

SENATE, No. 4039

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 24, 2019

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and amending P.L.1999, c.23.

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

7
8 1. (New section) As used in P.L. , c. (C.) (pending before
9 the Legislature as this bill):

10 “Alternative authorized food waste recycling method” means: (1)
11 recycling food waste at the site at which it is generated as
12 authorized by the Department of Environmental Protection; (2)
13 treating food waste at the site at which it is generated pursuant to a
14 permit issued by the department; (3) sending food waste for offsite
15 use for agricultural purposes, including as animal feed; (4) sending
16 food waste offsite for treatment with sewage sludge in an anaerobic
17 digester for renewable natural gas or biogas recovery as authorized
18 by the department; or (5) any other method of recycling or reuse of
19 food waste, as authorized by the department.

20 “Authorized food waste recycling facility” means a Class C
21 recycling center within the State authorized to accept, store,
22 process, or transfer food waste or compostable material, pursuant to
23 subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

24 “Department” means the Department of Environmental
25 Protection.

26 “Food waste” means food processing vegetative waste, food
27 processing residue generated from processing and packaging
28 operations, overripe produce, trimmings from food, food product
29 over-runs from food processing, soiled and unrecyclable paper
30 generated from food processing, and used cooking fats, oil, and
31 grease, but shall not include food donated by the generator for
32 human consumption, any waste generated by a consumer after the
33 generator issues or sells food to the consumer, or any waste
34 regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R.
35 s.94.5.

36 “Large food waste generator” means any commercial food
37 wholesaler, distributor, industrial food processor, supermarket,
38 resort, conference center, banquet hall, restaurant, educational or
39 religious institution, military installation, prison, hospital, medical
40 facility, or casino that produces at least 52 tons per year of food
41 waste; provided that "large food waste generator" shall not include
42 any interstate carrier conducting interstate transportation operations
43 in the post-security area of an international airport.

44 “Source separate” or “source separated” means the process by
45 which food waste is separated at the point of generation by the

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 generator thereof from other solid waste for the purpose of
2 recycling.

3

4 2. (New section) a. Beginning January 1, 2020, each large
5 food waste generator that is located within 25 road miles of an
6 authorized food waste recycling facility and that generates an
7 average projected volume of 52 or more tons per year of food waste
8 within 25 road miles of an authorized food waste recycling facility
9 shall:

10 (1) source separate its food waste from other solid waste; and

11 (2) send the source separated food waste to an authorized food
12 waste recycling facility that has available capacity and will accept
13 it.

14 b. Notwithstanding the provisions of subsection a. of this
15 section:

16 (1) If a large food waste generator is not located within 25 road
17 miles of an authorized food waste recycling facility, or the
18 authorized food waste recycling facility will not accept the
19 generator's food waste, the large food waste generator may send the
20 food waste for final disposal at a solid waste facility as provided in
21 the approved district solid waste management plan for the solid
22 waste management district in which the generator is located;

23 (2) Any large food waste generator that is obligated to source
24 separate and recycle its food waste pursuant to subsection a. of this
25 section shall be deemed to be in compliance with the provisions of
26 this section if the large food waste generator:

27 (a) performs enclosed on-site composting, or anaerobic or
28 aerobic digestion of its source separated food waste in accordance
29 with standards adopted by the department pursuant to subsection e.
30 of this section, or

31 (b) recycles food waste using an alternative authorized food
32 waste recycling method;

33 (3) A large food waste generator may petition the Department of
34 Environmental Protection for a waiver of the requirements in
35 subsection a. of this section if the cost of transporting the food
36 waste plus the fee charged by an authorized food waste recycling
37 facility located within 25 road miles of the large food waste
38 generator is at least 10 percent more than the cost of transporting
39 the food waste for disposal as solid waste plus the disposal fee
40 charged for solid waste disposal in the State for noncontract
41 commercial waste by a properly licensed transfer station, sanitary
42 landfill facility, incinerator, or resource recovery facility located
43 within 25 road miles of the large food waste generator; and

44 (4) A large food waste generator shall be deemed in compliance
45 with the provisions of this section if it sends its food waste for final
46 disposal to a:

47 (a) resource recovery facility, provided that, beginning no later
48 than four years after the date of enactment of P.L. , c. (C.)

