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STATE OF NEW JERSEY

220th LEGISLATURE



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SYNOPSIS

Revises goal for annual capacity of solar energy projects to be approved under Community Solar Energy Program; allows certain customers to self-attest to income for program participation; allows information disclosure of customers participating in program.

CURRENT VERSION OF TEXT

As reported by the Assembly Environment and Solid Waste Committee on June 15, 2023, with amendments.



**An Act** concerning the Community Solar Energy Program and amending P.L.2018, c.17 **1**and P.L.1999, c.23**1**.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.2018, c.17 (C.48:3-87.11) is amended to read as follows:

5. a. No later than 210 days after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the Board of Public Utilities shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing a "Community Solar Energy Pilot Program" to permit customers of an electric public utility to participate in a solar energy project that is remotely located from their properties but is within their electric public utility service territory to allow for a credit to the customer's utility bill equal to the electricity generated that is attributed to the customer's participation in the solar energy project.

b. The rules and regulations developed by the board shall establish:

(1) a capacity limit for individual solar energy projects to a maximum of five megawatts per project;

(2) an annual capacity limit for all solar energy projects under the pilot program;

(3) geographic limitations for solar energy projects and participating customers;

(4) a minimum number of participating customers for each solar energy project;

(5) the value of the credit on each participating customer's bill;

(6) standards to limit the land use impact of a solar energy project as required in subsection r. of section 38 of P.L.1999, c.23 (C.48:3-87);

(7) the provision of access to solar energy projects for low and moderate income customers;

(8) standards to ensure the ability of residential and commercial customers to participate in solar energy projects, including residential customers in multifamily housing;

(9) standards for connection to the distribution system of an electric public utility; and

(10) provisions to minimize impacts to the distribution system of an electric public utility.

c. The board shall make available on its Internet website information on solar energy projects whose owners are seeking participants.

d. The board shall establish standards and an application process for owners of solar energy projects who wish to be included in the Community Solar Energy Pilot Program. The standards for the Community Solar Energy Pilot Program shall include, but need not be limited to, a verification process to ensure that the solar energy projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to its participating customer's electric utility bills pursuant to subsection b. of this section, and consumer protection measures. Projects approved by the board shall have at least two participating customers.

The board may restrict qualified solar energy projects to those located on brownfields, landfills, areas designated in need of redevelopment, in underserved communities, or on commercial rooftops.

e. Subject to review by the board, an electric public utility shall be entitled to full and timely cost recovery for all costs incurred in implementation and compliance with this section.

f. No later than 36 months after adoption of the rules and regulations required pursuant to subsection b. of this section, the board shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to convert the Community Solar Energy Pilot Program to a permanent program. The board shall adopt rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities, special purpose entities, and nonprofit entities. The rules and regulations shall also:

(1) limit the capacity of each solar energy project to a maximum of five megawatts;

(2) establish a goal for the **1[**development**]** approval**1** of at least **[**50**]** **1[**500**]** 225**1** megawatts of solar energy projects **1**prior to June 1, 2024, an additional 225 megawatts prior to June 1, 2025, and an additional 150 megawatts**1** per year **1**thereafter**1** , taking into account any changes to the SREC program;

(3) set geographic limitations for solar energy projects and participating customers;

(4) provide for a minimum number of participating customers for each solar energy project;

(5) require the provision of access to solar energy projects for low and moderate income customers;

(6) establish standards to ensure the ability of residential and commercial customers to participate in solar energy projects, including residential customers in multifamily housing;

(7) establish a method for determining the value of the credit on each participating customer's bill;

(8) establish timeframes for the credit available to the customer;

(9) establish standards and methods to verify solar electric energy generation on a monthly basis for a solar energy project;

(10) establish standards consistent with the land use provisions for solar energy projects as provided in subsections r., s., and t. of section 38 of P.L.1999, c.23 (C.48:3-87);

(11) establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility;

(12) minimize impacts to the distribution system of an electric public utility;

(13) require monthly reporting requirements for the operators of solar energy projects to the electric public utility, project customers, and the board;

(14) require reporting by the electric public utility to the operator of a solar energy project on the value of credits to the participating customer's bills; **1[**and**]1**

(15) require transferability, portability, and buy-out provisions for customers who participate in community solar energy projects **1**;

(16) establish requirements and standards that provide for the auditing and enforcement of a solar energy project's compliance with the provisions of this section and the rules and regulations adopted pursuant thereto, including the project’s compliance with commitments related to providing access to solar energy projects to low- and moderate-income customers and bill crediting; and

(17) allow, in a form and manner to be determined by the board, low- and moderate-income residential customers to self-attest to the customer’s income as an acceptable income verification method for participation in a solar energy project **1** .

g. As used in this section:

"Solar energy project" means a system containing one or more solar panels and associated equipment.

