

[Third Reprint]

SENATE, No. 3123

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:

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District 17 (Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

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District 14 (Mercer and Middlesex)

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District 33 (Hudson)

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**Senators Gopal, Ruiz, Assemblywomen Park, Reynolds-Jackson, Jaffer,
Assemblymen Karabinchak and Conaway**

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 amended by the General Assembly on December 7, 2023.



(Sponsorship Updated As Of: 12/21/2023)

1 AN ACT concerning the Community Solar Energy Program and
2 amending P.L.2018, c.17 ²and P.L.1999, c.23².

3

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

6

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

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

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

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

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

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

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

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

30 (6) standards to limit the land use impact of a solar energy project
31 as required in subsection r. of section 38 of P.L.1999, c.23 (C.48:3-
32 87);

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

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

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted February 16, 2023.

²Assembly AEN committee amendments adopted June 15, 2023.

³Assembly floor amendments adopted December 7, 2023.

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

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

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

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

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

29 (2) establish a goal for the ²[development] ³[approval²]
30 conditional registration³ of ³[at least]³ ¹[50] ¹[500] 225¹ megawatts
31 of solar energy projects ¹prior to June 1, 2024, ³with an additional 275
32 megawatts prior to June 1, 2024 if qualified applications exceed 225
33 megawatts,³ an additional ³[225] 250³ megawatts prior to June 1,
34 2025 ³if qualified applications exceed 500 megawatts³, and ³at least³
35 an additional 150 megawatts¹ per year ¹thereafter¹, taking into
36 account any changes to the SREC program;

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

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

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

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

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

- 1 (8) establish timeframes for the credit available to the customer;
- 2 (9) establish standards and methods to verify solar electric energy
3 generation on a monthly basis for a solar energy project;
- 4 (10) establish standards consistent with the land use provisions for
5 solar energy projects as provided in subsections r., s., and t. of section
6 38 of P.L.1999, c.23 (C.48:3-87);
- 7 (11) establish standards, fees, and uniform procedures for solar
8 energy projects to be connected to the distribution system of an
9 electric public utility;
- 10 (12) minimize impacts to the distribution system of an electric
11 public utility;
- 12 (13) require monthly reporting requirements for the operators of
13 solar energy projects to the electric public utility, project customers,
14 and the board;
- 15 (14) require reporting by the electric public utility to the operator
16 of a solar energy project on the value of credits to the participating
17 customer's bills; ¹**[and]**¹
- 18 (15) require transferability, portability, and buy-out provisions for
19 customers who participate in community solar energy projects ¹;
20 ²**[and]**²
- 21 (16) establish requirements and standards that provide for the
22 auditing and enforcement of a solar energy project's compliance with
23 the provisions of this section and the rules and regulations adopted
24 pursuant thereto, including the project's compliance with
25 commitments related to providing access to solar energy projects to
26 low- and moderate-income customers and bill crediting^{1 2}; and
- 27 (17) allow, in a form and manner to be determined by the board,
28 low- and moderate-income residential customers to self-attest to the
29 customer's income as an acceptable income verification method for
30 participation in a solar energy project².
- 31 g. As used in this section:
- 32 "Solar energy project" means a system containing one or more
33 solar panels and associated equipment.
- 34 "Solar panel" means an elevated panel or plate, or a canopy or
35 array thereof, that captures and converts solar radiation to produce
36 electric power, and is approved by the board to be included in the
37 Community Solar Energy Pilot Program.
- 38 "Solar power" includes flat plate, focusing solar collectors, or
39 photovoltaic solar cells and excludes the base or foundation of the
40 panel, plate, canopy, or array.
- 41 (cf: P.L.2018, c.17, s.5)
- 42
- 43 ²2. Section 36 of P.L.1999, c.23 (C.48:3-85) is amended to read
44 as follows:
- 45 36. a. Notwithstanding any provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the board, in consultation with the Division of Consumer