1 (pending before the Legislature as this bill), a large food waste
2 generator shall be deemed in compliance with the provisions of this
3 section if it sends its food waste for final disposal to a resource
4 recovery facility only if the resource recovery facility processes the
5 food waste it receives in an anaerobic digester as authorized by the
6 department; or

7 (b) sanitary landfill facility that delivers the landfill gas to a gas-
8 to-energy facility that was in operation prior to the date of
9 enactment of P.L. , c. (C.) (pending before the Legislature as
10 this bill), as fuel for the generation of electricity.

11 c. Any person who violates this act, or any rule or regulation
12 adopted pursuant thereto, shall be subject to a civil penalty of \$250
13 for the first offense, \$500 for the second offense, and \$1,000 for the
14 third and each subsequent offense, to be collected in a civil action
15 by a summary proceeding under the “Penalty Enforcement Law of
16 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
17 continuing nature, each day during which it continues shall
18 constitute an additional, separate, and distinct offense. The
19 Superior Court and the municipal court shall have jurisdiction to
20 enforce the provisions of the “Penalty Enforcement Law of 1999,”
21 P.L.1999, c.274 (C.2A:58-10 et seq.) in connection with this
22 subsection.

23 d. The Department of Environmental Protection shall adopt,
24 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
25 (C.52:14B-1 et seq.), rules and regulations necessary to implement
26 this section, including, but not limited to:

27 (1) record keeping and reporting requirements for large food
28 waste generators and authorized food waste recycling facilities, as
29 determined necessary by the department;

30 (2) guidelines and procedures for businesses to follow to
31 determine whether they are subject to the requirements of
32 subsection a. or b. of this section, including food waste generation
33 estimates and food waste audits or assessments;

34 (3) a list of food waste products that must be source separated
35 and recycled pursuant to subsection a. or b. of this section;

36 (4) standards for the enclosed on-site composting, or anaerobic
37 or aerobic digestion of source separated food waste, including
38 requirements for energy production and other sustainable uses of
39 the byproducts of recycled food waste; and

40 (5) a list of actions businesses may take to reduce the amount of
41 food waste they generate to a level below the threshold amounts
42 established in subsection a. and b. of this section.

43 e. The department shall publish on its Internet website the
44 name, location, and contact information for each authorized food
45 waste recycling facility in the State.

46

47 3. (New section) a. Any municipality within which an
48 authorized food waste recycling facility is located, pursuant to an

1 adopted and approved district solid waste management plan, shall
2 be entitled to an economic benefit of not less than the equivalent of
3 \$0.50 per ton, to be paid and adjusted quarterly, of all food waste
4 accepted for processing at the authorized food waste recycling
5 facility during the 2019 calendar year and each year thereafter. The
6 owner or operator of the authorized food waste recycling facility
7 shall pay quarterly to the municipality the full amount due under
8 this subsection. The municipality is authorized to anticipate this
9 amount for the purposes of preparing its annual budget.

10 b. For the purposes of calculating the payments, the owner or
11 operator of the authorized food waste recycling facility may, subject
12 to the prior agreement of the municipality and approval of the
13 Department of Environmental Protection, provide the municipality
14 with any of the following benefits in consideration for the use of
15 land within the municipality's boundaries as the location of the
16 authorized food waste recycling facility:

17 (1) quarterly payments of money in lieu of taxes on the land
18 used for the authorized food waste recycling center or other
19 authorized facility;

20 (2) exemption from all fees and charges for the acceptance of
21 food waste for composting, anaerobic or aerobic digestion, or other
22 processing, as approved by the department, of food waste generated
23 within the municipality's boundaries;

24 (3) quarterly lump sum cash payments; or

25 (4) any combination thereof.

26

27 4. (New section) a. There is established in the Department of
28 Environmental Protection a Food Waste Recycling Market
29 Development Council, which shall consist of 12 members. The
30 members shall include the Commissioner of Environmental
31 Protection, the President of the Board of Public Utilities, the
32 Commissioner of Transportation, the Secretary of Agriculture, the
33 State Treasurer, and the Attorney General, or their designees, who
34 shall serve ex officio; and six citizens of the State appointed by the
35 Governor. Of the appointed members: two shall be actively
36 engaged in the composting industry, of whom one shall be a
37 representative of the National Waste and Recycling Association and
38 one shall be a representative of the National Biosolids Partnership
39 or equivalent entities; two shall be actively engaged in the recycling
40 or solid waste collection industry, of whom one shall be a
41 representative of the Association of New Jersey Recyclers or
42 equivalent entities; and two shall represent the general public. The
43 Commissioner of Environmental Protection shall appoint the
44 chairperson and the vice-chairperson of the council from the citizen
45 members.

