with the property;
(d) the amount of soil disturbance, impervious surface, and tree cover on the property;
and

(e) other site-specific criteria.

c. Unless authorized pursuant to subsection f. of this section, a grid supply solar facility or a net metered solar facility greater than five megawatts in size shall not be sited on:

(1) land preserved under the Green Acres Program;

(2) land located within the preservation area of the pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (C.13:18A-11);

(3) land designated as forest area in the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

(4) land designated as freshwater wetlands as defined pursuant to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands as defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);

(5) lands located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

(6) forested lands, as defined by the board in consultation with the Department of Environmental Protection; or

(7) prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, in excess of the Statewide threshold of 2.5 percent of such soils established by paragraph (1) of subsection d. of this section.

d. (1) A grid supply solar facility or a net metered solar facility greater than five megawatts in size sited on prime agricultural soils or soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, shall not require a waiver pursuant to subsection f. of this section until the board determines, pursuant to paragraph (2) of this subsection, that 2.5 percent of such lands in the State have been approved by the board pursuant to P.L.2021, c.169 (C.48:3-114 et al.) to be utilized by a grid supply solar facility or a net metered solar facility greater than five megawatts in size. After the board makes this determination, a grid supply solar facility or a net metered solar facility greater than five megawatts in size shall not be sited on prime agricultural soils or soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, unless authorized pursuant to subsection f. of this section.

(2) The board, in consultation with the Secretary of Agriculture, shall track and record the Statewide area of prime agricultural soils or soils of Statewide importance, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, and which are utilized for solar energy production by grid supply solar facilities and net metered solar facilities greater than five megawatts in size, in order to implement the provisions of this section.

e. (1) In no case shall a grid supply solar facility be located on preserved farmland.

(2) Nothing in P.L.2021, c.169 (C.48:3-114 et al.) shall be construed to affect the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), including those related to the construction of solar electric power generation facilities on preserved farmland.

f. A developer may petition the board for a waiver to site a solar power electric generation facility in an area proscribed by subsection c. of this section. The petition shall set out the unique factors that make the project consistent with the character of the specific parcel, including whether the property is a contaminated site or landfill, otherwise marginal land, or whether the project utilizes existing development or existing areas of impervious coverage. The board shall, in consultation with the Department of Environmental Protection or Secretary of Agriculture, as appropriate, consider the petition and may grant a waiver to a project deemed to be in the public interest. However, in no case shall the projects approved by the board pursuant to this section occupy more than five percent of the unreserved land containing prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, located within any county's designated Agricultural Development Area, as determined by the State Agriculture Development Committee.

g. No later than five years after the adoption of rules and regulations pursuant to section 2 of P.L.2021, c.169 (C.48:3-115), the board, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, shall conduct a review of the rules and regulations to assess program performance, identify problems, and recommend changes to the siting criteria to better effectuate the policy goals set forth in subsection a. of this section. The board shall prepare a report summarizing this review and submit it to the Governor and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

C.48:3-120 Report to Governor, Legislature.

7. The board shall submit a report on the SREC-II program to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature no later than 12 months after the adoption of rules and regulations pursuant to section 2 of P.L.2021, c.169 (C.48:3-115), and annually thereafter. The report shall include, but not be limited to:

- a. information about the number and price of SREC-IIs distributed;
- b. information about the progress of the program towards meeting its solar energy generation goals, including the individual goals for net-metered solar facilities, community solar facilities, and grid supply solar facilities;
- c. an assessment of the competitive solicitation process, including any recommendations to improve the functioning of the program; and
- d. a summary of the siting criteria developed pursuant to section 6 of P.L.2021, c.169 (C.48:3-119), including any recommendations to improve the criteria.

C.13:1B-15.178 Standards for use of pollinator-friendly native plant species in grid supply solar facilities.

8. No later than one year after the effective date of P.L.2021, c.169 (C.48:3-114 et al.), the Department of Environmental Protection, in consultation with the board, shall establish standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities, which are designed to reduce stormwater runoff and erosion, and provide native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators, and which consider compatibility with the security and reliability of grid supply solar facilities.

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

C.48:3-51 Definitions relative to competition in certain industries.

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

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

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

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

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

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

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

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

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

"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs, and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State, and

local tax liabilities associated with stranded costs recovery, basic generation service transition cost recovery, or the transfer or financing of the property, or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order, or both; and (3) the costs incurred to issue, service, or refinance transition bonds, including interest, acquisition, or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs, and other related fees, costs, and charges, or to assign, sell, or otherwise transfer bondable transition property.

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

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

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

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

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

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

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

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L.2012, c.24, methane gas from landfills, methane gas from a biomass facility provided that the biomass is cultivated and harvested in a sustainable manner, or methane gas from a composting or anaerobic or aerobic digestion facility that converts food waste or other organic waste to energy.

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

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

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

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

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

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

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

"Community solar facility" means a solar electric power generation facility participating in the Community Solar Energy Pilot Program or the Community Solar Energy Program developed by the board pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11).

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid; (2) an on-site generation facility; (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of

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

"Contaminated site or landfill" means: (1) any currently contaminated portion of a property on which industrial or commercial operations were conducted and a discharge occurred, and its associated disturbed areas, where "discharge" means the same as the term is defined in section 23 of P.L.1993, c.139 (C.58:10B-1); or (2) a properly closed sanitary landfill facility and its associated disturbed areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Green Acres program" means the program for the acquisition of lands for recreation and conservation purposes pursuant to P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et seq.), P.L.1975, c.155 (C.13:8A-35 et seq.), any Green Acres bond act, P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12 (C.13:8C-43 et seq.).

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

"Grid supply solar facility" means a solar electric power generation facility that sells electricity at wholesale and is connected to the State's electric distribution or transmission systems. "Grid supply solar facility" does not include: (1) a net metered solar facility; (2) an on-site generation facility; (3) a facility participating in net metering aggregation pursuant to

section 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in remote net metering; or (5) a community solar facility.

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

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

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

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

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

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

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

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

"Net metered solar facility" means a solar electric power generation facility participating in the net metering program developed by the board pursuant to subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87) or in a substantially similar program operated by a utility owned or operated by a local government unit.

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

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

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

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

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

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

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

"Open access offshore wind transmission facility" means an open access transmission facility, located either in the Atlantic Ocean or offshore, used to facilitate the collection of offshore wind energy or its delivery to the electronic transmission system in this State.

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

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

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

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1),

sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Solar renewable energy certificate II" or "SREC-II" means a transferable certificate, issued by the board or its designee pursuant to P.L.2021, c.169 (C.48:3-114 et al.), which is capable of counting towards the renewable energy portfolio standards of an electric power supplier or basic generation service provider in the State pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).

"SREC-II program" means the program established pursuant to section 2 of P.L.2021, c.169 (C.48:3-115) to distribute SREC-IIs.

"SREC-II value per megawatt-hour" means the value, in dollars-per-megawatt-hour, assigned by the board to each solar electric power generation facility eligible to receive SREC-IIs, which is paid to the facility and which represents the environmental attributes of the facility.

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

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

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

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

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

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

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

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

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

"Transition bonds" means bonds, notes, certificates of participation, beneficial interest, or other evidences of indebtedness or ownership issued pursuant to an indenture, contract, or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which are, directly or indirectly, secured by or payable from bondable transition property.

References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities.

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

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

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

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

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

C.48:3-87 Environmental disclosure requirements; standards; rules.

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

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

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

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

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

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

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

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

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may,

thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

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

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

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

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

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

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

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

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

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

(2) beginning on January 1, 2020, that 21 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2025, 35 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources, and by January 1, 2030, 50 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service

provider shall be from Class I renewable energy sources. Notwithstanding the requirements of this subsection, the board shall ensure that the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection shall not exceed nine percent of the total paid for electricity by all customers in the State for energy year 2019, energy year 2020, and energy year 2021, respectively, and shall not exceed seven percent of the total paid for electricity by all customers in the State in any energy year thereafter; provided that, if in energy years 2019 through 2021 the cost to customers of the Class I renewable energy requirement is less than nine percent of the total paid for electricity by all customers in the State, the board may increase the cost to customers of the Class I renewable energy requirement in energy years 2022 through 2024 to a rate greater than seven percent, as long as the total costs to customers for energy years 2019 through 2024 does not exceed the sum of nine percent of the total paid for electricity by all customers in the State in energy years 2019 through 2021 and seven percent of the total paid for electricity by all customers in the State in energy years 2022 through 2024. In calculating the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection, the board shall not include the costs of the offshore wind energy certificate program established pursuant to paragraph (4) of this subsection. In calculating the cost to customers of the Class I renewable energy requirement, the board shall reflect any energy and environmental savings attributable to the Class I program in its calculation, which shall include, but not be limited to, the social cost of carbon dioxide emissions at a value no less than the most recently published three percent discount rate scenario of the United States Government Interagency Working Group on Social Cost of Greenhouse Gases. The board shall take any steps necessary to prevent the exceedance of the cap on the cost to customers including, but not limited to, adjusting the Class I renewable energy requirement.

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

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2033, that requires the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system or transmission system in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs
EY 2013	596 Gwhrs
EY 2014	2.050%
EY 2015	2.450%
EY 2016	2.750%
EY 2017	3.000%
EY 2018	3.200%
EY 2019	4.300%
EY 2020	4.900%
EY 2021	5.100%
EY 2022	5.100%
EY 2023	5.100%
EY 2024	4.900%

EY 2025	4.800%
EY 2026	4.500%
EY 2027	4.350%
EY 2028	3.740%
EY 2029	3.070%
EY 2030	2.210%
EY 2031	1.580%
EY 2032	1.400%
EY 2033	1.100%

No later than 180 days after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations to close the SREC program to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation provider from solar electric power generators connected to the distribution system. The board shall continue to consider any application filed before the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board shall provide for an orderly and transparent mechanism that will result in the closing of the existing SREC program on a date certain but no later than June 1, 2021.

No later than 24 months after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall complete a study that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State. The board shall submit the written report thereon to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The board shall consult with public utilities, industry experts, regional grid operators, solar power providers and financiers, and other State agencies to determine whether the board can modify the SREC program such that the program will:

- continually reduce, where feasible, the cost of achieving the solar energy goals set forth in this subsection;
- provide an orderly transition from the SREC program to a new or modified program;
- develop megawatt targets for grid connected and distribution systems, including residential and small commercial rooftop systems, community solar systems, and large scale behind the meter systems, as a share of the overall solar energy requirement, which targets the board may modify periodically based on the cost, feasibility, or social impacts of different types of projects;
- establish and update market-based maximum incentive payment caps periodically for each of the above categories of solar electric power generation facilities;
- encourage and facilitate market-based cost recovery through long-term contracts and energy market sales; and
- where cost recovery is needed for any portion of an efficient solar electric power generation facility when costs are not recoverable through wholesale market sales and direct payments from customers, utilize competitive processes such as competitive procurement and long-term contracts where possible to ensure such recovery, without exceeding the maximum incentive payment cap for that category of facility.

The board shall approve, conditionally approve, or disapprove any application for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), no more than 90 days after receipt by the board of a completed application. For any such application for a project greater than 25 kilowatts, the board shall require the applicant to post a notice escrow with the board in an amount of \$40 per kilowatt of DC nameplate

capacity of the facility, not to exceed \$40,000. The notice escrow amount shall be reimbursed to the applicant in full upon either denial of the application by the board or upon commencement of commercial operation of the solar electric power generation facility. The escrow amount shall be forfeited to the State if the facility is designated as connected to the distribution system pursuant to this subsection but does not commence commercial operation within two years following the date of the designation by the board.

For all applications for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

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

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

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.) from any increase beyond the number of SRECs mandated by the solar renewable energy portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all providers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers. Notwithstanding any rule or regulation to the contrary, the board shall recognize these new solar purchase obligations as a change required by operation of law and implement the provisions of this subsection in a manner so as to prevent any subsidies between suppliers and providers and to promote competition in the electricity supply industry.

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

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

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

(4) within 180 days after the date of enactment of P.L.2010, c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind renewable energy certificate program to require that a percentage of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from offshore wind energy in order to support at least 3,500 megawatts of generation from qualified offshore wind projects.

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

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

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

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

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

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

may be credited on a real-time basis, so long as the customer-generator follows applicable rules prescribed by the PJM electric power pool for its capacity requirements for the net amount of electricity supplied by the electric power supplier or basic generation service provider. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering to customers that are not already net metered whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 5.8 percent of the total annual kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider during the prior one-year period;

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

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

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

(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority. The standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system using a net metering billing account, which system is located on property owned by the customer, provided that: (a) the property is not land that has been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, provided, however, that the municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement of this subparagraph (a), (b) the system is not an on-site generation facility, (c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another, and (d) all of those facilities are within the service territory of a single electric public utility and are all served by the same basic generation service provider or by the same electric power supplier. The standards shall provide that, in order to qualify for net metering aggregation, the customer's solar electric power generation system shall be sized so that its annual generation does not exceed the combined metered annual energy usage of the qualified customer facilities, and the qualified customer facilities shall all be in the same customer rate class under the applicable electric public utility tariff. For the customer's facility or property on which the solar electric generation system is installed, the electricity generated from the customer's solar electric generation system shall be accounted for pursuant to the provisions of paragraph (1) of this subsection to provide that the electricity generated in excess of the electricity supplied by the electric power supplier or

the basic generation service provider, as the case may be, for the customer's facility on which the solar electric generation system is installed, over the annualized period, is credited at the electric power supplier's or the basic generation service provider's avoided cost of wholesale power or the PJM electric power pool real-time locational marginal pricing rate. All electricity used by the customer's qualified facilities, with the exception of the facility or property on which the solar electric power generation system is installed, shall be billed at the full retail rate pursuant to the electric public utility tariff applicable to the customer class of the customer using the electricity. A customer may contract with a third party to operate a solar electric power generation system, for the purpose of net metering aggregation. Any contractual relationship entered into for operation of a solar electric power generation system related to net metering aggregation shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements. Any incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board. The board shall adopt net metering aggregation standards within 270 days after the effective date of P.L.2012, c.24.

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

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

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

g. The board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency program in order to ensure investment in cost-effective energy efficiency measures, ensure universal access to energy efficiency measures, and serve the needs of low-income communities that shall require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9). Nothing in this subsection shall be construed to prevent an electric public utility from meeting the requirements of this subsection by contracting with another entity for the performance of the requirements.

h. The board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy efficiency program in order to ensure investment in cost-effective energy efficiency measures, ensure universal access to energy efficiency measures, and serve the needs of low-income communities that shall require each gas public utility to implement energy efficiency measures that reduce natural gas usage in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9). Nothing in this subsection shall be construed to prevent a gas public utility from meeting the requirements of this subsection by contracting with another entity for the performance of the requirements.

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

j. The board shall determine an appropriate level of solar alternative compliance payment, and permit each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The value of the SACP for each Energy Year, for Energy Years 2014 through 2033 per megawatt hour from solar electric generation required pursuant to this section, shall be:

EY 2014	\$339
EY 2015	\$331
EY 2016	\$323
EY 2017	\$315
EY 2018	\$308
EY 2019	\$268
EY 2020	\$258
EY 2021	\$248
EY 2022	\$238
EY 2023	\$228
EY 2024	\$218
EY 2025	\$208
EY 2026	\$198
EY 2027	\$188
EY 2028	\$178
EY 2029	\$168
EY 2030	\$158
EY 2031	\$148
EY 2032	\$138
EY 2033	\$128.

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

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

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

- (1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;
- (2) maintain adequate regulatory authority over non-competitive public utility services;
- (3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;
- (4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;
- (5) make energy services more affordable for low and moderate income customers;
- (6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;
- (7) achieve the goals put forth under the renewable energy portfolio standards;
- (8) promote the lowest cost to ratepayers; and
- (9) allow all market segments to participate.