"Solar panel" means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce electric power, and is approved by the board to be included in the Community Solar Energy Pilot Program.

"Solar power" includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

(cf: P.L.2018, c.17, s.5)

**1**2. Section 36 of P.L.1999, c.23 (C.48:3-85) is amended to read as follows:

36. a. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, interim consumer protection standards for electric power suppliers or gas suppliers, within 90 days of February 9, 1999, including, but not limited to, standards for collections, credit, contracts, and authorized changes of an energy customer's electric power supplier or gas supplier, for the prohibition of discriminatory marketing, for advertising and for disclosure. The standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted, or readopted by the board in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(1) (a) An electric power supplier or gas supplier shall not provide electric generation service or gas supply service to a customer in this State unless the electric power supplier or gas supplier has provided the customer a one-page information sheet summarizing the material terms and conditions of the contract as determined by the board. Contract standards shall include, but not be limited to, requirements that electric power supply contracts or gas supply contracts conspicuously disclose the duration of the contract; state the price per kilowatt hour or per therm or other pricing determinant approved by the board; use a 12-point font; provide a one-page information sheet in a 12-point font summarizing the material terms and conditions of the contract in English and Spanish, as determined by the board; provide the phone number and website for filing complaints with the Board of Public Utilities, Division of Customer Assistance, and a one-sentence explanation of the practice known as "slamming," which is an unauthorized change of a customer's electric power supplier or gas supplier, in a 12-point, boldface font on the one-page information sheet; and state, in a 12-point, boldface font, whether the contract is for a fixed rate or a variable rate, and provide a brief explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public, including an explanation on how weather fluctuations may affect the price of variable rate contracts; have the customer's written signature or electronic signature; an audio recording of a telephone call initiated by the customer; independent, third-party verification, in accordance with section 37 of P.L.1999, c.23 (C.48:3-86), of a telephone call initiated by an electric power supplier, gas supplier, or private aggregator; or any alternative forms of verification as the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, may permit prior to switching electric power suppliers or gas suppliers and for contract renewal; and include termination procedures, notice of any fees, and toll-free or local telephone numbers for the electric power supplier or gas supplier and for the board. An electric power supplier or gas supplier shall not provide the customer's telephone number, electronic mail address, or postal address to other electric power suppliers or gas suppliers if the customer's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs, pursuant to the provisions of section 9 of P.L.2003, c.76 (C.56:8-127), or the national do-not-call registry as maintained by the Federal Trade Commission.

(b) As used in this paragraph, "customer" means a residential customer or a commercial electric customer with a cumulative peak load of 50 kilowatts or less, or a commercial gas customer with a cumulative peak load of 5,000 therms or less.

(2) Standards for the prohibition of discriminatory marketing shall provide, at a minimum, that a decision made by an electric power supplier or a gas supplier to accept or reject a customer shall not be based on race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location. The board shall adopt reporting requirements to monitor compliance with its standards.

(3) Advertising standards for electric power suppliers or gas suppliers shall provide, at a minimum, that optional charges to the customer will not be added to any advertised cost per kilowatt hour or per therm, and that the only unit of measurement that may be used in advertisements is cost per kilowatt hour or per therm, unless otherwise approved by the board. If an electric power supplier or gas supplier does not advertise using cost per kilowatt hour or per therm, the electric power supplier or gas supplier shall provide, at the customer's request, an estimate of the cost per kilowatt hour or per therm. Any optional charges to the customer shall be identified separately and denoted as optional.

(4) Credit standards shall include, at a minimum, that the credit requirements used to make decisions must be the same for all residential customers and that electric power suppliers, gas suppliers, and private aggregators not impose unreasonable income or credit requirements.