46 b. Members of the council shall serve without compensation,
47 but shall be reimbursed for expenses incurred in attending meetings
48 and performing their duties to the extent funds are available
49 therefor.

1 c. Within 18 months after the date of enactment of this act, the
2 Food Waste Recycling Market Development Council shall prepare a
3 report on the existing markets for any products and energy produced
4 from food recycling facilities, food waste composting facilities, and
5 anaerobic and aerobic digestion facilities that accept food waste
6 material. The council shall investigate the feasibility of providing
7 preferences for products or energy produced from food recycling
8 facilities, food waste composting facilities, and anaerobic and
9 aerobic digestion facilities in the State procurement process,
10 including how to stimulate the use in public projects of compost or
11 soil amendment products derived from these facilities. The council
12 shall provide recommendations on changes needed to State laws or
13 rules or regulations to stimulate the market for products and energy
14 produced from food recycling facilities, food waste composting
15 facilities, and anaerobic and aerobic digestion facilities that accept
16 food waste material. The report shall be transmitted to the
17 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), to the Legislature.

19

20 5. (New section) a. Every State department or agency that
21 engages in landscaping or construction activities on State land, or
22 for State projects or facilities, shall use, where technically feasible,
23 environmentally sound, and competitively priced, compost, mulch,
24 or other soil amendments produced from municipal solid waste,
25 food waste, sludge, yard waste, clean wood waste, or other organic
26 materials. Such compost, mulch, or soil amendments shall be used
27 in place of chemical fertilizers or soil amendments.

28 b. In purchasing compost, mulch, or other soil amendments for
29 use by the various departments or agencies of State government, the
30 Director of the Division of Purchase and Property in the Department
31 of the Treasury, whenever the price is competitive and the quality
32 satisfactory for the purpose intended, shall make contracts available
33 for compost, mulch, or other soil amendments produced from
34 municipal solid waste, food waste, sludge, yard waste, clean wood
35 waste, or other organic materials.

36 c. As used in this section:

37 “Competitive” or “competitively priced” means a price of no
38 more than 10% above the price of products which are manufactured
39 or produced from virgin materials; except that the Director of the
40 Division of Purchase and Property, upon consultation with the
41 Department of Environmental Protection, may make contracts
42 available for compost, mulch, or other soil amendments produced
43 from municipal solid waste, food waste, sludge, yard waste, clean
44 wood waste, or other organic materials at a price no more than 15%
45 above the price of products manufactured or produced from virgin
46 materials whenever the director determines that a 15% price
47 differential is in the best interest of the State.

1 "Food waste" shall have the same meaning as provided in section
2 1 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).

4
5 6. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
6 as follows:

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

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

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

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

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

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

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

40 "Basic generation service transition costs" means the amount by
41 which the payments by an electric public utility for the procurement
42 of power for basic generation service and related ancillary and
43 administrative costs exceeds the net revenues from the basic
44 generation service charge established by the board pursuant to
45 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
46 together with interest on the balance at the board-approved rate, that
47 is reflected in a deferred balance account approved by the board in
48 an order addressing the electric public utility's unbundled rates,

1 stranded costs, and restructuring filings pursuant to P.L.1999,
2 c.23 (C.48:3-49 et al.). Basic generation service transition costs
3 shall include, but are not limited to, costs of purchases from the
4 spot market, bilateral contracts, contracts with non-utility
5 generators, parting contracts with the purchaser of the electric
6 public utility's divested generation assets, short-term advance
7 purchases, and financial instruments such as hedging, forward
8 contracts, and options. Basic generation service transition costs
9 shall also include the payments by an electric public utility pursuant
10 to a competitive procurement process for basic generation service
11 supply during the transition period, and costs of any such process
12 used to procure the basic generation service supply.

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

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

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

1 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
2 which order shall become effective immediately upon the written
3 consent of the related electric public utility to the order as provided
4 in P.L.1999, c.23 (C.48:3-49 et al.).

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

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

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

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

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

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

41 "Class I renewable energy" means electric energy produced from
42 solar technologies, photovoltaic technologies, wind energy, fuel
43 cells, geothermal technologies, wave or tidal action, small scale
44 hydropower facilities with a capacity of three megawatts or less and
45 put into service after the effective date of P.L.2012, c.24, **[and]**
46 methane gas from landfills **[or]** methane gas from a biomass
47 facility**[,]** provided that the biomass is cultivated and harvested in a
48 sustainable manner , or methane gas from a composting or

1 anaerobic or aerobic digestion facility that converts food waste or
2 other organic waste to energy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 "Regulatory asset" means an asset recorded on the books of an

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "Stranded cost" means the amount by which the net cost of an
47 electric public utility's electric generating assets or electric power
48 purchase commitments, as determined by the board consistent with

1 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
2 market value of those assets or contractual commitments in a
3 competitive supply marketplace and the costs of buydowns or
4 buyouts of power purchase contracts.