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

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

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

- (1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;
- (2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;
- (3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and
- (4) reductions in State and national dependence on the use of fossil fuels.

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

q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to

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

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

(3) Notwithstanding the provisions of paragraph (2) of this subsection, a solar electric power generation facility project that as of May 31, 2017 was designated as "connected to the distribution system," but failed to commence commercial operations as of that date, shall maintain that designation if it commences commercial operations by May 31, 2018.

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, the difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection. A proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered "connected to the distribution system" only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar electric power generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.

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

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

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

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

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

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

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

t. (1) No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, including those owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1). Projects certified under this subsection shall be considered "connected to the distribution system", shall not require such designation by the board, and shall not be subject to board review required pursuant to subsections q. and r. of this section. Notwithstanding the provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or order to the contrary, for projects certified under this subsection, the board shall establish a financial incentive that is designed to supplement the SRECs generated by the facility in order to cover the additional cost of constructing and operating a solar electric power generation facility on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a financial incentive established by the board

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Section 4 of P.L.2016, c.12 (C.13:8C-46) is amended to read as follows:

C.13:8C-46 "Preserve New Jersey Fund Account."

4. There is established in the General Fund a special account to be known as the "Preserve New Jersey Fund Account."

a. The State Treasurer shall credit to this account:

(1) (a) (i) For State fiscal year 2016, an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated for recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution, less \$19,972,000 already appropriated and expended for parks management in P.L.2015, c.63; and

(ii) in each State fiscal year 2017 through and including State fiscal year 2019 an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-

1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(b) (i) in each State fiscal year commencing in State fiscal year 2020 and annually thereafter, an amount equal to 78 percent of the six percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(ii) any amount received from a solar electric power generation facility pursuant to section 5 of P.L.2021, c.169 (C.48:3-118); and

(2) in each State fiscal year, an amount equal to the amount dedicated pursuant to subparagraph (b) of Article VIII, Section II, paragraph 6 of the State Constitution.

b. In each State fiscal year, the amount credited to the Preserve New Jersey Fund Account shall be appropriated from time to time by the Legislature only for the applicable purposes set forth in Article VIII, Section II, paragraph 6 of the State Constitution and P.L.2016, c.12 (C.13:8C-43 et seq.) for:

(1) providing funding, including loans or grants, for the preservation, including acquisition, development, and stewardship, of lands for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage;

(2) providing funding, including loans or grants, for the preservation and stewardship of land for agricultural or horticultural use and production;

(3) providing funding, including loans or grants, for historic preservation; and

(4) paying administrative costs associated with (1) through (3) of this subsection.

c. Nothing in P.L.2016, c.12 (C.13:8C-43 et seq.) shall authorize any State entity to use constitutionally dedicated CBT moneys for the purpose of making any payments relating to any bonds, notes, or other debt obligations, other than those relating to obligations arising from land purchase agreements made with landowners.

d. In each State fiscal year after the enactment of P.L.2021, c.169 (C.48:3-114 et al.), the State Treasurer shall notify, in writing, the chairperson of the Garden State Preservation Trust of the amount received from a solar electric power generation facility pursuant to section 5 of P.L.2021, c.169 (C.48:3-118) and credited to the Preserve New Jersey Fund Account pursuant to subsubparagraph (ii) of subparagraph (b) of paragraph (1) of subsection a. of this section to be used for the purposes of subsection b. of this section.

12. This act shall take effect immediately.

Approved July 9, 2021.

ASSEMBLY, No. 4554

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 24, 2020

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Co-Sponsored by:

Assemblyman Zwicker

SYNOPSIS

Directs BPU to establish utility-scale solar energy development program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/25/2020)

1 AN ACT concerning utility-scale solar energy development,
2 supplementing and amending P.L.1999, c.23, and amending
3 P.L.2016, c.12.

4

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

7

8 1. (New section) a. The Legislature hereby finds and declares
9 that:

10 (1) In order to achieve the State's goal of securing 50 percent of
11 its electricity supply from renewable energy by 2030 with the least
12 cost and the greatest benefit to consumers, it is critical (a) to
13 continually reexamine the State's renewable energy programs and
14 consider creating new programs, and (b) for all solar electric energy
15 generated by a facility connected to an electric public utility or to
16 transmission facilities operated by the PJM Interconnection, L.L.C.
17 to be considered Class I renewable energy and for the facility to be
18 eligible to generate renewable energy certificates for the solar
19 energy it generates provided that it is not simultaneously generating
20 solar renewable energy certificates;

21 (2) The 2019 Energy Master Plan ("EMP") found that: (a) the
22 State can achieve its 100 percent clean energy and 80 percent
23 greenhouse gas reduction goals with little added cost, and likely net
24 savings when health benefits and climate change mitigation benefits
25 are taken into account, in part by maximizing the development of
26 in-State renewable energy generation, including 17 gigawatts of
27 solar power by 2035 and 32 gigawatts by 2050; (b) under the least
28 cost path identified by the EMP, solar energy could meet 34 percent
29 of the State's clean energy needs by 2050; and (c) to embark on this
30 least cost path, the EMP determined that the State should add at
31 least 400 megawatts of in-State solar power each year through
32 2030;

33 (3) Utility-scale solar energy is the least-cost renewable energy
34 resource in both the State and the Mid-Atlantic region, and New
35 Jersey has the market potential for at least 3,000 megawatts of
36 utility-scale solar energy by 2030;

37 (4) Fostering and incentivizing the development of new utility-
38 scale solar facilities within the State will: (a) mitigate price and
39 delivery risks while ensuring an adequate, efficient, and reliable
40 supply of renewable energy; (b) enhance the continued
41 diversification of the energy resources used in this State, resulting
42 in environmental and health benefits to New Jersey residents and a
43 more resilient energy supply; and (c) encourage lower financing
44 rates and enable the development of more affordable renewable
45 energy resources;

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 (5) A utility-scale solar energy development program that
2 establishes a competitive solicitation process for long-term
3 contracts to provide Class I renewable energy will help achieve the
4 State's goal of securing 50 percent of its electricity supply from
5 renewable energy by 2030 at a cost to customers that is equal to or
6 less than the costs that would be borne by customers without the
7 creation of such a program, thus causing no conflict with the
8 renewable energy portfolio standard cost caps established by
9 section 38 of P.L.1999, c.23 (C.48:3-87); and

10 (6) It is in the public interest to create a utility-scale solar
11 energy development program that includes an annual competitive
12 solicitation process to identify cost-effective utility-scale solar
13 facility projects capable of supplying clean and reliable solar energy
14 to New Jersey consumers.

15 b. (1) No later than one year after the effective date of
16 P.L. , c. (C.) (pending before the Legislature as this bill), the
17 board, pursuant to the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations
19 establishing an annual competitive procurement program to develop
20 utility-scale solar facilities capable of producing at least 3,000
21 megawatts of power by 2030. This program shall include a
22 transparent, competitive, and fair annual solicitation process that is
23 open on a non-discriminatory basis to any entity seeking to
24 construct a utility-scale solar facility that can achieve commercial
25 operation within two years after the date of execution of a power
26 purchase agreement, and standardized evaluation criteria to be
27 applied equally to all bids and bidders.

28 (2) The evaluation criteria shall include the ability of the utility-
29 sale solar facility and any power purchase agreement entered into
30 pursuant to this section to:

31 (a) provide enhanced electricity reliability;

32 (b) contribute to reducing seasonal electricity price spikes;

33 (c) be cost effective to ratepayers over the term of the contract,
34 taking into consideration potential economic and environmental
35 benefits to the ratepayers;

36 (d) avoid line loss and mitigate transmission costs to the extent
37 possible and ensure that transmission cost overruns, if any, are not
38 borne by ratepayers;

39 (e) be paired with energy storage systems;

40 (f) mitigate any environmental impacts associated with the
41 construction of the facility; and

42 (g) create and foster employment and economic development in
43 the State.

44 c. (1) No later than 18 months after the effective date of
45 P.L. , c. (C.) (pending before the Legislature as this bill), the
46 board shall establish the competitive procurement process, in
47 accordance with subparagraphs (a) and (b) of paragraph (1) of
48 subsection d. of this section, and conduct a competitive solicitation

1 for utility-scale solar facility projects, in accordance with
2 subparagraphs (a), (b), and (c) of paragraph (2) of subsection d. of
3 this section.

4 d. (1) By December 31 of each year after the competitive
5 solicitation conducted pursuant to subsection c. of this section, the
6 board, after notice and opportunity for public comment, shall
7 establish for the competitive procurement to take place in the
8 following year:

9 (a) a procurement target of at least 375 megawatts, measured as
10 alternating current, which target may be increased by the board to
11 qualify for federal incentives or if the board otherwise finds doing
12 so is in the public interest; and

13 (b) a cost cap based on the board's forecast of the 20-year
14 market price of energy, capacity, and Class I RECs, and including
15 the total cost of remunerations paid pursuant to subsection d. of this
16 section and a just and reasonable value for capacity.

17 (2) By June 30 of each year after the establishment of the
18 competitive procurement process pursuant to paragraph (1) of this
19 subsection, the board shall conduct a competitive solicitation for
20 utility-scale solar facility projects, which shall:

21 (a) rank all bids received based on price;

22 (b) consider all bids that are equal to or lower than the cost cap
23 and which meet or exceed the procurement target established by the
24 board; and

25 (c) require bidders to submit fees in an amount determined by
26 the board to cover the costs incurred by the board in administering
27 the competitive procurement process established pursuant to this
28 section.

29 e. (1) Within 90 days after a winning bid for a solicitation
30 conducted pursuant to paragraph (2) of subsection c. of this section
31 is chosen, each electric public utility shall negotiate a power
32 purchase agreement with the winning bidder to purchase energy,
33 capacity, and Class I RECs, or any combination thereof, for a term
34 of 20 years. A power purchase agreement entered into pursuant to
35 this subsection that is subject to review by the Federal Energy
36 Regulatory Commission shall be filed with the Federal Energy
37 Regulatory Commission pursuant to 16 U.S.C. s.824d.

38 (2) Each power purchase agreement developed pursuant to this
39 section shall include (a) an annual remuneration of one percent of
40 the annual payments under the agreement to be submitted to the
41 State Treasurer for deposit into the "Preserve New Jersey Fund
42 Account," established pursuant to section 4 of P.L.2016, c.12
43 (C.13:8C-46), to be allocated as set forth pursuant to section 1 of
44 P.L.2019, c.136 (C.13:8C-47.1), and (b) an annual remuneration of
45 up to two and one-half percent of the annual payment under the
46 agreement to compensate the electric public utility for accepting the
47 financial obligation of the long-term agreement. The net costs of a
48 power purchase agreement shall be recovered through a non-

1 bypassable charge incorporated into the rates of the electric public
2 utility as approved by the board.

3 f. Energy produced from a utility-scale solar facility shall not
4 simultaneously receive Class I RECs and SRECs or any other
5 comparable credits issued under the SREC successor program
6 developed by the board pursuant to P.L.2018, c.17 (C.48:3-
7 87.8 et al.).

8 g. An electric public utility shall sell all Class I RECs
9 generated by a utility-scale solar facility pursuant to this section to
10 third-party energy suppliers, and any financial benefit realized by
11 an electric public utility shall be credited to ratepayers.

12 h. The issuance of Class I RECs for an eligible utility-scale
13 solar facility developed pursuant to this section shall be deemed
14 "Board of Public Utilities financial assistance," as defined pursuant
15 to section 1 of P.L.2009, c.89 (C.48:2-29.47).

16

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

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

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

27 "Base load electric power generation facility" means an electric
28 power generation facility intended to be operated at a greater than
29 50 percent capacity factor including, but not limited to, a combined
30 cycle power facility and a combined heat and power facility.

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

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

42 "Basic generation service" or "BGS" means electric generation
43 service that is provided, to any customer that has not chosen an
44 alternative electric power supplier, whether or not the customer has
45 received offers for competitive supply options, including, but not
46 limited to, any customer that cannot obtain such service from an
47 electric power supplier for any reason, including non-payment for

1 services. Basic generation service is not a competitive service and
2 shall be fully regulated by the board.

3 "Basic generation service provider" or "provider" means a
4 provider of basic generation service.

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

26 "Board" means the New Jersey Board of Public Utilities or any
27 successor agency.

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

1 equity investments, operating costs, and other related fees, costs,
2 and charges, or to assign, sell, or otherwise transfer bondable
3 transition property.

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

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

29 "British thermal unit" or "Btu" means the amount of heat
30 required to increase the temperature of one pound of water by one
31 degree Fahrenheit.

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

39 "Brownfield" means any former or current commercial or
40 industrial site that is currently vacant or underutilized and on which
41 there has been, or there is suspected to have been, a discharge of a
42 contaminant.

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

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

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

7 "Class I renewable energy" means electric energy produced from
8 solar technologies, photovoltaic technologies, wind energy, fuel
9 cells, geothermal technologies, wave or tidal action, small scale
10 hydropower facilities with a capacity of three megawatts or less and
11 put into service after the effective date of P.L.2012, c.24, methane
12 gas from landfills or methane gas from a biomass facility provided
13 that the biomass is cultivated and harvested in a sustainable manner,
14 or methane gas from a composting or anaerobic or aerobic digestion
15 facility that converts food waste or other organic waste to energy.

16 "Class II renewable energy" means electric energy produced at a
17 hydropower facility with a capacity of greater than three megawatts,
18 but less than 30 megawatts, or a resource recovery facility, provided
19 that the facility is located where retail competition is permitted and
20 provided further that the Commissioner of Environmental
21 Protection has determined that the facility meets the highest
22 environmental standards and minimizes any impacts to the
23 environment and local communities. Class II renewable energy
24 shall not include electric energy produced at a hydropower facility
25 with a capacity of greater than 30 megawatts on or after the
26 effective date of P.L.2015, c.51.

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

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

37 "Combined heat and power facility" or "co-generation facility"
38 means a generation facility which produces electric energy and
39 steam or other forms of useful energy such as heat, which are used
40 for industrial or commercial heating or cooling purposes. A
41 combined heat and power facility or co-generation facility shall not
42 be considered a public utility.

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

47 "Commercial and industrial energy pricing class customer" or
48 "CIEP class customer" means that group of non-residential

1 customers with high peak demand, as determined by periodic board
2 order, which either is eligible or which would be eligible, as
3 determined by periodic board order, to receive funds from the Retail
4 Margin Fund established pursuant to section 9 of P.L.1999, c.23
5 (C.48:3-57) and for which basic generation service is hourly-priced.

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

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

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

35 "Customer account service" means metering, billing, or such
36 other administrative activity associated with maintaining a customer
37 account.

38 "Delivery year" or "DY" means the 12-month period from June
39 1st through May 31st, numbered according to the calendar year in
40 which it ends.

41 "Demand side management" means the management of customer
42 demand for energy service through the implementation of cost-
43 effective energy efficiency technologies, including, but not limited
44 to, installed conservation, load management, and energy efficiency
45 measures on and in the residential, commercial, industrial,
46 institutional, and governmental premises and facilities in this State.

47 "Electric generation service" means the provision of retail
48 electric energy and capacity which is generated off-site from the

1 location at which the consumption of such electric energy and
2 capacity is metered for retail billing purposes, including agreements
3 and arrangements related thereto.

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

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

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

27 "Electric related service" means a service that is directly related
28 to the consumption of electricity by an end user, including, but not
29 limited to, the installation of demand side management measures at
30 the end user's premises, the maintenance, repair, or replacement of
31 appliances, lighting, motors, or other energy-consuming devices at
32 the end user's premises, and the provision of energy consumption
33 measurement and billing services.

34 "Electronic signature" means an electronic sound, symbol, or
35 process, attached to, or logically associated with, a contract or other
36 record, and executed or adopted by a person with the intent to sign
37 the record.

