

# ASSEMBLY, No. 2371

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

**Sponsored by:**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**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.



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  
9 before 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 one year after the effective  
5 date of P.L. , c. (C. )(pending before the Legislature as this  
6 bill), each large food waste generator that is located within 25 road  
7 miles of an authorized food waste recycling facility and that  
8 generates an average projected volume of 52 or more tons per year  
9 of food waste within 25 road miles of an authorized food waste  
10 recycling facility shall:

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

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

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

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

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

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

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

34 (3) A large food waste generator may petition the Department of  
35 Environmental Protection for a waiver of the requirements in  
36 subsection a. of this section if the cost of transporting the food  
37 waste plus the fee charged by an authorized food waste recycling  
38 facility located within 25 road miles of the large food waste  
39 generator is at least 10 percent more than the cost of transporting  
40 the food waste for disposal as solid waste plus the disposal fee  
41 charged for solid waste disposal in the State for noncontract  
42 commercial waste by a properly licensed transfer station, sanitary  
43 landfill facility, incinerator, or resource recovery facility located  
44 within 25 road miles of the large food waste generator provided that  
45 any authorized food waste recycling facility located within 25 road  
46 miles of the large food waste generator seeking the waiver must be  
47 given notice of the petition and an opportunity to participate in the  
48 proceeding before the department.

1 c. Any person who violates this act, or any rule or regulation  
2 adopted pursuant thereto, shall be subject to a civil penalty of \$250  
3 for the first offense, \$500 for the second offense, and \$1,000 for the  
4 third and each subsequent offense, to be collected in a civil action  
5 by a summary proceeding under the “Penalty Enforcement Law of  
6 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a  
7 continuing nature, each day during which it continues shall  
8 constitute an additional, separate, and distinct offense. The Superior  
9 Court and the municipal court shall have jurisdiction to enforce the  
10 provisions of the “Penalty Enforcement Law of 1999,” P.L.1999,  
11 c.274 (C.2A:58-10 et seq.) in connection with this subsection.

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

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

19 (2) guidelines and procedures for businesses to follow to  
20 determine whether they are subject to the requirements of this  
21 section, including food waste generation estimates and food waste  
22 audits or assessments;

23 (3) a list of food waste products that must be source separated  
24 and recycled pursuant to this section;

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

29 (5) a list of actions businesses may take to reduce the amount of  
30 food waste they generate to a level below the threshold amount  
31 established in subsection a. of this section.

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

35  
36 3. (New section) a. Any municipality within which an  
37 authorized food waste recycling facility is located, pursuant to an  
38 adopted district solid waste management plan approved after the  
39 effective date of P.L. , c. (C. )(pending before the  
40 Legislature as this bill), shall be entitled to an economic benefit of  
41 not less than the equivalent of \$0.50 per ton, to be paid and adjusted  
42 quarterly, of all food waste accepted for processing at the  
43 authorized food waste recycling facility during the 2019 calendar  
44 year and each year thereafter. The owner or operator of the  
45 authorized food waste recycling facility shall pay quarterly to the  
46 municipality the full amount due under this subsection. The  
47 municipality is authorized to anticipate this amount for the purposes  
48 of preparing its annual budget.

1       b. For the purposes of calculating the payments, the owner or  
2 operator of the authorized food waste recycling facility may, subject  
3 to the prior agreement of the municipality and approval of the  
4 Department of Environmental Protection, provide the municipality  
5 with any of the following benefits in consideration for the use of  
6 land within the municipality's boundaries as the location of the  
7 authorized food waste recycling facility:

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

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

15       (3) quarterly lump sum cash payments; or

16       (4) any combination thereof.

17

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

37       b. Members of the council shall serve without compensation,  
38 but shall be reimbursed for expenses incurred in attending meetings  
39 and performing their duties to the extent funds are available  
40 therefor.

41       c. Within 18 months after the date of enactment of this act, the  
42 Food Waste Recycling Market Development Council shall prepare a  
43 report on the existing markets for any products and energy produced  
44 from food recycling facilities, food waste composting facilities, and  
45 anaerobic and aerobic digestion facilities that accept food waste  
46 material. The council shall investigate the feasibility of providing  
47 preferences for products or energy produced from food recycling  
48 facilities, food waste composting facilities, and anaerobic and

1 aerobic digestion facilities in the State procurement process,  
2 including how to stimulate the use in public projects of compost or  
3 soil amendment products derived from these facilities. The council  
4 shall provide recommendations on changes needed to State laws or  
5 rules or regulations to stimulate the market for products and energy  
6 produced from food recycling facilities, food waste composting  
7 facilities, and anaerobic and aerobic digestion facilities that accept  
8 food waste material. The report shall be transmitted to the Governor  
9 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the  
10 Legislature.