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

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

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

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

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

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

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

48 "Transmission and distribution system" means, with respect to an

1 electric public utility, any facility or equipment that is used for the
2 transmission, distribution, or delivery of electricity to the customers
3 of the electric public utility including, but not limited to, the land,
4 structures, meters, lines, switches, and all other appurtenances
5 thereof and thereto, owned or controlled by the electric public
6 utility within this State.

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

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

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

17

18 7. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill requires certain generators of solid waste to separate
24 and recycle food waste, and amends the definition of "Class I
25 renewable energy."

26 Specifically, under the bill, beginning January 1, 2020, every
27 large food waste generator that is located within 25 road miles of an
28 authorized food waste recycling facility and that generates an
29 average projected volume of 52 or more tons per year of food waste
30 within that radius would be required to: (1) source separate its food
31 waste from other solid waste; and (2) send that source separated
32 food waste to an authorized food waste recycling facility that has
33 available capacity and will accept it. Under the bill, if a large food
34 waste generator is not located within 25 road miles of an authorized
35 food waste recycling facility, or the facility will not accept the
36 generator's food waste, the generator may send the food waste for
37 final disposal at a solid waste management facility. In addition, a
38 large food waste generator would be deemed in compliance with the
39 bill if the generator: (1) performs enclosed, on-site composting or
40 anaerobic or aerobic digestion of its source separated food waste; or
41 (2) recycles food waste using an alternative authorized food waste
42 recycling method. Moreover, the bill would authorize a large food
43 waste generator to petition the Department of Environmental
44 Protection (DEP) for a waiver of the recycling requirement if the
45 transportation cost together with the fee for recycling is at least 10
46 percent more than the transportation costs and disposal fee for
47 noncontract commercial solid waste disposal. The bill provides that
48 a large food waste generator would be deemed to be in compliance

1 with the bill if it sends its food waste for final disposal to a sanitary
2 landfill facility that delivers the landfill gas to a gas-to-energy
3 facility that was in operation prior to the date of enactment of the
4 bill into law. A large food waste generator also would be deemed
5 to be in compliance with the bill if it sends its food waste for final
6 disposal to resource recovery facility, provided that, beginning no
7 later than four years after the date of enactment of the bill into law,
8 a large food waste generator also would be deemed to be in
9 compliance with the bill if it sends its food waste to a resource
10 recovery facility only if the facility processes the food waste it
11 receives in an anaerobic digester as authorized by the department.

12 Any person who violates the bill would be subject to a civil
13 penalty of \$250 for the first offense, \$500 for the second offense,
14 and \$1,000 for the third and subsequent offenses. If the violation is
15 of a continuing nature, each day during which the violation
16 continues would constitute a separate offense.

17 The DEP would be required to adopt regulations concerning: (1)
18 recordkeeping and reporting requirements for large food waste
19 generators and authorized food waste recycling centers; (2)
20 guidelines and procedures for businesses to follow to determine
21 whether they are subject to the requirements of the bill; (3) a list of
22 food waste products that must be source separated and recycled
23 pursuant to the bill; (4) standards for the enclosed on-site
24 composting or anaerobic or aerobic digestion of source separated
25 food waste, including requirements for energy production and other
26 sustainable uses of the byproducts of recycled food waste; and (5) a
27 list of actions businesses may take to reduce the amount of food
28 waste they generate to a level below the threshold amounts
29 established in the bill. The DEP would publish on its Internet
30 website the name, location, and contact information for each
31 authorized food waste recycling facility in the State.

32 The bill would provide for a local economic benefit payment to
33 any municipality that hosts a facility approved to accept food waste.
34 The bill would also establish the Food Waste Recycling Market
35 Development Council. The bill would require State departments and
36 agencies to use, where technically feasible, environmentally sound,
37 and competitively priced, compost, mulch, or other soil
38 amendments produced from municipal solid waste, food waste,
39 sludge, yard waste, clean wood waste, or other similar materials.
40 Finally, the bill would amend the definition of "Class I renewable
41 energy" to include electric energy produced from methane gas from
42 a composting or anaerobic or aerobic digestion facility that converts
43 food waste or other organic waste to energy.