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

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

1 "Energy consumer" means a business or residential consumer of
2 electric generation service or gas supply service located within the
3 territorial jurisdiction of a government aggregator.

4 "Energy efficiency portfolio standard" means a requirement to
5 procure a specified amount of energy efficiency or demand side
6 management resources as a means of managing and reducing energy
7 usage and demand by customers.

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

11 "Existing business relationship" means a relationship formed by
12 a voluntary two-way communication between an electric power
13 supplier, gas supplier, broker, energy agent, marketer, private
14 aggregator, sales representative, or telemarketer and a customer,
15 regardless of an exchange of consideration, on the basis of an
16 inquiry, application, purchase, or transaction initiated by the
17 customer regarding products or services offered by the electric
18 power supplier, gas supplier, broker, energy agent, marketer,
19 private aggregator, sales representative, or telemarketer; however, a
20 consumer's use of electric generation service or gas supply service
21 through the consumer's electric public utility or gas public utility
22 shall not constitute or establish an existing business relationship for
23 the purpose of P.L.2013, c.263.

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

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

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

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

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

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

1 premises, and the provision of energy consumption measurement
2 and billing services.

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

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

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

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

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

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

46 "Historic fill" means generally large volumes of non-indigenous
47 material, no matter what date they were emplaced on the site, used
48 to raise the topographic elevation of a site, which were

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

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

14 "Leakage" means an increase in greenhouse gas emissions
15 related to generation sources located outside of the State that are not
16 subject to a state, interstate, or regional greenhouse gas emissions
17 cap or standard that applies to generation sources located within the
18 State.

19 "Locational deliverability area" or "LDA" means one or more of
20 the zones within the PJM region which are used to evaluate area
21 transmission constraints and reliability issues including electric
22 public utility company zones, sub-zones, and combinations of
23 zones.

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

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

36 "Marketer" means a duly licensed electric power supplier that
37 takes title to electric energy and capacity, transmission and other
38 services from electric power generators and other wholesale
39 suppliers and then assumes the contractual and legal obligation to
40 provide electric generation service, and may include transmission
41 and other services, to an end-use retail customer or customers, or a
42 duly licensed gas supplier that takes title to gas and then assumes
43 the contractual and legal obligation to provide gas supply service to
44 an end-use customer or customers.

45 "Mid-merit electric power generation facility" means a
46 generation facility that operates at a capacity factor between
47 baseload generation facilities and peaker generation facilities.

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

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

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

13 "Offshore wind energy" means electric energy produced by a
14 qualified offshore wind project.

15 "Offshore wind renewable energy certificate" or "OREC" means
16 a certificate, issued by the board or its designee, representing the
17 environmental attributes of one megawatt hour of electric
18 generation from a qualified offshore wind project.

19 "Off-site end use thermal energy services customer" means an
20 end use customer that purchases thermal energy services from an
21 on-site generation facility, combined heat and power facility, or co-
22 generation facility, and that is located on property that is separated
23 from the property on which the on-site generation facility,
24 combined heat and power facility, or co-generation facility is
25 located by more than one easement, public thoroughfare, or
26 transportation or utility-owned right-of-way.

27 "On-site generation facility" means a generation facility,
28 including, but not limited to, a generation facility that produces
29 Class I or Class II renewable energy, and equipment and services
30 appurtenant to electric sales by such facility to the end use customer
31 located on the property or on property contiguous to the property on
32 which the end user is located. An on-site generation facility shall
33 not be considered a public utility. The property of the end use
34 customer and the property on which the on-site generation facility is
35 located shall be considered contiguous if they are geographically
36 located next to each other, but may be otherwise separated by an
37 easement, public thoroughfare, transportation or utility-owned
38 right-of-way, or if the end use customer is purchasing thermal
39 energy services produced by the on-site generation facility, for use
40 for heating or cooling, or both, regardless of whether the customer
41 is located on property that is separated from the property on which
42 the on-site generation facility is located by more than one easement,
43 public thoroughfare, or transportation or utility-owned right-of-way.

44 "Open access offshore wind transmission facility" means an open
45 access transmission facility, located either in the Atlantic Ocean or
46 onshore, used to facilitate the collection of offshore wind energy or
47 its delivery to the electric transmission system in this State.

1 "Person" means an individual, partnership, corporation,
2 association, trust, limited liability company, governmental entity, or
3 other legal entity.

4 "PJM Interconnection, L.L.C." or "PJM" means the privately-
5 held, limited liability corporation that serves as a FERC-approved
6 Regional Transmission Organization, or its successor, that manages
7 the regional, high-voltage electricity grid serving all or parts of 13
8 states including New Jersey and the District of Columbia, operates
9 the regional competitive wholesale electric market, manages the
10 regional transmission planning process, and establishes systems and
11 rules to ensure that the regional and in-State energy markets operate
12 fairly and efficiently.

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

15 "Private aggregator" means a non-government aggregator that is
16 a duly-organized business or non-profit organization authorized to
17 do business in this State that enters into a contract with a duly
18 licensed electric power supplier for the purchase of electric energy
19 and capacity, or with a duly licensed gas supplier for the purchase
20 of gas supply service, on behalf of multiple end-use customers by
21 combining the loads of those customers.

22 "Properly closed sanitary landfill facility" means a sanitary
23 landfill facility, or a portion of a sanitary landfill facility, for which
24 performance is complete with respect to all activities associated
25 with the design, installation, purchase, or construction of all
26 measures, structures, or equipment required by the Department of
27 Environmental Protection, pursuant to law, in order to prevent,
28 minimize, or monitor pollution or health hazards resulting from a
29 sanitary landfill facility subsequent to the termination of operations
30 at any portion thereof, including, but not necessarily limited to, the
31 placement of earthen or vegetative cover, and the installation of
32 methane gas vents or monitors and leachate monitoring wells or
33 collection systems at the site of any sanitary landfill facility.

34 "Public utility holding company" means: (1) any company that,
35 directly or indirectly, owns, controls, or holds with power to vote,
36 10 percent or more of the outstanding voting securities of an
37 electric public utility or a gas public utility or of a company which
38 is a public utility holding company by virtue of this definition,
39 unless the Securities and Exchange Commission, or its successor,
40 by order declares such company not to be a public utility holding
41 company under the Public Utility Holding Company Act of 1935,
42 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
43 Securities and Exchange Commission, or its successor, determines,
44 after notice and opportunity for hearing, directly or indirectly, to
45 exercise, either alone or pursuant to an arrangement or
46 understanding with one or more other persons, such a controlling
47 influence over the management or policies of an electric public
48 utility or a gas public utility or public utility holding company as to

1 make it necessary or appropriate in the public interest or for the
2 protection of investors or consumers that such person be subject to
3 the obligations, duties, and liabilities imposed in the Public Utility
4 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
5 successor act.

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

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

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

24 "Related competitive business segment of an electric public
25 utility or gas public utility" means any business venture of an
26 electric public utility or gas public utility including, but not limited
27 to, functionally separate business units, joint ventures, and
28 partnerships, that offers to provide or provides competitive services.

29 "Related competitive business segment of a public utility holding
30 company" means any business venture of a public utility holding
31 company, including, but not limited to, functionally separate
32 business units, joint ventures, and partnerships and subsidiaries, that
33 offers to provide or provides competitive services, but does not
34 include any related competitive business segments of an electric
35 public utility or gas public utility.

36 "Reliability pricing model" or "RPM" means PJM's capacity-
37 market model, and its successors, that secures capacity on behalf of
38 electric load serving entities to satisfy load obligations not satisfied
39 through the output of electric generation facilities owned by those
40 entities, or otherwise secured by those entities through bilateral
41 contracts.

42 "Renewable energy certificate" or "REC" means a certificate
43 representing the environmental benefits or attributes of one
44 megawatt-hour of generation from a generating facility that
45 produces Class I or Class II renewable energy, but shall not include
46 a solar renewable energy certificate or an offshore wind renewable
47 energy certificate.

1 "Resource clearing price" or "RCP" means the clearing price
2 established for the applicable locational deliverability area by the
3 base residual auction or incremental auction, as determined by the
4 optimization algorithm for each auction, conducted by PJM as part
5 of PJM's reliability pricing model.

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

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

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

36 "Retail margin" means an amount, reflecting differences in
37 prices that electric power suppliers and electric public utilities may
38 charge in providing electric generation service and basic generation
39 service, respectively, to retail customers, excluding residential
40 customers, which the board may authorize to be charged to
41 categories of basic generation service customers of electric public
42 utilities in this State, other than residential customers, under the
43 board's continuing regulation of basic generation service pursuant to
44 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
45 purpose of promoting a competitive retail market for the supply of
46 electricity.

47 "Sales representative" means a person employed by, acting on
48 behalf of, or as an independent contractor for, an electric power

1 supplier, gas supplier, broker, energy agent, marketer, or private
2 aggregator who, by any means, solicits a potential residential
3 customer for the provision of electric generation service or gas
4 supply service.

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

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

15 "Shopping credit" means an amount deducted from the bill of an
16 electric public utility customer to reflect the fact that the customer
17 has switched to an electric power supplier and no longer takes basic
18 generation service from the electric public utility.

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

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

30 "Social program" means a program implemented with board
31 approval to provide assistance to a group of disadvantaged
32 customers, to provide protection to consumers, or to accomplish a
33 particular societal goal, and includes, but is not limited to, the
34 winter moratorium program, utility practices concerning "bad debt"
35 customers, low income assistance, deferred payment plans,
36 weatherization programs, and late payment and deposit policies, but
37 does not include any demand side management program or any
38 environmental requirements or controls.

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

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

47 "Solar renewable energy certificate" or "SREC" means a
48 certificate issued by the board or its designee, representing one

1 megawatt hour (MWh) of solar energy that is generated by a facility
2 connected to the distribution system in this State and has value
3 based upon, and driven by, the energy market.

4 "Standard offer capacity agreement" or "SOCA" means a
5 financially-settled transaction agreement, approved by board order,
6 that provides for eligible generators to receive payments from the
7 electric public utilities for a defined amount of electric capacity for
8 a term to be determined by the board but not to exceed 15 years,
9 and for such payments to be a fully non-bypassable charge, with
10 such an order, once issued, being irrevocable.

11 "Standard offer capacity price" or "SOCP" means the capacity
12 price that is fixed for the term of the SOCA and which is the price
13 to be received by eligible generators under a board-approved
14 SOCA.

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

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

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

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

34 "Telemarketing sales call" means a telephone call made by a
35 telemarketer to a potential residential customer as part of a plan,
36 program, or campaign to encourage the customer to change the
37 customer's electric power supplier or gas supplier. A telephone call
38 made to an existing customer of an electric power supplier, gas
39 supplier, broker, energy agent, marketer, private aggregator, or
40 sales representative, for the sole purpose of collecting on accounts
41 or following up on contractual obligations, shall not be deemed a
42 telemarketing sales call. A telephone call made in response to an
43 express written request of a customer shall not be deemed a
44 telemarketing sales call.

45 "Thermal efficiency" means the useful electric energy output of a
46 facility, plus the useful thermal energy output of the facility,
47 expressed as a percentage of the total energy input to the facility.

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

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

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

21 "Transmission and distribution system" means, with respect to an
22 electric public utility, any facility or equipment that is used for the
23 transmission, distribution, or delivery of electricity to the customers
24 of the electric public utility including, but not limited to, the land,
25 structures, meters, lines, switches, and all other appurtenances
26 thereof and thereto, owned or controlled by the electric public
27 utility within this State.

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

31 "Unsolicited advertisement" means any advertising claims of the
32 commercial availability or quality of services provided by an
33 electric power supplier, gas supplier, broker, energy agent,
34 marketer, private aggregator, sales representative, or telemarketer
35 which is transmitted to a potential customer without that customer's
36 prior express invitation or permission.

37 "Utility-scale solar facility" means a solar electric power
38 generation facility that is capable of producing at least 10
39 megawatts of electric power, measured as alternating current, and is
40 connected to the electric transmission system at a location that is
41 within the service territory of an electric public utility or to the
42 distribution system operated by an electric public utility. Any such
43 facility shall qualify as Class I renewable energy for the purposes of
44 receiving Class I renewable energy certificates for compliance with
45 the State's renewable energy portfolio standards.

46 (cf: P.L.2020, c.24, s.7)

1 3. Section 4 of P.L.2016, c.12 (C.13:8C-46) is amended to read
2 as follows:

3 4. There is established in the General Fund a special account to
4 be known as the "Preserve New Jersey Fund Account."

5 a. The State Treasurer shall credit to this account:

6 (1) (a) (i) For State fiscal year 2016, an amount equal to 71
7 percent of the four percent of the revenue annually derived from the
8 tax imposed pursuant to the "Corporation Business Tax Act
9 (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and
10 supplemented, or any other State law of similar effect, dedicated for
11 recreation and conservation, farmland preservation, and historic
12 preservation purposes pursuant to subparagraph (a) of Article VIII,
13 Section II, paragraph 6 of the State Constitution, less \$19,972,000
14 already appropriated and expended for parks management in
15 P.L.2015, c.63; and

16 (ii) in each State fiscal year 2017 through and including State
17 fiscal year 2019 an amount equal to 71 percent of the four percent
18 of the revenue annually derived from the tax imposed pursuant to
19 the "Corporation Business Tax Act (1945)," P.L.1945, c.162
20 (C.54:10A-1 et seq.), as amended and supplemented, or any other
21 State law of similar effect, dedicated to recreation and conservation,
22 farmland preservation, and historic preservation purposes pursuant
23 to subparagraph (a) of Article VIII, Section II, paragraph 6 of the
24 State Constitution; and

25 (b) (i) in each State fiscal year commencing in State fiscal year
26 2020 and annually thereafter, an amount equal to 78 percent of the
27 six percent of the revenue annually derived from the tax imposed
28 pursuant to the "Corporation Business Tax Act (1945)," P.L.1945,
29 c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any
30 other State law of similar effect, dedicated to recreation and
31 conservation, farmland preservation, and historic preservation
32 purposes pursuant to subparagraph (a) of Article VIII, Section II,
33 paragraph 6 of the State Constitution; and

34 (ii) any amount received from an electric public utility pursuant
35 to section 1 of P.L. , c. (C.) (pending before the Legislature
36 as this bill); and

37 (2) in each State fiscal year, an amount equal to the amount
38 dedicated pursuant to subparagraph (b) of Article VIII, Section II,
39 paragraph 6 of the State Constitution.

40 b. In each State fiscal year, the amount credited to the Preserve
41 New Jersey Fund Account shall be appropriated from time to time
42 by the Legislature only for the applicable purposes set forth in
43 Article VIII, Section II, paragraph 6 of the State Constitution and
44 **[this act]** P.L.2016, c.12 (C.13:8C-43 et seq.) for:

45 (1) providing funding, including loans or grants, for the
46 preservation, including acquisition, development, and stewardship,
47 of lands for recreation and conservation purposes, including lands
48 that protect water supplies and lands that have incurred flood or

- 1 storm damage or are likely to do so, or that may buffer or protect
2 other properties from flood or storm damage;
- 3 (2) providing funding, including loans or grants, for the
4 preservation and stewardship of land for agricultural or horticultural
5 use and production;
- 6 (3) providing funding, including loans or grants, for historic
7 preservation; and
- 8 (4) paying administrative costs associated with (1) through (3)
9 of this subsection.
- 10 c. Nothing in this act shall authorize any State entity to use
11 constitutionally dedicated CBT moneys for the purpose of making
12 any payments relating to any bonds, notes, or other debt
13 obligations, other than those relating to obligations arising from
14 land purchase agreements made with landowners.
- 15 d. In each State fiscal year after the enactment of
16 P.L. , c. (C.) (pending before the Legislature as this bill), the
17 State Treasurer shall notify, in writing, the chairperson of the
18 Garden State Preservation Trust of the amount received from an
19 electric public utility pursuant to section 1 of P.L. , c. (C.)
20 (pending before the Legislature as this bill) and credited to the
21 Preserve New Jersey Fund Account pursuant to subsubparagraph
22 (ii) of subparagraph (b) of paragraph (1) of subsection a. of this
23 section to be used for the purposes of subsection b. of this section.
24 (cf: P.L.2016, c.12, s.4)

25
26 4. This act shall take effect immediately.