(5) Billing standards shall include, at a minimum, provisions prohibiting electric public utilities, gas public utilities, electric power suppliers, and gas suppliers from charging a fee to residential customers for either the commencement or termination of electric generation service or gas supply service.

b. (1) Except as provided in paragraph (2) of this subsection, an electric power supplier, a gas supplier, an electric public utility, and a gas public utility shall not disclose, sell, or transfer individual proprietary information, including, but not limited to, a customer's name, address, telephone number, energy usage, and electric power payment history, to a third party without the consent of the customer.

(2) (a) An electric public utility or a gas public utility may disclose and provide, in an electronic format, which may include a CD rom, diskette, and other format as determined by the board, without the consent of a residential customer, a residential customer's name, rate class, and account number, to a government aggregator that is a municipality or a county, or to an energy agent acting as a consultant to a government aggregator that is a municipality or a county, if the customer information is to be used to establish a government energy aggregation program pursuant to sections 42, 43, and 45 of P.L.1999, c.23 (C.48:3-91; C.48:3-92; and C.48:3-94). The number of residential customers and their rate class, and the load profile of non-residential customers who have affirmatively chosen to be included in a government energy aggregation program pursuant to paragraph (3) of subsection a. of section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant to this paragraph prior to the request by the government aggregator for bids pursuant to paragraph (1) of subsection b. of section 45 of P.L.1999, c.23 (C.48:3-94), and the name, address, and account number of a residential customer and the name, address, and account number of non-residential customers who have affirmatively chosen to be included in a government energy aggregation program pursuant to paragraph (3) of subsection a. of section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant to this paragraph upon the awarding of a contract to a licensed power supplier or licensed gas supplier pursuant to paragraph (2) of subsection b. of section 45 of P.L.1999, c.23 (C.48:3-94). Any customer information disclosed pursuant to this paragraph shall not be considered a government record for the purposes of and shall be exempt from the provisions of P.L.2001, c.404 (C.47:1A-5 et al.).

(b) An electric public utility or a gas public utility disclosing customer information pursuant to this paragraph shall exercise reasonable care in the preparation of this customer information, but shall not be responsible for errors or omissions in the preparation or the content of the customer information.

(c) Any person using any information disclosed pursuant to this paragraph for any purpose other than to establish a government energy aggregation program pursuant to sections 42, 43, and 45 of P.L.1999, c.23 (C.48:3-91; C.48:3-92; and C.48:3-94), or a solar energy project established pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11), shall be subject to the provisions of section 34 of P.L.1999, c.23 (C.48:3-83).

(d) The role of an electric public utility or a gas public utility in a government energy aggregation program established pursuant to P.L.1999, c.23 (C.48:3-49 et al.) shall be limited to the provisions of this paragraph.

(e) An electric public utility may disclose and provide, in an electronic format, which may include any format as determined by the board, without the consent of a residential customer, a residential customer’s name, address, rate class, account number, and energy usage, to a municipality, county, or an agent acting for a municipality or county, if the information is to be used for automatic enrollment in a solar energy project under the Community Solar Energy Pilot Program or the permanent Community Solar Energy Program established by the board pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11). Any customer information disclosed pursuant to this paragraph shall not be considered a government record for the purposes of, and shall be exempt from the provisions of, P.L.2001, c.404 (C.47:1A-5 et al.).

(3) Whenever any individual proprietary information is disclosed, sold, or transferred, pursuant to paragraph (1) or paragraph (2) of this subsection, it shall be used only for the provision of continued electric generation service, electric-related service, gas supply service, or gas-related service to that customer. In the case of a transfer or sale of a business, customer consent shall not be required for the transfer of customer proprietary information to the subsequent owner of the business for maintaining the continuation of those services.

(4) Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall, within 90 days of the effective date of P.L.2003, c.24 (C.48:3-93.1 et al.), review existing regulations including, without limitation, Chapter 4 of Title 14 of the New Jersey Administrative Code (Energy Competition), to determine their consistency with the provisions of section 36 of P.L.1999, c.23 (C.48:3-85), section 43 of P.L.1999, c.23 (C.48:3-92) and section 45 of P.L.1999, c.23 (C.48:3-94), repeal or modify any regulations that are inconsistent with the provisions thereof, and shall adopt regulations and standards implementing the provisions thereof permitting disclosure of customer information without the consent of the customer including, without limitation, provisions for the development of a board-approved agreement between the disclosing party and the receiving party and the creation of a mechanism for the recovery by the disclosing electric public utility or gas public utility of its reasonable incremental costs of providing the customer information if those costs are not covered in an existing third-party supplier agreement.

