

ASSEMBLY, No. 3195

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Permits electric public utilities, electric power suppliers, and basic generation service providers to enter into certain agreements with building owners for use of solar electric systems at owners' buildings.

CURRENT VERSION OF TEXT

As introduced.



A3195 MCKEON

2

1 AN ACT concerning solar electric system agreements involving
2 electric public utilities, electric power suppliers, and basic
3 generation service providers and amending and supplementing
4 P.L.1999, c.23.

5

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

8

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

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

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

19 "Base load electric power generation facility" means an electric
20 power generation facility intended to be operated at a greater than
21 50 percent capacity factor including, but not limited to, a combined
22 cycle power facility and a combined heat and power facility.

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

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

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

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

44 "Basic generation service transition costs" means the amount by
45 which the payments by an electric public utility for the procurement

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

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

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

46 "Bondable stranded costs rate order" means one or more
47 irrevocable written orders issued by the board pursuant to P.L.1999,
48 c.23 (C.48:3-49 et al.) which determines the amount of bondable

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

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

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

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

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

37 "Buydown" 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 reduction in the pricing, or the restructuring of
41 other terms to reduce the overall cost of the power contract, for the
42 remaining succeeding period of the purchased power arrangement
43 or arrangements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 "Demand side management" means the management of customer
48 demand for energy service through the implementation of cost-

1 effective energy efficiency technologies, including, but not limited
2 to, installed conservation, load management, and energy efficiency
3 measures on and in the residential, commercial, industrial,
4 institutional, and governmental premises and facilities in this State.

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

10 "Electric power generator" means an entity that proposes to
11 construct, own, lease, or operate, or currently owns, leases, or
12 operates, an electric power production facility that will sell or does
13 sell at least 90 percent of its output, either directly or through a
14 marketer, to a customer or customers located at sites that are not on
15 or contiguous to the site on which the facility will be located or is
16 located. The designation of an entity as an electric power generator
17 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
18 and of itself, affect the entity's status as an exempt wholesale
19 generator under the **Public Utility Holding Company** Energy
20 Policy Act of [1935, 15 U.S.C. s.79 et seq.] 2005, Pub.L.109-58, or
21 its successor act.

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

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

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

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

45 "Eligible generator" means a developer of a base load or mid-
46 merit electric power generation facility including, but not limited to,
47 an on-site generation facility that qualifies as a capacity resource

1 under PJM criteria and that commences construction after the
2 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 "Grid supply solar facility" means a solar electric power
13 generation facility that sells electricity at wholesale and is
14 connected to the State's electric distribution or transmission
15 systems. "Grid supply solar facility" does not include: (1) a net
16 metered solar facility; (2) an on-site generation facility; (3) a
17 facility participating in net metering aggregation pursuant to section
18 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in
19 remote net metering; or (5) a community solar facility.

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

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

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

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

46 "Long-term capacity agreement pilot program" or "LCAPP"
47 means a pilot program established by the board that includes
48 participation by eligible generators, to seek offers for financially-

1 settled standard offer capacity agreements with eligible generators
2 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 "Preserved farmland" means land on which a development
42 easement was conveyed to, or retained by, the State Agriculture
43 Development Committee, a county agriculture development board,
44 or a qualifying tax exempt nonprofit organization pursuant to the
45 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
46 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
47 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through

1 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
2 other State law enacted for farmland preservation purposes.

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

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

22 "Public utility holding company" means: (1) any company that,
23 directly or indirectly, owns, controls, or holds with power to vote,
24 10 percent or more of the outstanding voting securities of an
25 electric public utility or a gas public utility or of a company which
26 is a public utility holding company by virtue of this definition,
27 unless the Securities and Exchange Commission, or its successor,
28 by order declares **[such]** the company not to be a public utility
29 holding company under the **【Public Utility Holding Company】**
30 Energy Policy Act of **【1935, 15 U.S.C. s.79 et seq.】** 2005
31 Pub.L.109-58, or its successor act; or (2) any person that the
32 Securities and Exchange Commission, or its successor, determines,
33 after notice and opportunity for hearing, directly or indirectly, to
34 exercise, either alone or pursuant to an arrangement or
35 understanding with one or more other persons, such a controlling
36 influence over the management or policies of an electric public
37 utility or a gas public utility or public utility holding company as to
38 make it necessary or appropriate in the public interest or for the
39 protection of investors or consumers that **[such]** the person be
40 subject to the obligations, duties, and liabilities imposed in the
41 **【Public Utility Holding Company】** Energy Policy Act of **【1935, 15**
42 **U.S.C. s.79 et seq.】** 2005 Pub.L.109-58, or its successor act.