27
28

29 STATEMENT

30

31 This bill would supplement the “Electric Discount and Energy
32 Competition Act” (EDECA), P.L.1999, c.23 (C.48:3-49 et al.), to
33 direct the Board of Public Utilities (board) to establish a utility-
34 scale solar energy development program.

35 The bill would define a "utility-scale solar facility" as a solar
36 electric power generation facility that is capable of producing at
37 least 10 megawatts of electric power, measured as alternating
38 current, and is connected to the electric transmission system at a
39 location that is within the service territory of an electric public
40 utility or to the distribution system operated by an electric public
41 utility.

42 The bill would require the board, within one year after the date
43 the bill is enacted into law, to adopt rules and regulations
44 establishing an annual competitive procurement program to develop
45 utility-scale solar facilities capable of producing at least 3,000
46 megawatts of power by 2030. This program would include a
47 transparent, competitive, and fair annual solicitation process that is
48 open on a non-discriminatory basis to any entity seeking to

1 construct a utility-scale solar facility that can achieve commercial
2 operation within two years after the date of execution of a power
3 purchase agreement, and standardized evaluation criteria to be
4 applied equally to all bids and bidders.

5 The bill would require the board, within 18 months after the date
6 the bill is enacted into law, to establish a competitive procurement
7 process and conduct a competitive solicitation for utility-scale solar
8 facility projects. The competitive procurement process is to
9 include: a procurement target of at least 375 megawatts, measured
10 as alternating current, which target may be increased by the board
11 to qualify for federal incentives or if the board otherwise finds
12 doing so is in the public interest; and a cost cap based on the
13 board's forecast of the 20-year market price of energy, capacity,
14 and Class I RECs, less the total cost of the annual remunerations
15 one percent to be submitted to the State Treasurer for deposit into
16 the "Preserve New Jersey Fund Account," established pursuant to
17 section 4 of P.L.2016, c.12 (C.13:8C-46), and up to two and one-
18 half percent to compensate the electric public utility for costs
19 incurred.

20 After the initial competitive solicitation and procurement
21 process, the bill would thereafter require the board, by December 31
22 of each year, to establish for the competitive procurement to take
23 place in the following year, and by June 30th of each year to
24 conduct a competitive solicitation for utility-scale solar facilities.

25 Following the board's competitive solicitation for utility-scale
26 solar facility projects and the selection of a winning bidder, each
27 electric public utility would be required to negotiate a power
28 purchase agreement with the winning bidder to purchase energy,
29 capacity, and Class I RECs, or any combination thereof, for a term
30 of 20 years.

31 This bill would also amend the "Preserve New Jersey Act,"
32 P.L.2016, c.12 (C.13:8C-43 et seq.), to provide that the amounts
33 received by the State Treasurer pursuant to this bill from an electric
34 public utility would be deposited into the "Preserve New Jersey
35 Fund Account" and be used in accordance with the provisions of the
36 "Preserve New Jersey Act" for recreation and conservation,
37 farmland, and historic preservation purposes.

38 The 2019 Energy Master Plan ("EMP") found that the State
39 could achieve its 100 percent clean energy and 80 percent
40 greenhouse gas reduction goals with net savings and little added
41 cost when health benefits and climate change mitigation benefits are
42 taken into account, by maximizing the development of in-State
43 renewable energy generation, including 17,000 megawatts of solar
44 energy by 2035 and 32 gigawatts by 2050. Under the least cost path
45 identified by the EMP, solar energy could meet 34 percent of the
46 State's clean energy needs by 2050. The EMP further determined
47 that to embark on this least cost path the State should add at least
48 400 megawatts of in-State solar energy each year through 2030.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 4554

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

This committee substitute would establish, in the Board of Public Utilities (BPU), the "SREC-II" program, which would: (1) distribute solar renewable energy certificates (SRECs) to solar power facilities that qualify for the program; and (2) include a competitive solicitation process for certain large solar power facilities. The SREC-II program would serve as a successor program to the SREC program, which is currently in the process of being discontinued by the BPU. The bill would also direct the BPU to establish siting criteria for certain solar power facilities.

Specifically, the bill would direct the BPU to establish the "SREC-II" program no later than 12 months after the bill's enactment. The goal of the SREC-II program would be to incentivize the development of at least 3.75 gigawatts of new solar power generation by 2026. The bill would direct the BPU to establish a system for distributing renewable energy certificates, to be known as "SREC-IIs," for each megawatt-hour of solar energy produced by a qualifying solar power facility for a duration established by the board. The SREC-IIs would be accompanied by a renewable energy incentive payment of fixed value and would be capable of counting towards the State's renewable portfolio standards. The bill would also authorize the BPU to assign a different monetary value to the SREC-IIs it distributes to different facilities, which could include the environmental and other benefits provided to the State by the facility. The bill would direct the BPU to apportion the costs of SREC-IIs to ratepayers in a similar manner to the manner by which it apportions the costs of other renewable energy certificates.

Under the bill, one part of the SREC-II program would be a "small solar facilities incentive program." This part of the program would award SREC-IIs to community solar facilities and net metered solar facilities less than five megawatts in size. The goal of this part of the program would be to incentivize the development of at least 1,500 megawatts of net-metered solar facilities and 750 megawatts of community solar facilities by 2026. Only solar facilities that are connected to an electric distribution or transmission system owned or operated by a New Jersey public utility or local government, and which receive permission to operate after the enactment of the bill,

would be eligible to receive SREC-IIs. The bill authorizes the BPU to develop additional qualification criteria and directs the BPU to develop an application process for this part of the program.

The second part of the SREC-II program would be a competitive solicitation process for the award of SREC-IIs to net metered solar facilities greater than five megawatts in size, and to "grid supply solar facilities," which the bill defines as a solar electric power generation facilities that are connected to the State's electric distribution or transmission systems and that sell electricity at wholesale. The goal of the competitive solicitation process would be to incentivize the construction of at least 1,500 megawatts of these types of solar facilities by 2026. The bill would direct the BPU to conduct a solicitation round at least every 18 months, starting at the bill's enactment, and continuing until at least January 1, 2026. The bill would establish certain requirements and goals for the solicitation process, as enumerated in subsection c. of section 4 of the bill. The bill would direct the BPU, at the end of each bidding round, to rank all qualifying bids received based on the bid price, and award contracts in ranked order until the BPU reaches a procurement target determined in advance by the BPU. The bill would also authorize the BPU to rank bids within distinct bidding categories, based on the size, location, or other features of the proposed facilities, such that only projects within the same category compete with one another, and to formulate distinct procurement targets for each category.

The bill would establish various requirements for solar power facilities that participate in the SREC-II program, as enumerated in section 5 of the bill. For example, the bill would prohibit a facility from simultaneously receiving SREC-IIs and another renewable energy certificate. The bill would also require facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46). The bill would amend the statute establishing that account to provide that the money would be used to acquire and maintain lands for recreation and conservation purposes, preserve farmland, or preserve historic properties.

Under the bill, the BPU, in consultation with the Department of Environmental Protection (DEP) and the Secretary of Agriculture, would be required to develop siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. The bill would establish certain general goals for the siting criteria, as enumerated in subsection a. of section 6 of the bill. The bill would also establish certain areas of the State on which grid supply solar facilities and net metered solar facilities greater than five megawatts in size are not to be constructed, unless given special authorization by the BPU, in consultation with the DEP or the Secretary of Agriculture, as appropriate. These areas – enumerated in

subsections c. through e. of section 6 of the bill – would include Green Acres lands, designated forested areas and the preservation area in the pinelands area, the Highlands preservation area, wetlands, certain forested lands, preserved farmland, and certain prime agricultural soils or soils of Statewide importance. The bill would provide that grid supply solar facilities or net metered solar facilities greater than five megawatts in size may be sited on certain prime agricultural soils or soils of Statewide importance without the necessity for a special authorization from the BPU, for the first 2.5 percent of such lands in the State. After the 2.5 percent threshold is reached, a waiver would be required for the remaining 2.5 percent of the lands with agricultural soils until the five percent cap on the use of lands with those soils for solar facilities is reached. The bill would require the BPU, in consultation with the Secretary of Agriculture, to track and record the amount of prime agricultural soils and soils of Statewide importance that are occupied by grid supply solar facilities and net metered solar facilities greater than five megawatts in size.

The bill would require the DEP to establish, 12 months after the bill's enactment, standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities, which are designed to reduce stormwater runoff and erosion, and provide native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators. Grid supply solar facilities that go through the competitive solicitation process would be required to comply with the standards.

The bill would exempt the costs of SREC-IIs that result from the competitive solicitation portion of the SREC-II program from the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would also modify the requirements concerning how BPU calculates the cost cap to provide that the BPU's calculation must reflect any energy and environmental savings attributable to the Class I program including, but not be limited to, the social cost of carbon dioxide emissions. Finally, the bill would modify the State's renewable portfolio standards for solar energy to allow electric power suppliers and basic generation service providers to meet the standard by selling energy from solar electric power generators that are connected to the transmission system in New Jersey.

FISCAL IMPACT:

Fiscal information is not available at this time.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4554
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 29, 2021

SUMMARY

- Synopsis:** Establishes successor program to solar renewable energy certificate program in BPU, including solicitation process for certain solar power generation facilities.
- Type of Impact:** Annual State expenditure increase from General Fund, annual State revenue increase to "Preserve New Jersey Fund Account" of General Fund, annual expenditure increase by local government units.
- Agencies Affected:** Board of Public Utilities, Department of Environmental Protection.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would result in a marginal one-time expenditure increase from the General Fund by the BPU to implement the successor solar incentive program, as required by the bill. The program is substantively similar to a program already under development by the BPU under its existing statutory authority, so it is likely that the bill's enactment would not necessitate hiring additional staff.
- The OLS determines that the bill would also result in annual expenditure increases by the State and local government units in the form of increased electricity costs, as the costs of the solar incentives are to be financed through electricity rates, and the bill directs the BPU to incentivize the development of new solar facilities in the State.
- In addition, the bill would result in an indeterminate revenue increase to the "Preserve New Jersey Fund Account" in the General Fund, as it requires facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive

- payments they receive to that account. The OLS cannot quantify the amount of this increase because it will depend on the bids received by the BPU during the competitive solicitation process.

BILL DESCRIPTION

This bill would establish, in the Board of Public Utilities (BPU), the "SREC-II" program, which would: (1) distribute solar renewable energy certificates (SRECs) to solar power facilities that qualify for the program; and (2) include a competitive solicitation process for certain large solar power facilities. The SREC-II program would serve as a successor program to the SREC program, which is currently in the process of being discontinued by the BPU. The bill would also direct the BPU to establish siting criteria for certain solar power facilities.

Specifically, the bill would direct the BPU to establish the "SREC-II" program no later than 12 months after the bill's enactment. The goal of the SREC-II program would be to incentivize the development of at least 3.75 gigawatts of new solar power generation by 2026. The bill would direct the BPU to establish a system for distributing renewable energy certificates, to be known as "SREC-IIs," for each megawatt-hour of solar energy produced by a qualifying solar power facility for a duration established by the board. The SREC-IIs would be accompanied by a renewable energy incentive payment of fixed value and would be capable of counting towards the State's renewable portfolio standards. The bill would also authorize the BPU to assign a different monetary value to the SREC-IIs it distributes to different facilities, which could include the environmental and other benefits provided to the State by the facility. The bill would direct the BPU to apportion the costs of SREC-IIs to ratepayers in a similar manner to the manner by which it apportions the costs of other renewable energy certificates.

Under the bill, one part of the SREC-II program would be a "small solar facilities incentive program." This part of the program would award SREC-IIs to community solar facilities and net metered solar facilities less than five megawatts in size. The goal of this part of the program would be to incentivize the development of at least 1,500 megawatts of net-metered solar facilities and 750 megawatts of community solar facilities by 2026. Only solar facilities that are connected to an electric distribution or transmission system owned or operated by a New Jersey public utility or local government, and which receive permission to operate after the enactment of the bill, would be eligible to receive SREC-IIs. The bill authorizes the BPU to develop additional qualification criteria and directs the BPU to develop an application process for this part of the program.

The second part of the SREC-II program would be a competitive solicitation process for the award of SREC-IIs to net metered solar facilities greater than five megawatts in size, and to "grid supply solar facilities," which the bill defines as a solar electric power generation facilities that are connected to the State's electric distribution or transmission systems and that sell electricity at wholesale. The goal of the competitive solicitation process would be to incentivize the construction of at least 1,500 megawatts of these types of solar facilities by 2026. The bill would direct the BPU to conduct a solicitation round at least every 18 months, starting at the bill's enactment, and continuing until at least January 1, 2026.

The bill would require facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46). The

bill would amend the statute establishing that account to provide that the money would be used to acquire and maintain lands for recreation and conservation purposes, preserve farmland, or preserve historic properties.

Under the bill, the BPU, in consultation with the Department of Environmental Protection (DEP) and the Secretary of Agriculture, would be required to develop siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. The bill would also require the DEP to establish, 12 months after the bill's enactment, standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities. Grid supply solar facilities that go through the competitive solicitation process would be required to comply with the standards.

Finally, the bill would exempt the costs of SREC-IIs that result from the competitive solicitation portion of the SREC-II program from the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would also modify the requirements concerning how BPU calculates the cost cap to provide that the BPU's calculation must reflect any energy and environmental savings attributable to the Class I program including, but not be limited to, the social cost of carbon dioxide emissions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would result in a marginal one-time expenditure increase from the General Fund by the BPU to implement the successor solar incentive program, as required by the bill. The program is substantively similar to a program already under development by the BPU under its existing statutory authority, so it is likely that the bill's enactment would not necessitate hiring additional staff. The OLS notes that the BPU will hire an outside consultant to assist with the competitive solicitation element of the new solar incentive program. The BPU's plans to hire a consultant are understood by the OLS to be independent of the passage of the bill, so it is likely that this can be accomplished using already available funds.

The OLS determines that the bill would also result in annual expenditure increases by the State and local government units in the form of increased electricity costs, as the costs of the solar incentives are to be financed through electricity rates, and the bill directs the BPU to incentivize the development of new solar facilities in the State. Other than the competitive solicitation element, the new program is substantively similar to the Transition Renewable Energy Certificate (TREC) program already being implemented by the BPU. However, the bill also exempts the incentives to be paid under the competitive solicitation element of the program from an existing statutory cost cap. In addition, the bill modifies the provisions regarding the statutory cost cap in such a way that the BPU may raise the overall amount authorized to be paid by ratepayers to subsidize the State's renewable portfolio standards. Thus, the bill may result in indeterminate increases to electricity costs for State agencies and local government units.

The OLS also notes that the bill would require the DEP and the Secretary of Agriculture to assist the BPU in developing siting criteria for certain solar facilities, and reviewing certain waiver applications. These provisions would likely lead to marginal annual expenditure increases from the General Fund, but would likely not require additional staff. The bill requires the DEP to develop certain horticultural standards for certain large solar facilities. Again, this can likely be subsumed within existing staff duties.

Finally, the bill would result in an indeterminate revenue increase to the "Preserve New Jersey Fund Account" in the General Fund, as it requires facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to that account. The OLS cannot quantify the amount of this increase because it will depend on the bids received by the BPU during the competitive solicitation process.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Associate Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2605

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 25, 2020

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Directs BPU to establish utility-scale solar energy development program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning utility-scale solar energy development,
2 supplementing and amending P.L.1999, c.23, and amending
3 P.L.2016, c.12.