(5) An electric power supplier, a gas supplier, a gas public utility, or an electric public utility may use individual proprietary information that it has obtained by virtue of its provision of electric generation service, electric related service, gas supply service, or gas related service to:

(a) Initiate, render, bill, and collect for these services to the extent otherwise authorized to provide billing and collection services;

(b) Protect the rights or property of the electric power supplier, gas supplier, or public utility; and

(c) Protect consumers of these services and other electric power suppliers, gas suppliers, or electric and gas public utilities from fraudulent, abusive, or unlawful use of, or subscription to, these services.

c. The board shall establish and maintain a database for the purpose of recording customer complaints concerning electric and gas public utilities, electric power suppliers, gas suppliers, private aggregators, and energy agents. The board shall publish on its website on a quarterly basis a detailed report regarding customer complaints that shall not include the names or other personal information of the customers who complained, but shall include the names of the electric and gas public utilities, electric power suppliers, gas suppliers, private aggregators, and energy agents against which the complaints were filed.

d. The board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall establish, or cause to be established, a multi-lingual electric and gas consumer education program. The goal of the consumer education program shall be to educate residential, small business, and special needs consumers about the implications for consumers of the restructuring of the electric power and gas industries. The consumer education program shall include, but need not be limited to, the dissemination of information to enable consumers to make informed choices among available electricity and gas services and suppliers, and the communication to consumers of the consumer protection provisions of P.L.1999, c.23 (C.48:3-49 et al.).

The board shall ensure the neutrality of the content and message of advertisements and materials.

The board shall promulgate standards for the recovery of consumer education program costs from customers which include reasonable measures and criteria to judge the success of the program in enhancing customer understanding of retail choice.

e. (Deleted by amendment, P.L.2003, c.24)

f. (1) In addition to the advertising standards adopted by the board pursuant to paragraph (3) of subsection a. of this section, the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) interim advertising and marketing standards for electric power suppliers, gas suppliers, brokers, energy agents, marketers, private aggregators, sales representatives, and telemarketers applicable to potential residential customers, within 270 days of the effective date of P.L.2013, c.263, which standards shall include, but not be limited to, prohibiting electric power suppliers, gas suppliers, brokers, energy agents, marketers, private aggregators, sales representatives, and telemarketers from: (a) making false or misleading advertising claims to a potential residential customer; or (b) contacting a potential residential customer by telephone for the purpose of making an unsolicited advertisement if the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer does not have an existing business relationship with the potential residential customer and the residential customer's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs, pursuant to the provisions of section 9 of P.L.2003, c.76 (C.56:8-127), or the national do-not-call registry as maintained by the Federal Trade Commission. The standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted, or readopted by the board in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(2) In addition to any other penalties, fines, or remedies authorized by law, an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer that violates subparagraph (a) of paragraph (1) of this subsection and collects charges for electric generation service or gas supply service supplied to a residential customer, who was subjected to false or misleading advertising claims by the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer in violation of subparagraph (a) of paragraph (1) of this subsection, shall be liable to the residential customer in an amount equal to all charges paid by the residential customer after such violation occurs in accordance with any procedures as the board may prescribe, whether the electric power supplier or gas supplier provided the electric generation service or gas supply service to that customer, or the electric generation service or gas supply service was provided to the customer by a broker, energy agent, marketer, private aggregator, sales representative, or telemarketer who contacted the customer on behalf of the electric power supplier or gas supplier. An electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer that violates this subsection shall also be liable for a civil penalty pursuant to section 34 of P.L.1999, c.23 (C.48:3-83). The board is hereby authorized to revoke the license of any electric power supplier, gas supplier, broker, energy agent, marketer, or private aggregator that violates this subsection.**1**

(cf: P.L.2021, c.458, s.1)

**1[**2.**]** 3.**1** This act shall take effect immediately.