11

12 5. (New section) a. Every State department or agency that  
13 engages in landscaping or construction activities on State land, or  
14 for State projects or facilities, shall use, where technically feasible,  
15 environmentally sound, and competitively priced, compost, mulch,  
16 or other soil amendments produced from municipal solid waste,  
17 food waste, sludge, yard waste, clean wood waste, or other organic  
18 materials that the supplier has certified comply with applicable  
19 project standards and specifications. Such compost, mulch, or soil  
20 amendments shall be used in place of chemical fertilizers or soil  
21 amendments.

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

30 c. As used in this section:

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

42 "Food waste" shall have the same meaning as provided in section  
43 1 of P.L. , c. (C. ) (pending before the Legislature as this  
44 bill).

45

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

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

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

8 "Base load electric power generation facility" means an electric  
9 power generation facility intended to be operated at a greater than  
10 50 percent capacity factor including, but not limited to, a combined  
11 cycle power facility and a combined heat and power facility.

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

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

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

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

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

1 contracts, and options. Basic generation service transition costs  
2 shall also include the payments by an electric public utility pursuant  
3 to a competitive procurement process for basic generation service  
4 supply during the transition period, and costs of any such process  
5 used to procure the basic generation service supply.

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

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

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

46 "Bondable transition property" means the property consisting of  
47 the irrevocable right to charge, collect, and receive, and be paid  
48 from collections of, transition bond charges in the amount necessary



1 to provide for the full recovery of bondable stranded costs which  
2 are determined to be recoverable in a bondable stranded costs rate  
3 order, all rights of the related electric public utility under the  
4 bondable stranded costs rate order including, without limitation, all  
5 rights to obtain periodic adjustments of the related transition bond  
6 charges pursuant to subsection b. of section 15 of P.L.1999,  
7 c.23 (C.48:3-64), and all revenues, collections, payments, money,  
8 and proceeds arising under, or with respect to, all of the foregoing.

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

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

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

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

30 "Buyout" 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 termination of such power purchase contract.

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

44 "Class II renewable energy" means electric energy produced at a  
45 hydropower facility with a capacity of greater than three megawatts,  
46 but less than 30 megawatts, or a resource recovery facility, provided  
47 that the facility is located where retail competition is permitted and  
48 provided further that the Commissioner of Environmental

1 Protection has determined that the facility meets the highest  
2 environmental standards and minimizes any impacts to the  
3 environment and local communities. Class II renewable energy  
4 shall not include electric energy produced at a hydropower facility  
5 with a capacity of greater than 30 megawatts on or after the  
6 effective date of P.L.2015, c.51.

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

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

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

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

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

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

40 "Connected to the distribution system" means, for a solar electric  
41 power generation facility, that the facility is: (1) connected to a net  
42 metering customer's side of a meter, regardless of the voltage at  
43 which that customer connects to the electric grid; (2) an on-site  
44 generation facility; (3) qualified for net metering aggregation as  
45 provided pursuant to paragraph (4) of subsection e. of section 38 of  
46 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric  
47 public utility and approved by the board pursuant to section 13 of  
48 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric

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

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

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

19 "Delivery year" or "DY" means the 12-month period from June  
20 1st through May 31st, numbered according to the calendar year in  
21 which it ends.

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

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

33 "Electric power generator" means an entity that proposes to  
34 construct, own, lease, or operate, or currently owns, leases, or  
35 operates, an electric power production facility that will sell or does  
36 sell at least 90 percent of its output, either directly or through a  
37 marketer, to a customer or customers located at sites that are not on  
38 or contiguous to the site on which the facility will be located or is  
39 located. The designation of an entity as an electric power generator  
40 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
41 and of itself, affect the entity's status as an exempt wholesale  
42 generator under the Public Utility Holding Company Act of 1935,  
43 15 U.S.C. s.79 et seq., or its successor act.

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

1 electric generation service to retail customers. The term excludes an  
2 electric public utility that provides electric generation service only  
3 as a basic generation service pursuant to section 9 of P.L.1999,  
4 c.23 (C.48:3-57).

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

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

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

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

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

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

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

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

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

1 consumer's use of electric generation service or gas supply service  
2 through the consumer's electric public utility or gas public utility  
3 shall not constitute or establish an existing business relationship for  
4 the purpose of P.L.2013, c.263.

5 "Farmland" means land actively devoted to agricultural or  
6 horticultural use that is valued, assessed, and taxed pursuant to the  
7 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-  
8 23.1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 "Locational deliverability area" or "LDA" means one or more of  
48 the zones within the PJM region which are used to evaluate area

1 transmission constraints and reliability issues including electric  
2 public utility company zones, sub-zones, and combinations of  
3 zones.

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

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

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

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

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

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

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

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

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

46 "Off-site end use thermal energy services customer" means an  
47 end use customer that purchases thermal energy services from an  
48 on-site generation facility, combined heat and power facility, or co-

1 generation facility, and that is located on property that is separated  
2 from the property on which the on-site generation facility,  
3 combined heat and power facility, or co-generation facility is  
4 located by more than one easement, public thoroughfare, or  
5 transportation or utility-owned right-of-way.