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

7
8 1. (New section) a. The Legislature hereby finds and
9 declares that:

10 (1) In order to achieve the State's goal of securing 50 percent of
11 its electricity supply from renewable energy by 2030 with the least
12 cost and the greatest benefit to consumers, it is critical (a) to
13 continually reexamine the State's renewable energy programs and
14 consider creating new programs, and (b) for all solar electric energy
15 generated by a facility connected to an electric public utility or to
16 transmission facilities operated by the PJM Interconnection, L.L.C.
17 to be considered Class I renewable energy and for the facility to be
18 eligible to generate renewable energy certificates for the solar
19 energy it generates provided that it is not simultaneously generating
20 solar renewable energy certificates;

21 (2) The 2019 Energy Master Plan ("EMP") found that: (a) the
22 State can achieve its 100 percent clean energy and 80 percent
23 greenhouse gas reduction goals with little added cost, and likely net
24 savings when health benefits and climate change mitigation benefits
25 are taken into account, in part by maximizing the development of
26 in-State renewable energy generation, including 17 gigawatts of
27 solar power by 2035 and 32 gigawatts by 2050; (b) under the least
28 cost path identified by the EMP, solar energy could meet 34 percent
29 of the State's clean energy needs by 2050; and (c) to embark on this
30 least cost path, the EMP determined that the State should add at
31 least 400 megawatts of in-State solar power each year through
32 2030;

33 (3) Utility-scale solar energy is the least-cost renewable energy
34 resource in both the State and the Mid-Atlantic region, and New
35 Jersey has the market potential for at least 3,000 megawatts of
36 utility-scale solar energy by 2030;

37 (4) Fostering and incentivizing the development of new utility-
38 scale solar facilities within the State will: (a) mitigate price and
39 delivery risks while ensuring an adequate, efficient, and reliable
40 supply of renewable energy; (b) enhance the continued
41 diversification of the energy resources used in this State, resulting
42 in environmental and health benefits to New Jersey residents and a
43 more resilient energy supply; and (c) encourage lower financing
44 rates and enable the development of more affordable renewable
45 energy resources;

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 (5) A utility-scale solar energy development program that
2 establishes a competitive solicitation process for long-term
3 contracts to provide Class I renewable energy will help achieve the
4 State's goal of securing 50 percent of its electricity supply from
5 renewable energy by 2030 at a cost to customers that is equal to or
6 less than the costs that would be borne by customers without the
7 creation of such a program, thus causing no conflict with the
8 renewable energy portfolio standard cost caps established by
9 section 38 of P.L.1999, c.23 (C.48:3-87); and

10 (6) It is in the public interest to create a utility-scale solar
11 energy development program that includes an annual competitive
12 solicitation process to identify cost-effective utility-scale solar
13 facility projects capable of supplying clean and reliable solar energy
14 to New Jersey consumers.

15 b. (1) No later than one year after the effective date of
16 P.L. , c. (C.) (pending before the Legislature as this bill), the
17 board, pursuant to the "Administrative Procedure Act,"
18 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
19 regulations establishing an annual competitive procurement
20 program to develop utility-scale solar facilities capable of
21 producing at least 3,000 megawatts of power by 2030. This
22 program shall include a transparent, competitive, and fair annual
23 solicitation process that is open on a non-discriminatory basis to
24 any entity seeking to construct a utility-scale solar facility that can
25 achieve commercial operation within two years after the date of
26 execution of a power purchase agreement, and standardized
27 evaluation criteria to be applied equally to all bids and bidders.

28 (2) The evaluation criteria shall include the ability of the utility-
29 sale solar facility and any power purchase agreement entered into
30 pursuant to this section to:

31 (a) provide enhanced electricity reliability;

32 (b) contribute to reducing seasonal electricity price spikes;

33 (c) be cost effective to ratepayers over the term of the contract,
34 taking into consideration potential economic and environmental
35 benefits to the ratepayers;

36 (d) avoid line loss and mitigate transmission costs to the extent
37 possible and ensure that transmission cost overruns, if any, are not
38 borne by ratepayers;

39 (e) be paired with energy storage systems;

40 (f) mitigate any environmental impacts associated with the
41 construction of the facility; and

42 (g) create and foster employment and economic development in
43 the State.

44 c. (1) No later than 18 months after the effective date of
45 c. (C.) (pending before the Legislature as this bill), the board
46 shall establish the competitive procurement process, in accordance
47 with subparagraphs (a) and (b) of paragraph (1) of subsection d. of
48 this section, and conduct a competitive solicitation for utility-scale

1 solar facility projects, in accordance with subparagraphs (a), (b),
2 and (c) of paragraph (2) of subsection d. of this section.

3 d. (1) By December 31 of each year after the competitive
4 solicitation conducted pursuant to subsection c. of this section, the
5 board, after notice and opportunity for public comment, shall
6 establish for the competitive procurement to take place in the
7 following year:

8 (a) a procurement target of at least 375 megawatts, measured as
9 alternating current, which target may be increased by the board to
10 qualify for federal incentives or if the board otherwise finds doing
11 so is in the public interest; and

12 (b) a cost cap based on the board's forecast of the 20-year
13 market price of energy, capacity, and Class I RECs, and including
14 the total cost of remunerations paid pursuant to subsection d. of this
15 section and a just and reasonable value for capacity.

16 (2) By June 30 of each year after the establishment of the
17 competitive procurement process pursuant to paragraph (1) of this
18 subsection, the board shall conduct a competitive solicitation for
19 utility-scale solar facility projects, which shall:

20 (a) rank all bids received based on price;

21 (b) consider all bids that are equal to or lower than the cost cap
22 and which meet or exceed the procurement target established by the
23 board; and

24 (c) require bidders to submit fees in an amount determined by
25 the board to cover the costs incurred by the board in administering
26 the competitive procurement process established pursuant to this
27 section.

28 e. (1) Within 90 days after a winning bid for a solicitation
29 conducted pursuant to paragraph (2) of subsection c. of this section
30 is chosen, each electric public utility shall negotiate a power
31 purchase agreement with the winning bidder to purchase energy,
32 capacity, and Class I RECs, or any combination thereof, for a term
33 of 20 years. A power purchase agreement entered into pursuant to
34 this subsection that is subject to review by the Federal Energy
35 Regulatory Commission shall be filed with the Federal Energy
36 Regulatory Commission pursuant to 16 U.S.C. s.824d.

37 (2) Each power purchase agreement developed pursuant to this
38 section shall include (a) an annual remuneration of one percent of
39 the annual payments under the agreement to be submitted to the
40 State Treasurer for deposit into the "Preserve New Jersey Fund
41 Account," established pursuant to section 4 of P.L.2016, c.12
42 (C.13:8C-46), to be allocated as set forth pursuant to section 1 of
43 P.L.2019, c.136 (C.13:8C-47.1), and (b) an annual remuneration of
44 up to two and one-half percent of the annual payment under the
45 agreement to compensate the electric public utility for accepting the
46 financial obligation of the long-term agreement. The net costs of a
47 power purchase agreement shall be recovered through a non-

1 bypassable charge incorporated into the rates of the electric public
2 utility as approved by the board.

3 f. Energy produced from a utility-scale solar facility shall not
4 simultaneously receive Class I RECs and SRECs or any other
5 comparable credits issued under the SREC successor program
6 developed by the board pursuant to P.L.2018, c.17 (C.48:3-
7 87.8 et al.).

8 g. An electric public utility shall sell all Class I RECs
9 generated by a utility-scale solar facility pursuant to this section to
10 third-party energy suppliers, and any financial benefit realized by
11 an electric public utility shall be credited to ratepayers.

12 h. The issuance of Class I RECs for an eligible utility-scale
13 solar facility developed pursuant to this section shall be deemed
14 "Board of Public Utilities financial assistance," as defined pursuant
15 to section 1 of P.L.2009, c.89 (C.48:2-29.47).

16

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

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

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

27 "Base load electric power generation facility" means an electric
28 power generation facility intended to be operated at a greater than
29 50 percent capacity factor including, but not limited to, a combined
30 cycle power facility and a combined heat and power facility.

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

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

42 "Basic generation service" or "BGS" means electric generation
43 service that is provided, to any customer that has not chosen an
44 alternative electric power supplier, whether or not the customer has
45 received offers for competitive supply options, including, but not
46 limited to, any customer that cannot obtain such service from an
47 electric power supplier for any reason, including non-payment for

1 services. Basic generation service is not a competitive service and
2 shall be fully regulated by the board.

3 "Basic generation service provider" or "provider" means a
4 provider of basic generation service.

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

26 "Board" means the New Jersey Board of Public Utilities or any
27 successor agency.

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

1 equity investments, operating costs, and other related fees, costs,
2 and charges, or to assign, sell, or otherwise transfer bondable
3 transition property.

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

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

29 "British thermal unit" or "Btu" means the amount of heat
30 required to increase the temperature of one pound of water by one
31 degree Fahrenheit.

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

39 "Brownfield" means any former or current commercial or
40 industrial site that is currently vacant or underutilized and on which
41 there has been, or there is suspected to have been, a discharge of a
42 contaminant.

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

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

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

7 "Class I renewable energy" means electric energy produced from
8 solar technologies, photovoltaic technologies, wind energy, fuel
9 cells, geothermal technologies, wave or tidal action, small scale
10 hydropower facilities with a capacity of three megawatts or less and
11 put into service after the effective date of P.L.2012, c.24, methane
12 gas from landfills or methane gas from a biomass facility provided
13 that the biomass is cultivated and harvested in a sustainable manner,
14 or methane gas from a composting or anaerobic or aerobic digestion
15 facility that converts food waste or other organic waste to energy.

16 "Class II renewable energy" means electric energy produced at a
17 hydropower facility with a capacity of greater than three megawatts,
18 but less than 30 megawatts, or a resource recovery facility, provided
19 that the facility is located where retail competition is permitted and
20 provided further that the Commissioner of Environmental
21 Protection has determined that the facility meets the highest
22 environmental standards and minimizes any impacts to the
23 environment and local communities. Class II renewable energy
24 shall not include electric energy produced at a hydropower facility
25 with a capacity of greater than 30 megawatts on or after the
26 effective date of P.L.2015, c.51.

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

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

37 "Combined heat and power facility" or "co-generation facility"
38 means a generation facility which produces electric energy and
39 steam or other forms of useful energy such as heat, which are used
40 for industrial or commercial heating or cooling purposes. A
41 combined heat and power facility or co-generation facility shall not
42 be considered a public utility.

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

47 "Commercial and industrial energy pricing class customer" or
48 "CIEP class customer" means that group of non-residential

1 customers with high peak demand, as determined by periodic board
2 order, which either is eligible or which would be eligible, as
3 determined by periodic board order, to receive funds from the Retail
4 Margin Fund established pursuant to section 9 of P.L.1999, c.23
5 (C.48:3-57) and for which basic generation service is hourly-priced.

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

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

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

35 "Customer account service" means metering, billing, or such
36 other administrative activity associated with maintaining a customer
37 account.

38 "Delivery year" or "DY" means the 12-month period from June
39 1st through May 31st, numbered according to the calendar year in
40 which it ends.

41 "Demand side management" means the management of customer
42 demand for energy service through the implementation of cost-
43 effective energy efficiency technologies, including, but not limited
44 to, installed conservation, load management, and energy efficiency
45 measures on and in the residential, commercial, industrial,
46 institutional, and governmental premises and facilities in this State.

47 "Electric generation service" means the provision of retail
48 electric energy and capacity which is generated off-site from the

1 location at which the consumption of such electric energy and
2 capacity is metered for retail billing purposes, including agreements
3 and arrangements related thereto.

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

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

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

27 "Electric related service" means a service that is directly related
28 to the consumption of electricity by an end user, including, but not
29 limited to, the installation of demand side management measures at
30 the end user's premises, the maintenance, repair, or replacement of
31 appliances, lighting, motors, or other energy-consuming devices at
32 the end user's premises, and the provision of energy consumption
33 measurement and billing services.

34 "Electronic signature" means an electronic sound, symbol, or
35 process, attached to, or logically associated with, a contract or other
36 record, and executed or adopted by a person with the intent to sign
37 the record.

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

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

1 "Energy consumer" means a business or residential consumer of
2 electric generation service or gas supply service located within the
3 territorial jurisdiction of a government aggregator.

4 "Energy efficiency portfolio standard" means a requirement to
5 procure a specified amount of energy efficiency or demand side
6 management resources as a means of managing and reducing energy
7 usage and demand by customers.

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

11 "Existing business relationship" means a relationship formed by
12 a voluntary two-way communication between an electric power
13 supplier, gas supplier, broker, energy agent, marketer, private
14 aggregator, sales representative, or telemarketer and a customer,
15 regardless of an exchange of consideration, on the basis of an
16 inquiry, application, purchase, or transaction initiated by the
17 customer regarding products or services offered by the electric
18 power supplier, gas supplier, broker, energy agent, marketer,
19 private aggregator, sales representative, or telemarketer; however, a
20 consumer's use of electric generation service or gas supply service
21 through the consumer's electric public utility or gas public utility
22 shall not constitute or establish an existing business relationship for
23 the purpose of P.L.2013, c.263.

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

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

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

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

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

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

1 premises, and the provision of energy consumption measurement
2 and billing services.

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

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

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

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

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

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

46 "Historic fill" means generally large volumes of non-indigenous
47 material, no matter what date they were emplaced on the site, used
48 to raise the topographic elevation of a site, which were

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

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

14 "Leakage" means an increase in greenhouse gas emissions
15 related to generation sources located outside of the State that are not
16 subject to a state, interstate, or regional greenhouse gas emissions
17 cap or standard that applies to generation sources located within the
18 State.

19 "Locational deliverability area" or "LDA" means one or more of
20 the zones within the PJM region which are used to evaluate area
21 transmission constraints and reliability issues including electric
22 public utility company zones, sub-zones, and combinations of
23 zones.

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

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

36 "Marketer" means a duly licensed electric power supplier that
37 takes title to electric energy and capacity, transmission and other
38 services from electric power generators and other wholesale
39 suppliers and then assumes the contractual and legal obligation to
40 provide electric generation service, and may include transmission
41 and other services, to an end-use retail customer or customers, or a
42 duly licensed gas supplier that takes title to gas and then assumes
43 the contractual and legal obligation to provide gas supply service to
44 an end-use customer or customers.

45 "Mid-merit electric power generation facility" means a
46 generation facility that operates at a capacity factor between
47 baseload generation facilities and peaker generation facilities.

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

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

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

13 "Offshore wind energy" means electric energy produced by a
14 qualified offshore wind project.

15 "Offshore wind renewable energy certificate" or "OREC" means
16 a certificate, issued by the board or its designee, representing the
17 environmental attributes of one megawatt hour of electric
18 generation from a qualified offshore wind project.

19 "Off-site end use thermal energy services customer" means an
20 end use customer that purchases thermal energy services from an
21 on-site generation facility, combined heat and power facility, or co-
22 generation facility, and that is located on property that is separated
23 from the property on which the on-site generation facility,
24 combined heat and power facility, or co-generation facility is
25 located by more than one easement, public thoroughfare, or
26 transportation or utility-owned right-of-way.

27 "On-site generation facility" means a generation facility,
28 including, but not limited to, a generation facility that produces
29 Class I or Class II renewable energy, and equipment and services
30 appurtenant to electric sales by such facility to the end use customer
31 located on the property or on property contiguous to the property on
32 which the end user is located. An on-site generation facility shall
33 not be considered a public utility. The property of the end use
34 customer and the property on which the on-site generation facility is
35 located shall be considered contiguous if they are geographically
36 located next to each other, but may be otherwise separated by an
37 easement, public thoroughfare, transportation or utility-owned
38 right-of-way, or if the end use customer is purchasing thermal
39 energy services produced by the on-site generation facility, for use
40 for heating or cooling, or both, regardless of whether the customer
41 is located on property that is separated from the property on which
42 the on-site generation facility is located by more than one easement,
43 public thoroughfare, or transportation or utility-owned right-of-way.