43 "Qualified offshore wind project" means a wind turbine
44 electricity generation facility in the Atlantic Ocean and connected
45 to the electric transmission system in this State, and includes the
46 associated transmission-related interconnection facilities and

1 equipment, and approved by the board pursuant to section 3 of
2 P.L.2010, c.57 (C.48:3-87.1).

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

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

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

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

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

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

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

44 "Resource recovery facility" means a solid waste facility
45 constructed and operated for the incineration of solid waste for
46 energy production and the recovery of metals and other materials
47 for reuse, which the Department of Environmental Protection has
48 determined to be in compliance with current environmental

1 standards, including, but not limited to, all applicable requirements
2 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

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

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

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

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

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

45 "School district" means a local or regional school district
46 established pursuant to chapter 8 or chapter 13 of Title 18A of the
47 New Jersey Statutes, a county special services school district
48 established pursuant to article 8 of chapter 46 of Title 18A of the

1 New Jersey Statutes, a county vocational school district established
2 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
3 Statutes, and a district under full State intervention pursuant to
4 P.L.1987, c.399 (C.18A:7A-34 et al.).

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

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

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

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

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

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

37 "Solar electric system" means any system which produces
38 electric energy derived from solar photovoltaic technologies to
39 provide all or a portion of the heating, cooling, or general energy
40 needs of a building.

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

46 "Solar renewable energy certificate II" or "SREC-II" means a
47 transferable certificate, issued by the board or its designee pursuant
48 to P.L.2021, c.169 (C.48:3-114 et al.), which is capable of counting

1 towards the renewable energy portfolio standards of an electric
2 power supplier or basic generation service provider in the State
3 pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).

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

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

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

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

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

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

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

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

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

1 telemarketing sales call. A telephone call made in response to an
2 express written request of a customer shall not be deemed a
3 telemarketing sales call.

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

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

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

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

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

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

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

43 (cf: P.L.2021, c.169, s.9)

44

45 2. (New section) Notwithstanding the provisions of any law,
46 rule, regulation, or order to the contrary, an electric public utility,
47 electric power supplier, or basic generation service provider may
48 enter into an agreement with a building owner to install or

1 otherwise provide to the building owner a solar electric system to
2 be used for the building, in exchange for financial compensation
3 from the owner, or with respect to the solar renewable energy
4 certificates allowed under section 38 of P.L.1999, c.23 (C.48:3-87),
5 that may be derived from the production of solar renewable energy
6 by the solar electric system, pursuant to the agreement entered into
7 with the owner under this section, for the installation or the
8 provision of the solar electric system.

9

10 3. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 This bill permits an electric public utility, electric power
16 supplier, or basic generation service provider to enter into an
17 agreement with a building owner to install or otherwise provide to
18 the building owner a “solar electric system,” as defined in the bill,
19 to be used for the building, in exchange for financial compensation
20 from the owner, or with respect to the solar renewable energy
21 certificates allowed under section 38 of P.L.1999, c.23
22 (N.J.S.A.48:3-87), that may be derived from the production of solar
23 renewable energy by the solar electric system, pursuant to the
24 agreement entered into with the owner under this section, for the
25 installation or the provision of the solar electric system. The
26 purpose of the bill is to create an incentive to electric public utilities
27 and suppliers to encourage more building owners to use solar
28 electric systems for their buildings. This incentive will help meet
29 the State’s goal of increasing the use of solar electric power, which
30 is a renewable form of energy.