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

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

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

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

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

44 "Properly closed sanitary landfill facility" means a sanitary  
45 landfill facility, or a portion of a sanitary landfill facility, for which  
46 performance is complete with respect to all activities associated  
47 with the design, installation, purchase, or construction of all  
48 measures, structures, or equipment required by the Department of



1 Environmental Protection, pursuant to law, in order to prevent,  
2 minimize, or monitor pollution or health hazards resulting from a  
3 sanitary landfill facility subsequent to the termination of operations  
4 at any portion thereof, including, but not necessarily limited to, the  
5 placement of earthen or vegetative cover, and the installation of  
6 methane gas vents or monitors and leachate monitoring wells or  
7 collection systems at the site of any sanitary landfill facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 "Small scale hydropower facility" means a facility located within  
43 this State that is connected to the distribution system, and that  
44 meets the requirements of, and has been certified by, a nationally  
45 recognized low-impact hydropower organization that has  
46 established low-impact hydropower certification criteria applicable  
47 to: (1) river flows; (2) water quality; (3) fish passage and  
48 protection; (4) watershed protection; (5) threatened and endangered

1 species protection; (6) cultural resource protection; (7) recreation;  
2 and (8) facilities recommended for removal.

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

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

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

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

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

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

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

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

46 "Stranded costs recovery order" means each order issued by the  
47 board in accordance with subsection c. of section 13 of P.L.1999,  
48 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if

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

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

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

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

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

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

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

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

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

4 "Unsolicited advertisement" means any advertising claims of the  
5 commercial availability or quality of services provided by an  
6 electric power supplier, gas supplier, broker, energy agent,  
7 marketer, private aggregator, sales representative, or telemarketer  
8 which is transmitted to a potential customer without that customer's  
9 prior express invitation or permission.  
10 (cf: P.L.2015, c.51, s.1)

11

12 7. This act shall take effect immediately.

13

14

15

#### STATEMENT

16

17 This bill would require certain generators of solid waste to  
18 separate and recycle food waste, and amend the definition of "Class  
19 I renewable energy."

20 Specifically, beginning one year after the effective date of the  
21 bill, every large food waste generator that is located within 25 road  
22 miles of an authorized food waste recycling facility and that  
23 generates an average projected volume of 52 or more tons per year  
24 of food waste would be required to: (1) source separate its food  
25 waste from other solid waste; and (2) send that source separated  
26 food waste to an authorized food waste recycling facility that has  
27 available capacity and will accept it.

28 Under the bill, if a large food waste generator is not located  
29 within 25 road miles of an authorized food waste recycling facility,  
30 or the facility will not accept the generator's food waste, the  
31 generator may send the food waste for final disposal at a solid waste  
32 facility as provided in the approved district solid waste management  
33 plan for the solid waste management district in which the generator  
34 is located. In addition, a large food waste generator would be  
35 deemed in compliance with the bill if the generator: (1) performs  
36 enclosed on-site composting, or anaerobic or aerobic digestion of its  
37 source separated food waste in accordance with standards adopted  
38 by the department; or (2) recycles food waste using an alternative  
39 authorized food waste recycling method.

40 The bill would authorize a large food waste generator to petition  
41 the Department of Environmental Protection (DEP) for a waiver of  
42 the recycling requirement if the cost of transporting the food waste  
43 plus the fee charged by an authorized food waste recycling facility  
44 located within 25 road miles of the large food waste generator is at  
45 least 10 percent more than the cost of transporting the food waste  
46 for disposal as solid waste plus the disposal fee charged for solid  
47 waste disposal in the State for noncontract commercial waste by a  
48 properly licensed transfer station, sanitary landfill facility,

1 incinerator, or resource recovery facility located within 25 road  
2 miles of the large food waste generator. The bill would require that  
3 any authorized food waste recycling facility located within 25 road  
4 miles of the large food waste generator seeking the waiver be given  
5 notice of the petition and an opportunity to participate in the  
6 proceeding before the DEP.

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

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

28 Under the bill, any municipality within which an authorized food  
29 waste recycling facility is located, pursuant to an adopted district  
30 solid waste management plan approved after the effective date of  
31 the bill would be entitled to an economic benefit. The bill would  
32 also establish the Food Waste Recycling Market Development  
33 Council. The bill would require State departments and agencies to  
34 use, where technically feasible, environmentally sound, and  
35 competitively priced, compost, mulch, or other soil amendments  
36 produced from municipal solid waste, food waste, sludge, yard  
37 waste, clean wood waste, or other similar materials that the supplier  
38 has certified comply with applicable project standards and  
39 specifications. Finally, the bill would amend the definition of  
40 "Class I renewable energy" to include electric energy produced  
41 from methane gas from a composting or anaerobic or aerobic  
42 digestion facility that converts food waste or other organic waste to  
43 energy.