44 "Open access offshore wind transmission facility" means an open
45 access transmission facility, located either in the Atlantic Ocean or
46 onshore, used to facilitate the collection of offshore wind energy or
47 its delivery to the electric transmission system in this State.

1 "Person" means an individual, partnership, corporation,
2 association, trust, limited liability company, governmental entity, or
3 other legal entity.

4 "PJM Interconnection, L.L.C." or "PJM" means the privately-
5 held, limited liability corporation that serves as a FERC-approved
6 Regional Transmission Organization, or its successor, that manages
7 the regional, high-voltage electricity grid serving all or parts of 13
8 states including New Jersey and the District of Columbia, operates
9 the regional competitive wholesale electric market, manages the
10 regional transmission planning process, and establishes systems and
11 rules to ensure that the regional and in-State energy markets operate
12 fairly and efficiently.

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

15 "Private aggregator" means a non-government aggregator that is
16 a duly-organized business or non-profit organization authorized to
17 do business in this State that enters into a contract with a duly
18 licensed electric power supplier for the purchase of electric energy
19 and capacity, or with a duly licensed gas supplier for the purchase
20 of gas supply service, on behalf of multiple end-use customers by
21 combining the loads of those customers.

22 "Properly closed sanitary landfill facility" means a sanitary
23 landfill facility, or a portion of a sanitary landfill facility, for which
24 performance is complete with respect to all activities associated
25 with the design, installation, purchase, or construction of all
26 measures, structures, or equipment required by the Department of
27 Environmental Protection, pursuant to law, in order to prevent,
28 minimize, or monitor pollution or health hazards resulting from a
29 sanitary landfill facility subsequent to the termination of operations
30 at any portion thereof, including, but not necessarily limited to, the
31 placement of earthen or vegetative cover, and the installation of
32 methane gas vents or monitors and leachate monitoring wells or
33 collection systems at the site of any sanitary landfill facility.

34 "Public utility holding company" means: (1) any company that,
35 directly or indirectly, owns, controls, or holds with power to vote,
36 10 percent or more of the outstanding voting securities of an
37 electric public utility or a gas public utility or of a company which
38 is a public utility holding company by virtue of this definition,
39 unless the Securities and Exchange Commission, or its successor,
40 by order declares such company not to be a public utility holding
41 company under the Public Utility Holding Company Act of 1935,
42 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
43 Securities and Exchange Commission, or its successor, determines,
44 after notice and opportunity for hearing, directly or indirectly, to
45 exercise, either alone or pursuant to an arrangement or
46 understanding with one or more other persons, such a controlling
47 influence over the management or policies of an electric public
48 utility or a gas public utility or public utility holding company as to

1 make it necessary or appropriate in the public interest or for the
2 protection of investors or consumers that such person be subject to
3 the obligations, duties, and liabilities imposed in the Public Utility
4 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
5 successor act.

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

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

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

24 "Related competitive business segment of an electric public
25 utility or gas public utility" means any business venture of an
26 electric public utility or gas public utility including, but not limited
27 to, functionally separate business units, joint ventures, and
28 partnerships, that offers to provide or provides competitive services.

29 "Related competitive business segment of a public utility holding
30 company" means any business venture of a public utility holding
31 company, including, but not limited to, functionally separate
32 business units, joint ventures, and partnerships and subsidiaries, that
33 offers to provide or provides competitive services, but does not
34 include any related competitive business segments of an electric
35 public utility or gas public utility.

36 "Reliability pricing model" or "RPM" means PJM's capacity-
37 market model, and its successors, that secures capacity on behalf of
38 electric load serving entities to satisfy load obligations not satisfied
39 through the output of electric generation facilities owned by those
40 entities, or otherwise secured by those entities through bilateral
41 contracts.

42 "Renewable energy certificate" or "REC" means a certificate
43 representing the environmental benefits or attributes of one
44 megawatt-hour of generation from a generating facility that
45 produces Class I or Class II renewable energy, but shall not include
46 a solar renewable energy certificate or an offshore wind renewable
47 energy certificate.

1 "Resource clearing price" or "RCP" means the clearing price
2 established for the applicable locational deliverability area by the
3 base residual auction or incremental auction, as determined by the
4 optimization algorithm for each auction, conducted by PJM as part
5 of PJM's reliability pricing model.

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

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

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

36 "Retail margin" means an amount, reflecting differences in
37 prices that electric power suppliers and electric public utilities may
38 charge in providing electric generation service and basic generation
39 service, respectively, to retail customers, excluding residential
40 customers, which the board may authorize to be charged to
41 categories of basic generation service customers of electric public
42 utilities in this State, other than residential customers, under the
43 board's continuing regulation of basic generation service pursuant to
44 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
45 purpose of promoting a competitive retail market for the supply of
46 electricity.

47 "Sales representative" means a person employed by, acting on
48 behalf of, or as an independent contractor for, an electric power

1 supplier, gas supplier, broker, energy agent, marketer, or private
2 aggregator who, by any means, solicits a potential residential
3 customer for the provision of electric generation service or gas
4 supply service.

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

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

15 "Shopping credit" means an amount deducted from the bill of an
16 electric public utility customer to reflect the fact that the customer
17 has switched to an electric power supplier and no longer takes basic
18 generation service from the electric public utility.

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

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

30 "Social program" means a program implemented with board
31 approval to provide assistance to a group of disadvantaged
32 customers, to provide protection to consumers, or to accomplish a
33 particular societal goal, and includes, but is not limited to, the
34 winter moratorium program, utility practices concerning "bad debt"
35 customers, low income assistance, deferred payment plans,
36 weatherization programs, and late payment and deposit policies, but
37 does not include any demand side management program or any
38 environmental requirements or controls.

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

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

47 "Solar renewable energy certificate" or "SREC" means a
48 certificate issued by the board or its designee, representing one

1 megawatt hour (MWh) of solar energy that is generated by a facility
2 connected to the distribution system in this State and has value
3 based upon, and driven by, the energy market.

4 "Standard offer capacity agreement" or "SOCA" means a
5 financially-settled transaction agreement, approved by board order,
6 that provides for eligible generators to receive payments from the
7 electric public utilities for a defined amount of electric capacity for
8 a term to be determined by the board but not to exceed 15 years,
9 and for such payments to be a fully non-bypassable charge, with
10 such an order, once issued, being irrevocable.

11 "Standard offer capacity price" or "SOCP" means the capacity
12 price that is fixed for the term of the SOCA and which is the price
13 to be received by eligible generators under a board-approved
14 SOCA.

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

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

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

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

34 "Telemarketing sales call" means a telephone call made by a
35 telemarketer to a potential residential customer as part of a plan,
36 program, or campaign to encourage the customer to change the
37 customer's electric power supplier or gas supplier. A telephone call
38 made to an existing customer of an electric power supplier, gas
39 supplier, broker, energy agent, marketer, private aggregator, or
40 sales representative, for the sole purpose of collecting on accounts
41 or following up on contractual obligations, shall not be deemed a
42 telemarketing sales call. A telephone call made in response to an
43 express written request of a customer shall not be deemed a
44 telemarketing sales call.

45 "Thermal efficiency" means the useful electric energy output of a
46 facility, plus the useful thermal energy output of the facility,
47 expressed as a percentage of the total energy input to the facility.

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

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

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

21 "Transmission and distribution system" means, with respect to an
22 electric public utility, any facility or equipment that is used for the
23 transmission, distribution, or delivery of electricity to the customers
24 of the electric public utility including, but not limited to, the land,
25 structures, meters, lines, switches, and all other appurtenances
26 thereof and thereto, owned or controlled by the electric public
27 utility within this State.

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

31 "Unsolicited advertisement" means any advertising claims of the
32 commercial availability or quality of services provided by an
33 electric power supplier, gas supplier, broker, energy agent,
34 marketer, private aggregator, sales representative, or telemarketer
35 which is transmitted to a potential customer without that customer's
36 prior express invitation or permission.

37 "Utility-scale solar facility" means a solar electric power
38 generation facility that is capable of producing at least 10
39 megawatts of electric power, measured as alternating current, and is
40 connected to the electric transmission system at a location that is
41 within the service territory of an electric public utility or to the
42 distribution system operated by an electric public utility. Any such
43 facility shall qualify as Class I renewable energy for the purposes of
44 receiving Class I renewable energy certificates for compliance with
45 the State's renewable energy portfolio standards.

46 (cf: P.L.2020, c.24, s.7)

1 3. Section 4 of P.L.2016, c.12 (C.13:8C-46) is amended to read
2 as follows:

3 4. There is established in the General Fund a special account to
4 be known as the "Preserve New Jersey Fund Account."

5 a. The State Treasurer shall credit to this account:

6 (1) (a) (i) For State fiscal year 2016, an amount equal to 71
7 percent of the four percent of the revenue annually derived from the
8 tax imposed pursuant to the "Corporation Business Tax Act
9 (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and
10 supplemented, or any other State law of similar effect, dedicated for
11 recreation and conservation, farmland preservation, and historic
12 preservation purposes pursuant to subparagraph (a) of Article VIII,
13 Section II, paragraph 6 of the State Constitution, less \$19,972,000
14 already appropriated and expended for parks management in
15 P.L.2015, c.63; and

16 (ii) in each State fiscal year 2017 through and including State
17 fiscal year 2019 an amount equal to 71 percent of the four percent
18 of the revenue annually derived from the tax imposed pursuant to
19 the "Corporation Business Tax Act (1945)," P.L.1945, c.162
20 (C.54:10A-1 et seq.), as amended and supplemented, or any other
21 State law of similar effect, dedicated to recreation and conservation,
22 farmland preservation, and historic preservation purposes pursuant
23 to subparagraph (a) of Article VIII, Section II, paragraph 6 of the
24 State Constitution; and

25 (b) (i) in each State fiscal year commencing in State fiscal year
26 2020 and annually thereafter, an amount equal to 78 percent of the
27 six percent of the revenue annually derived from the tax imposed
28 pursuant to the "Corporation Business Tax Act (1945),"
29 P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and
30 supplemented, or any other State law of similar effect, dedicated to
31 recreation and conservation, farmland preservation, and historic
32 preservation purposes pursuant to subparagraph (a) of Article VIII,
33 Section II, paragraph 6 of the State Constitution; and

34 (ii) any amount received from an electric public utility pursuant
35 to section 1 of P.L. , c. (C.) (pending before the Legislature
36 as this bill); and

37 (2) in each State fiscal year, an amount equal to the amount
38 dedicated pursuant to subparagraph (b) of Article VIII, Section II,
39 paragraph 6 of the State Constitution.

40 b. In each State fiscal year, the amount credited to the Preserve
41 New Jersey Fund Account shall be appropriated from time to time
42 by the Legislature only for the applicable purposes set forth in
43 Article VIII, Section II, paragraph 6 of the State Constitution and
44 **[this act]** P.L.2016, c.12 (C.13:8C-43 et seq.) for:

45 (1) providing funding, including loans or grants, for the
46 preservation, including acquisition, development, and stewardship,
47 of lands for recreation and conservation purposes, including lands
48 that protect water supplies and lands that have incurred flood or

1 storm damage or are likely to do so, or that may buffer or protect
2 other properties from flood or storm damage;
3 (2) providing funding, including loans or grants, for the
4 preservation and stewardship of land for agricultural or horticultural
5 use and production;
6 (3) providing funding, including loans or grants, for historic
7 preservation; and
8 (4) paying administrative costs associated with (1) through (3)
9 of this subsection.
10 c. Nothing in this act shall authorize any State entity to use
11 constitutionally dedicated CBT moneys for the purpose of making
12 any payments relating to any bonds, notes, or other debt
13 obligations, other than those relating to obligations arising from
14 land purchase agreements made with landowners.
15 d. In each State fiscal year after the enactment of
16 P.L. , c. (C.) (pending before the Legislature as this bill), the
17 State Treasurer shall notify, in writing, the chairperson of the
18 Garden State Preservation Trust of the amount received from an
19 electric public utility pursuant to section 1 of P.L. , c. (C.)
20 (pending before the Legislature as this bill) and credited to the
21 Preserve New Jersey Fund Account pursuant to subsubparagraph
22 (ii) of subparagraph (b) of paragraph (1) of subsection a. of this
23 section to be used for the purposes of subsection b. of this section.
24 (cf: P.L.2016, c.12, s.4)

25
26 4. This act shall take effect immediately.

27
28

29 STATEMENT

30

31 This bill would supplement the “Electric Discount and Energy
32 Competition Act” (EDECA), P.L.1999, c.23 (C.48:3-49 et al.), to
33 direct the Board of Public Utilities (board) to establish a utility-
34 scale solar energy development program.

35 The bill would define a "utility-scale solar facility" as a solar
36 electric power generation facility that is capable of producing at
37 least 10 megawatts of electric power, measured as alternating
38 current, and is connected to the electric transmission system at a
39 location that is within the service territory of an electric public
40 utility or to the distribution system operated by an electric public
41 utility.

42 The bill would require the board, within one year after the date
43 the bill is enacted into law, to adopt rules and regulations
44 establishing an annual competitive procurement program to develop
45 utility-scale solar facilities capable of producing at least 3,000
46 megawatts of power by 2030. This program would include a
47 transparent, competitive, and fair annual solicitation process that is
48 open on a non-discriminatory basis to any entity seeking to

1 construct a utility-scale solar facility that can achieve commercial
2 operation within two years after the date of execution of a power
3 purchase agreement, and standardized evaluation criteria to be
4 applied equally to all bids and bidders.

5 The bill would require the board, within 18 months after the date
6 the bill is enacted into law, to establish a competitive procurement
7 process and conduct a competitive solicitation for utility-scale solar
8 facility projects. The competitive procurement process is to
9 include: a procurement target of at least 375 megawatts, measured
10 as alternating current, which target may be increased by the board
11 to qualify for federal incentives or if the board otherwise finds
12 doing so is in the public interest; and a cost cap based on the
13 board's forecast of the 20-year market price of energy, capacity,
14 and Class I RECs, less the total cost of the annual remunerations
15 one percent to be submitted to the State Treasurer for deposit into
16 the "Preserve New Jersey Fund Account," established pursuant to
17 section 4 of P.L.2016, c.12 (C.13:8C-46), and up to two and one-
18 half percent to compensate the electric public utility for costs
19 incurred.

20 After the initial competitive solicitation and procurement
21 process, the bill would thereafter require the board, by December 31
22 of each year, to establish for the competitive procurement to take
23 place in the following year, and by June 30th of each year to
24 conduct a competitive solicitation for utility-scale solar facilities.

25 Following the board's competitive solicitation for utility-scale
26 solar facility projects and the selection of a winning bidder, each
27 electric public utility would be required to negotiate a power
28 purchase agreement with the winning bidder to purchase energy,
29 capacity, and Class I RECs, or any combination thereof, for a term
30 of 20 years.

31 This bill would also amend the "Preserve New Jersey Act,"
32 P.L.2016, c.12 (C.13:8C-43 et seq.), to provide that the amounts
33 received by the State Treasurer pursuant to this bill from an electric
34 public utility would be deposited into the "Preserve New Jersey
35 Fund Account" and be used in accordance with the provisions of the
36 "Preserve New Jersey Act" for recreation and conservation,
37 farmland, and historic preservation purposes.

38 The 2019 Energy Master Plan ("EMP") found that the State
39 could achieve its 100 percent clean energy and 80 percent
40 greenhouse gas reduction goals with net savings and little added
41 cost when health benefits and climate change mitigation benefits are
42 taken into account, by maximizing the development of in-State
43 renewable energy generation, including 17,000 megawatts of solar
44 energy by 2035 and 32 gigawatts by 2050. Under the least cost path
45 identified by the EMP, solar energy could meet 34 percent of the
46 State's clean energy needs by 2050. The EMP further determined
47 that to embark on this least cost path the State should add at least
48 400 megawatts of in-State solar energy each year through 2030.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2605

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2605 with committee amendments.

This bill, as amended, would direct the Board of Public Utilities (BPU) to establish a utility-scale solar energy development program, and modify the State's renewable energy portfolio standards.

The bill would define a "utility-scale solar facility" as a solar electric power generation facility that is capable of producing at least 10 megawatts of electric power, measured as alternating current, and is connected to the electric transmission system at a location that is within the service territory of an electric public utility or to the distribution system operated by an electric public utility.

The bill would require the BPU, within one year after the effective date of the bill, to adopt rules and regulations establishing an annual competitive procurement program to develop utility-scale solar facilities capable of producing at least 1,500 megawatts of power by 2026. This program would include an annual solicitation process that is open on a non-discriminatory basis to any entity seeking to construct a utility-scale solar facility that can achieve commercial operation within two years after the date of execution of a power purchase agreement, and standardized evaluation criteria to be applied equally to all bids and bidders.

The bill would require the BPU, within 12 months after the effective date of the bill, to establish a competitive procurement process and conduct a competitive solicitation for utility-scale solar facility projects. The competitive procurement process would include: an annual procurement target of at least 375 megawatts, measured as alternating current, for the first four years of the program; a cost cap based on the BPU's forecast of the 20-year market price of energy, capacity, and Class I RECs, and including the total cost of the remunerations paid pursuant to subsection d. of section 1 of the bill and a just and reasonable value for capacity; a requirement that not more than 35 percent of each annual procurement would be awarded to any one developer; and a requirement that at least 15 percent of each annual procurement would be from combined solar and energy storage facilities.

After the initial competitive solicitation and procurement process, the bill would thereafter require the BPU, by December 31 of each year, to establish for the competitive procurement to take place in the following year, and by June 30th of each year to conduct a competitive solicitation for utility-scale solar facilities.

Following the BPU's competitive solicitation for utility-scale solar facility projects and the selection of a winning bidder, each electric public utility would be required to negotiate a power purchase agreement with the winning bidder to purchase energy, capacity, and Class I RECs, or any combination thereof, for a term of 20 years. The power purchase agreement would require that the project achieve commercial operation no later than 24 months after execution of the agreement, unless that timeframe is extended by the BPU due to an extenuating circumstance.

Under the bill, each power purchase agreement would be required to include an annual remuneration of one percent of the annual payments under the agreement to be submitted to the State Treasurer for deposit into the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46), and an annual remuneration of up to two and one-half percent of the annual payment under the agreement to compensate the electric public utility for accepting the financial obligation of the long-term agreement. The net costs of a power purchase agreement would be recovered through a non-bypassable charge incorporated into the rates of each electric public utility based on the electric public utility's proportionate share of the Statewide load, as approved by the BPU.

The bill would require a utility-scale solar facility project, to the extent practicable, to utilize native plant species and seed mixes in accordance with standards established by the Department of Environmental Protection (DEP). The bill would require the DEP, in consultation with the BPU, to establish standards for the use of pollinator-friendly native plant species and seed mixes. The bill would also prohibit a utility-scale solar facility project from being constructed on: (1) preserved farmland; (2) land preserved under the Green Acres Program; (3) land located within the preservation area of the pinelands area; (4) land designated as forest area in the pinelands comprehensive management plan; (5) land designated as freshwater wetlands or coastal wetlands; and (6) lands located within the Highlands preservation area.

The bill would require that each worker employed in the construction of a utility-scale solar facility project be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development.

This bill would also amend the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-43 et seq.), to provide that the amounts received by the State Treasurer pursuant to this bill from an electric public utility would be deposited into the "Preserve New Jersey Fund

Account” and be used in accordance with the provisions of the “Preserve New Jersey Act” for recreation and conservation, farmland, and historic preservation purposes.

The bill would modify the State’s renewable energy portfolio standards to provide that: by January 1, 2025, 39 percent of the kilowatt hours sold in this State by each electric power supplier and basic generation service provider must be from Class I renewable energy sources, and by January 1, 2030, 54 percent of the kilowatt hours sold in this State must be from Class I renewable energy sources. The bill would also amend the definition of the term “connected to the distribution system” in section 3 of P.L.1999, c.23 (C.48:3-51) to add a solar electric generation facility that is located on a rooftop or floating on a body of water (floating photovoltaics).

The committee amendments would:

(1) reduce the total procurement capacity target for utility-scale solar facility projects from 3,000 megawatts of power by 2030 to 1,500 megawatts by 2026;

(2) specify that the evaluation criteria established by the BPU for utility-scale solar facility projects include the ability of a project to utilize pollinator-friendly habitat and avoid excessive concentrations of procurement awards to any single developer;

(3) Require the BPU to establish the competitive procurement process required under the bill in 12 months rather than 18 months;

(4) Provide that the competitive procurement process include an annual procurement target of at least 375 megawatts, measured as alternating current, for the first four years of the program;

(5) remove language that would have allowed the BPU to increase the annual procurement target under certain circumstances;

(6) Provide that not more than 35 percent of each annual procurement may be awarded to any one developer, and that at least 15 percent of each annual procurement be for combined solar and energy storage facilities;

(7) require bidders to execute a PJM facilities study agreement prior to bid submission to demonstrate that the proposed utility-scale solar facility project is sufficiently developed;

(8) require that a project achieve commercial operation no later than 24 months after execution of a power purchase agreement, unless that timeframe is extended by the BPU due to an extenuating circumstance;

(9) provide that the net costs of a power purchase agreement be recovered via a non-bypassable charge incorporated into the rates of each public utility based on the electric public utility’s proportionate share of the Statewide load;

(10) require a utility-scale solar facility project to utilize native plant species and seed mixes in accordance with standards established by the DEP, and require the DEP to establish such standards within one year after the effective date of the bill;

(11) prohibit a utility-scale solar facility project from being constructed on certain environmentally sensitive lands;

(12) require that each worker employed in the construction of a utility-scale solar facility project be paid not less than the prevailing wage rate for the worker's craft or trade;

(13) require a developer that undertakes a utility-scale solar facility project to obtain all necessary permits and other approvals as may be required under State or local law, rule, regulation, or ordinance;

(14) modify the State's renewable energy portfolio standards, as described above;

(15) amend the definition of the term "connected to the distribution system" in existing law to add a solar electric generation facility that is located on a rooftop or floating on a body of water (floating photovoltaics); and

(16) make technical corrections to the bill.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2605**

STATE OF NEW JERSEY

DATED: MAY 11, 2021

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 2605.

This committee substitute would establish, in the Board of Public Utilities (BPU), the "SREC-II" program, which would: (1) distribute solar renewable energy certificates (SRECs) to solar power facilities that qualify for the program; and (2) include a competitive solicitation process for certain large solar power facilities. The SREC-II program would serve as a successor program to the SREC program, which is currently in the process of being discontinued by the BPU. The bill would also direct the BPU to establish siting criteria for certain solar power facilities.

Specifically, the bill would direct the BPU to establish the "SREC-II" program no later than 12 months after the bill's enactment. The goal of the SREC-II program would be to incentivize the development of at least 3.75 gigawatts of new solar power generation by 2026. The bill would direct the BPU to establish a system for distributing renewable energy certificates, to be known as "SREC-IIs," for each megawatt-hour of solar energy produced by a qualifying solar power facility for a duration established by the board. The SREC-IIs would be accompanied by a renewable energy incentive payment of fixed value and would be capable of counting towards the State's renewable portfolio standards. The bill would also authorize the BPU to assign a different monetary value to the SREC-IIs it distributes to different facilities, which could include the environmental and other benefits provided to the State by the facility. The bill would direct the BPU to apportion the costs of SREC-IIs to ratepayers in a similar manner to the manner by which it apportions the costs of other renewable energy certificates.

Under the bill, one part of the SREC-II program would be a "small solar facilities incentive program." This part of the program would award SREC-IIs to community solar facilities and net metered solar facilities less than five megawatts in size. The goal of this part of the program would be to incentivize the development of at least 1,500 megawatts of net-metered solar facilities and 750 megawatts of community solar facilities by 2026. Only solar facilities that are connected to an electric distribution or transmission system owned or

operated by a New Jersey public utility or local government, and which receive permission to operate after the enactment of the bill, would be eligible to receive SREC-IIs. The bill authorizes the BPU to develop additional qualification criteria and directs the BPU to develop an application process for this part of the program.

The second part of the SREC-II program would be a competitive solicitation process for the award of SREC-IIs to net metered solar facilities greater than five megawatts in size, and to "grid supply solar facilities," which the bill defines as a solar electric power generation facilities that are connected to the State's electric distribution or transmission systems and that sell electricity at wholesale. The goal of the competitive solicitation process would be to incentivize the construction of at least 1,500 megawatts of these types of solar facilities by 2026. The bill would direct the BPU to conduct a solicitation round at least every 18 months, starting at the bill's enactment, and continuing until at least January 1, 2026. The bill would establish certain requirements and goals for the solicitation process, as enumerated in subsection c. of section 4 of the bill. The bill would direct the BPU, at the end of each bidding round, to rank all qualifying bids received based on the bid price, and award contracts in ranked order until the BPU reaches a procurement target determined in advance by the BPU. The bill would also authorize the BPU to rank bids within distinct bidding categories, based on the size, location, or other features of the proposed facilities, such that only projects within the same category compete with one another, and to formulate distinct procurement targets for each category.

The bill would establish various requirements for solar power facilities that participate in the SREC-II program, as enumerated in section 5 of the bill. For example, the bill would prohibit a facility from simultaneously receiving SREC-IIs and another renewable energy certificate. The bill would also require facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46). The bill would amend the statute establishing that account to provide that the money would be used to acquire and maintain lands for recreation and conservation purposes, preserve farmland, or preserve historic properties.

Under the bill, the BPU, in consultation with the Department of Environmental Protection (DEP) and the Secretary of Agriculture, would be required to develop siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. The bill would establish certain general goals for the siting criteria, as enumerated in subsection a. of section 6 of the bill. The bill would also establish certain areas of the State on which grid supply solar facilities are not to be constructed, unless give special authorization by the BPU, in consultation with the DEP or the

Secretary of Agriculture, as appropriate. These areas would include Green Acres lands, the Pinelands preservation area, the Highlands preservation area, wetlands, certain forested lands, and certain prime agricultural lands.

The bill would require the DEP to establish, 12 months after the bill's enactment, standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities, which are designed to reduce stormwater runoff and erosion, and provide native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators. Grid supply solar facilities that go through the competitive solicitation process would be required to comply with the standards.

The bill would exempt the costs of SREC-IIs that result from the competitive solicitation portion of the SREC-II program from the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would also modify the requirements concerning how BPU calculates the cost cap to provide that the BPU's calculation must reflect any energy and environmental savings attributable to the Class I program including, but not be limited to, the social cost of carbon dioxide emissions. Finally, the bill would modify the State's renewable portfolio standards for solar energy to allow electric power suppliers and basic generation service providers to meet the standard by selling energy from solar electric power generators that are connected to the transmission system in New Jersey.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2605**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Senate Budget and Appropriations Committee reports favorably the Senate Committee Substitute for Senate Bill No. 2605, with committee amendments.

This bill, as amended by the committee, would establish, in the Board of Public Utilities (BPU), the "SREC-II" program, which would: (1) distribute solar renewable energy certificates (SRECs) to solar power facilities that qualify for the program; and (2) include a competitive solicitation process for certain large solar power facilities. The SREC-II program would serve as a successor program to the SREC program, which is currently in the process of being discontinued by the BPU. The bill would also direct the BPU to establish siting criteria for certain solar power facilities.

Specifically, the bill would direct the BPU to establish the "SREC-II" program no later than 12 months after the bill's enactment. The goal of the SREC-II program would be to incentivize the development of at least 3.75 gigawatts of new solar power generation by 2026. The bill would direct the BPU to establish a system for distributing renewable energy certificates, to be known as "SREC-IIs," for each megawatt-hour of solar energy produced by a qualifying solar power facility for a duration established by the board. The SREC-IIs would be accompanied by a renewable energy incentive payment of fixed value and would be capable of counting towards the State's renewable portfolio standards. The bill would also authorize the BPU to assign a different monetary value to the SREC-IIs it distributes to different facilities, which could include the environmental and other benefits provided to the State by the facility. The bill would direct the BPU to apportion the costs of SREC-IIs to ratepayers in a similar manner to the manner by which it apportions the costs of other renewable energy certificates.

Under the bill, one part of the SREC-II program would be a "small solar facilities incentive program." This part of the program would award SREC-IIs to community solar facilities and net metered solar facilities less than five megawatts in size. The goal of this part of the program would be to incentivize the development of at least 1,500

megawatts of net-metered solar facilities and 750 megawatts of community solar facilities by 2026. Only solar facilities that are connected to an electric distribution or transmission system owned or operated by a New Jersey public utility or local government, and which receive permission to operate after the enactment of the bill, would be eligible to receive SREC-IIs. The bill authorizes the BPU to develop additional qualification criteria and directs the BPU to develop an application process for this part of the program.

The second part of the SREC-II program would be a competitive solicitation process for the award of SREC-IIs to net metered solar facilities greater than five megawatts in size, and to "grid supply solar facilities," which the bill defines as a solar electric power generation facilities that are connected to the State's electric distribution or transmission systems and that sell electricity at wholesale. The goal of the competitive solicitation process would be to incentivize the construction of at least 1,500 megawatts of these types of solar facilities by 2026. The bill would direct the BPU to conduct a solicitation round at least every 18 months, starting at the bill's enactment, and continuing until at least January 1, 2026. The bill would establish certain requirements and goals for the solicitation process, as enumerated in subsection c. of section 4 of the bill. The bill would direct the BPU, at the end of each bidding round, to rank all qualifying bids received based on the bid price, and award contracts in ranked order until the BPU reaches a procurement target determined in advance by the BPU. The bill would also authorize the BPU to rank bids within distinct bidding categories, based on the size, location, or other features of the proposed facilities, such that only projects within the same category compete with one another, and to formulate distinct procurement targets for each category.

The bill would establish various requirements for solar power facilities that participate in the SREC-II program, as enumerated in section 5 of the bill. For example, the bill would prohibit a facility from simultaneously receiving SREC-IIs and another renewable energy certificate. The bill would also require facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46). The bill would amend the statute establishing that account to provide that the money would be used to acquire and maintain lands for recreation and conservation purposes, preserve farmland, or preserve historic properties.

Under the bill, the BPU, in consultation with the Department of Environmental Protection (DEP) and the Secretary of Agriculture, would be required to develop siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. The bill would establish certain general goals for the siting criteria, as enumerated in subsection a. of section 6 of the bill. The bill

would also establish certain areas of the State on which grid supply solar facilities and net metered solar facilities greater than five megawatts in size are not to be constructed, unless given special authorization by the BPU, in consultation with the DEP or the Secretary of Agriculture, as appropriate. These areas – enumerated in subsections c. through e. of section 6 of the bill – would include Green Acres lands, designated forested areas and the preservation area in the pinelands area, the Highlands preservation area, wetlands, certain forested lands, and preserved farmland.

The bill would require the DEP to establish, 12 months after the bill's enactment, standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities, which are designed to reduce stormwater runoff and erosion, and provide native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators. Grid supply solar facilities that go through the competitive solicitation process would be required to comply with the standards.

The bill would exempt the costs of SREC-IIs that result from the competitive solicitation portion of the SREC-II program from the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would also modify the requirements concerning how BPU calculates the cost cap to provide that the BPU's calculation must reflect any energy and environmental savings attributable to the Class I program including, but not be limited to, the social cost of carbon dioxide emissions. Finally, the bill would modify the State's renewable portfolio standards for solar energy to allow electric power suppliers and basic generation service providers to meet the standard by selling energy from solar electric power generators that are connected to the transmission system in New Jersey.

COMMITTEE AMENDMENTS:

The committee amendments would:

(1) clarify that net metered solar facilities greater than five megawatts in size (as well as grid supply solar facilities) are not to be sited on certain sensitive lands, under the BPU's siting criteria established pursuant to the bill.

(2) revise the siting requirements in the bill to provide that grid supply solar facilities and net metered solar facilities greater than five megawatts in size may be sited on certain prime agricultural soils or soils of Statewide importance without the necessity for a waiver from the BPU, for the first 2.5 percent of such lands in the State occupied by grid supply solar facilities. After the 2.5 percent threshold is reached, a waiver would be a required for the remaining 2.5 percent of the lands with prime agricultural soils until the five percent cap on the use of lands with those soils for solar facilities is reached;

(3) require the BPU, in consultation with the Secretary of Agriculture, to track and record the amount of prime agricultural soils and soils of Statewide importance that are occupied by grid supply solar facilities and net metered solar facilities greater than five megawatts in size; and

(4) make technical changes to the bill's language.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in a marginal one-time expenditure increase from the State General Fund by the BPU to implement the successor solar incentive program, as required by the bill. The program is substantively similar to a program already under development by the BPU under its existing statutory authority, so it is likely that the bill's enactment would not necessitate hiring additional staff.

The OLS notes that the bill would also result in annual expenditure increases by the State and local government units in the form of increased electricity costs, since the costs of the solar incentives are financed through electricity rates, and the bill directs the BPU to incentivize the development of new solar facilities in the State.

The OLS also notes that the bill would require the DEP and the Secretary of Agriculture to assist the BPU in developing siting criteria for certain solar facilities, and reviewing certain waiver applications. These provisions would likely lead to marginal annual state expenditure increases, but would likely not require additional staff.

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2605
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 29, 2021

SUMMARY

- Synopsis:** Establishes successor program to solar renewable energy certificate program in BPU, including solicitation process for certain solar power generation facilities.
- Type of Impact:** Annual State expenditure increase from General Fund, annual State revenue increase to "Preserve New Jersey Fund Account" of General Fund, annual expenditure increase by local government units.
- Agencies Affected:** Board of Public Utilities, Department of Environmental Protection.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would result in a marginal one-time expenditure increase from the General Fund by the BPU to implement the successor solar incentive program, as required by the bill. The program is substantively similar to a program already under development by the BPU under its existing statutory authority, so it is likely that the bill's enactment would not necessitate hiring additional staff.
- The OLS determines that the bill would also result in annual expenditure increases by the State and local government units in the form of increased electricity costs, as the costs of the solar incentives are to be financed through electricity rates, and the bill directs the BPU to incentivize the development of new solar facilities in the State.
- In addition, the bill would result in an indeterminate revenue increase to the "Preserve New Jersey Fund Account" in the General Fund, as it requires facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive

payments they receive to that account. The OLS cannot quantify the amount of this increase because it will depend on the bids received by the BPU during the competitive solicitation process.

BILL DESCRIPTION

This bill would establish, in the Board of Public Utilities (BPU), the "SREC-II" program, which would: (1) distribute solar renewable energy certificates (SRECs) to solar power facilities that qualify for the program; and (2) include a competitive solicitation process for certain large solar power facilities. The SREC-II program would serve as a successor program to the SREC program, which is currently in the process of being discontinued by the BPU. The bill would also direct the BPU to establish siting criteria for certain solar power facilities.

Specifically, the bill would direct the BPU to establish the "SREC-II" program no later than 12 months after the bill's enactment. The goal of the SREC-II program would be to incentivize the development of at least 3.75 gigawatts of new solar power generation by 2026. The bill would direct the BPU to establish a system for distributing renewable energy certificates, to be known as "SREC-IIs," for each megawatt-hour of solar energy produced by a qualifying solar power facility for a duration established by the board. The SREC-IIs would be accompanied by a renewable energy incentive payment of fixed value and would be capable of counting towards the State's renewable portfolio standards. The bill would also authorize the BPU to assign a different monetary value to the SREC-IIs it distributes to different facilities, which could include the environmental and other benefits provided to the State by the facility. The bill would direct the BPU to apportion the costs of SREC-IIs to ratepayers in a similar manner to the manner by which it apportions the costs of other renewable energy certificates.

Under the bill, one part of the SREC-II program would be a "small solar facilities incentive program." This part of the program would award SREC-IIs to community solar facilities and net metered solar facilities less than five megawatts in size. The goal of this part of the program would be to incentivize the development of at least 1,500 megawatts of net-metered solar facilities and 750 megawatts of community solar facilities by 2026. Only solar facilities that are connected to an electric distribution or transmission system owned or operated by a New Jersey public utility or local government, and which receive permission to operate after the enactment of the bill, would be eligible to receive SREC-IIs. The bill authorizes the BPU to develop additional qualification criteria and directs the BPU to develop an application process for this part of the program.

The second part of the SREC-II program would be a competitive solicitation process for the award of SREC-IIs to net metered solar facilities greater than five megawatts in size, and to "grid supply solar facilities," which the bill defines as a solar electric power generation facilities that are connected to the State's electric distribution or transmission systems and that sell electricity at wholesale. The goal of the competitive solicitation process would be to incentivize the construction of at least 1,500 megawatts of these types of solar facilities by 2026. The bill would direct the BPU to conduct a solicitation round at least every 18 months, starting at the bill's enactment, and continuing until at least January 1, 2026.

The bill would require facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46). The bill would amend the statute establishing that account to provide that the money would be used to acquire and maintain lands for recreation and conservation purposes, preserve farmland, or preserve historic properties.

Under the bill, the BPU, in consultation with the Department of Environmental Protection (DEP) and the Secretary of Agriculture, would be required to develop siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. The bill would also require the DEP to establish, 12 months after the bill's enactment, standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities. Grid supply solar facilities that go through the competitive solicitation process would be required to comply with the standards.

Finally, the bill would exempt the costs of SREC-IIs that result from the competitive solicitation portion of the SREC-II program from the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would also modify the requirements concerning how BPU calculates the cost cap to provide that the BPU's calculation must reflect any energy and environmental savings attributable to the Class I program including, but not be limited to, the social cost of carbon dioxide emissions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would result in a marginal one-time expenditure increase from the General Fund by the BPU to implement the successor solar incentive program, as required by the bill. The program is substantively similar to a program already under development by the BPU under its existing statutory authority, so it is likely that the bill's enactment would not necessitate hiring additional staff. The OLS notes that the BPU will hire an outside consultant to assist with the competitive solicitation element of the new solar incentive program. The BPU's plans to hire a consultant are understood by the OLS to be independent of the passage of the bill, so it is likely that this can be accomplished using already available funds.

The OLS determines that the bill would also result in annual expenditure increases by the State and local government units in the form of increased electricity costs, as the costs of the solar incentives are to be financed through electricity rates, and the bill directs the BPU to incentivize the development of new solar facilities in the State. Other than the competitive solicitation element, the new program is substantively similar to the Transition Renewable Energy Certificate (TREC) program already being implemented by the BPU. However, the bill also exempts the incentives to be paid under the competitive solicitation element of the program from an existing statutory cost cap. In addition, the bill modifies the provisions regarding the statutory cost cap in such a way that the BPU may raise the overall amount authorized to be paid by ratepayers to subsidize the State's renewable portfolio standards. Thus, the bill may result in indeterminate increases to electricity costs for State agencies and local government units.

The OLS also notes that the bill would require the DEP and the Secretary of Agriculture to assist the BPU in developing siting criteria for certain solar facilities, and reviewing certain waiver applications. These provisions would likely lead to marginal annual expenditure increases from the General Fund, but would likely not require additional staff. The bill requires the DEP to develop certain horticultural standards for certain large solar facilities. Again, this can likely be subsumed within existing staff duties.

Finally, the bill would result in an indeterminate revenue increase to the "Preserve New Jersey Fund Account" in the General Fund, as it requires facilities that go through the competitive solicitation process to remunerate one percent of the renewable energy incentive payments they receive to that account. The OLS cannot quantify the amount of this increase because it will depend on the bids received by the BPU during the competitive solicitation process.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Associate Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Bills to Advance New Jersey's Clean Energy Future

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Legislation will Increase Solar Development and Facilitate Installation of Electric Vehicle Charging Infrastructure throughout the State

SEASIDE HEIGHTS – Governor Phil Murphy today signed a package of bills aimed at advancing New Jersey's transition to a clean energy future to further the Administration's goal of reaching 100 percent clean energy by 2050. The legislation will increase solar development and facilitate installation of electric vehicle charging infrastructure throughout the state.

"Three and a half years ago we put forth one of the most aggressive plans in the nation to move New Jersey away from fossil fuels and towards a future based on clean and renewable energy technologies," **said Governor Murphy**. "From wind-turbine component manufacturing, to solar energy installation, to electric vehicles, the modernization of our energy sector will not only aid us in addressing climate change, but also drive significant economic growth and create good-paying, union jobs across the state. By signing these bills today, we are marking another milestone on our path to 100 percent clean energy by 2050 and fueling our clean innovation economy."

"In order to combat climate change and its devastating consequences, we must do all we can to make it easier for people and families to use and charge electric vehicles whether they live in a single-family home or in a multi-family dwelling. Electric vehicles are the future and everyone should have access to the environmental and economic benefits they provide," **said Lt. Governor Sheila Oliver, who serves as Commissioner of the New Jersey Department of Community Affairs**. "The legislation that Governor Murphy signed today will go a long way to supporting electric vehicle adoption across New Jersey. In fact, DCA is already at work crafting model ordinances to provide local governments with the ability to safely and efficiently approve the installation of electric vehicle service equipment and parking spaces that are pre-wired for electric vehicle infrastructure. DCA looks forward to continuing to do its part on electric vehicles and the broader effort to protect our environment."

The Governor signed the following four bills into law:

S3223 (Smith, Bateman/Swain, Benson, Lopez, Verrelli, Karabinchak, Zwicker) - Establishes numerical requirements and zoning standards for installation of electric vehicle supply equipment and Make-Ready parking spaces

A1653 (Quijano, Karabinchak, Holley/Smith, Bateman) - Encourages development of zero-emission vehicle fueling and charging infrastructure in redevelopment projects.

A4554 (Karabinchak, Burzichelli, Houghtaling/Smith, Bateman) - Establishes successor program to solar renewable energy certificate program in BPU, including solicitation process for certain solar power generation facilities.

A5434 (Dancer, Armato, Houghtaling/Smith, Bateman) - Establishes dual-use solar project pilot program for unpreserved farmland; allows land used for dual-use solar project to be eligible for farmland assessment under certain conditions.

"I often talk about how significant these past few years have been for greatly expanding and growing renewable energy and electric vehicle capacity in New Jersey to combat climate change," **said Senator Smith**. "With the dual-use solar project and utility-scale solar program laws now established, we can significantly increase our renewable energy footprint in a way that both preserves farmland and open-space. This clean energy can then go into the electrical grid to help power the electric vehicles via charging stations installed around the state."

"In the not-so-distant future, we'll see the day when most cars on the road are electric. By 2040, over half of all passenger vehicles sold are projected to be electric," **said Assemblymembers Lisa Swain, Daniel Benson, Yvonne Lopez, Anthony Verrelli, Robert Karabinchak, and Andrew Zwicker in a joint statement.** "For the sake of our climate future, that day cannot come soon enough. If we want to encourage consumers to shift from buying gasoline-powered cars that emit dangerous fossil fuels into the air and erode our climate, to environmentally conscious electric vehicles that will reduce our dependence on oil and support clean air initiatives, we must invest in EV charging infrastructure in every community. The standards outlined in this law will remove roadblocks faced when installing EV supply equipment and parking spaces, which will expand our EV infrastructure and help New Jersey meet its climate goals."

"More people are using zero-emission vehicles now than ever before. This is due in part to the hundreds of dollars ZEV drivers save each year on gas," **said Assemblymembers Annette Quijano, Robert Karabinchak, and Jamel Holley in a joint statement.** "These vehicles are also better for our planet than gasoline cars because they don't create byproducts that can harm the environment. The Assembly passed quite a few bills last session to encourage the purchase of ZEVs, and we must continue our efforts of finding ways to make these cars more convenient for both current and prospective owners. This law will encourage municipalities to incorporate charging and refueling stations in their redevelopment plans to increase the number of stations throughout our state. The more places our residents can go to recharge or refuel their ZEV, the more practical and appealing these vehicles will be."

"Solar power is a clean, renewable source of energy that can reliably power homes and businesses throughout our state," **said Assemblymen Robert Karabinchak, John Burzichelli, and Eric Houghtaling in a joint statement.** "The Solar Successor Program will incentivize the generation of more solar power to help New Jersey reach our energy goals over the next five years and beyond. This program will not only create new jobs, but help protect our environment as well – ultimately benefitting everyone in our state."

"This law will allow large-scale solar energy projects to be used as a tool for farmland preservation, and improve long-term viability of New Jersey family-farming operations," **said Assemblymen John Armato and Eric Houghtaling in a joint statement.** "Studies have shown that agriculture production and solar generation can coexist on the same land. With a dual-use solar project pilot program, crops would flourish while the State continues its ambition toward 100% clean energy by 2050."

"A very good balance was struck between maintaining our best agricultural lands while at the same time advancing the state's Energy Master Plan," **said New Jersey Department of Agriculture Secretary Douglas Fisher.** "The Department of Agriculture is working closely with BPU as well as with Rutgers University to ensure the best possible outcomes are achieved. Thank you to Governor Murphy and the Legislature for continuing to make clean energy a priority that will allow solar interests to be developed while advancing agriculture in the Garden State."

"Governor Murphy's actions on these bills today will expand solar energy and electric vehicle infrastructure and continue to advance our efforts to achieve 100% clean energy by 2050," **said New Jersey Board of Public Utilities President Joseph L. Fiordaliso.** "We are building on the success of New Jersey's solar industry, which is going strong with over 142,000 installations in the state, as well developing the critical EV infrastructure necessary to help drivers make the switch. The new legislation complements our efforts at the Board and will help deliver on the Governor's vision of a clean energy future."

"Increasing the use of solar energy and zero-emission vehicles is not only essential for addressing the threat of climate change, but also creates important opportunities for long-term, sustainable economic growth," **said New Jersey Economic Development Authority Chief Executive Officer Tim Sullivan.** "Around the world, clean energy is a major job creator, and Governor Murphy's strong leadership in signing these bills is a critical step forward that will establish New Jersey as a leader in the fight against climate change while building a stronger, fairer economy."

"I am proud to stand with Governor Murphy today as he signs legislation that will make it easier for New Jersey's municipalities to create electric vehicle charging infrastructure in their communities and further advance the state's clean energy goals," **said New Jersey Department of Environmental Protection**

Commissioner Shawn M. LaTourette. "Driving electric has numerous benefits for public health, air quality and the environment. We encourage the public to review the many incentives New Jersey offers for purchasing and driving electric vehicles and consider doing so an investment in the state's clean energy future."

"Governor Murphy understands that the aggressive and thoughtful pursuit of clean energy and the economy of New Jersey will be the rising tide that lifts all boats," **said Pam Frank, CEO, ChargeVC-NJ.** "And importantly, in the name of fairness and in the name of decency, the governor recognizes that for so many generations, so many of our boats, never even left the shore. Putting his vision together with the leadership of these two men, Senator Smith and Assemblyman Benson means a lot is happening."