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

15 (1) (a) An electric power supplier or gas supplier shall not
16 provide electric generation service or gas supply service to a
17 customer in this State unless the electric power supplier or gas
18 supplier has provided the customer a one-page information sheet
19 summarizing the material terms and conditions of the contract as
20 determined by the board. Contract standards shall include, but not
21 be limited to, requirements that electric power supply contracts or
22 gas supply contracts conspicuously disclose the duration of the
23 contract; state the price per kilowatt hour or per therm or other
24 pricing determinant approved by the board; use a 12-point font;
25 provide a one-page information sheet in a 12-point font
26 summarizing the material terms and conditions of the contract in
27 English and Spanish, as determined by the board; provide the phone
28 number and website for filing complaints with the Board of Public
29 Utilities, Division of Customer Assistance, and a one-sentence
30 explanation of the practice known as "slamming," which is an
31 unauthorized change of a customer's electric power supplier or gas
32 supplier, in a 12-point, boldface font on the one-page information
33 sheet; and state, in a 12-point, boldface font, whether the contract is
34 for a fixed rate or a variable rate, and provide a brief explanation of
35 the difference between a fixed rate and a variable rate that is easily
36 understandable by the general public, including an explanation on
37 how weather fluctuations may affect the price of variable rate
38 contracts; have the customer's written signature or electronic
39 signature; an audio recording of a telephone call initiated by the
40 customer; independent, third-party verification, in accordance with
41 section 37 of P.L.1999, c.23 (C.48:3-86), of a telephone call
42 initiated by an electric power supplier, gas supplier, or private
43 aggregator; or any alternative forms of verification as the board, in
44 consultation with the Division of Consumer Affairs in the
45 Department of Law and Public Safety, may permit prior to
46 switching electric power suppliers or gas suppliers and for contract
47 renewal; and include termination procedures, notice of any fees, and
48 toll-free or local telephone numbers for the electric power supplier

1 or gas supplier and for the board. An electric power supplier or gas
2 supplier shall not provide the customer's telephone number,
3 electronic mail address, or postal address to other electric power
4 suppliers or gas suppliers if the customer's telephone number
5 appears on the no telemarketing call list established and maintained
6 by the Division of Consumer Affairs, pursuant to the provisions of
7 section 9 of P.L.2003, c.76 (C.56:8-127), or the national do-not-call
8 registry as maintained by the Federal Trade Commission.

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

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

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

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

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

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

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

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

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

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

46 (e) An electric public utility may disclose and provide, in an
47 electronic format, which may include any format as determined by
48 the board, without the consent of a residential customer, a

1 residential customer's name, address, rate class, account number,
2 and energy usage, to a municipality, county, or an agent acting for a
3 municipality or county, if the information is to be used for
4 automatic enrollment in a solar energy project under the
5 Community Solar Energy Pilot Program or the permanent
6 Community Solar Energy Program established by the board
7 pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11). Any
8 customer information disclosed pursuant to this paragraph shall not
9 be considered a government record for the purposes of, and shall be
10 exempt from the provisions of, P.L.2001, c.404 (C.47:1A-5 et al.).

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

20 (4) Notwithstanding any provisions of the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
22 contrary, the board shall, within 90 days of the effective date of
23 P.L.2003, c.24 (C.48:3-93.1 et al.), review existing regulations
24 including, without limitation, Chapter 4 of Title 14 of the New
25 Jersey Administrative Code (Energy Competition), to determine
26 their consistency with the provisions of section 36 of P.L.1999, c.23
27 (C.48:3-85), section 43 of P.L.1999, c.23 (C.48:3-92) and section
28 45 of P.L.1999, c.23 (C.48:3-94), repeal or modify any regulations
29 that are inconsistent with the provisions thereof, and shall adopt
30 regulations and standards implementing the provisions thereof
31 permitting disclosure of customer information without the consent
32 of the customer including, without limitation, provisions for the
33 development of a board-approved agreement between the disclosing
34 party and the receiving party and the creation of a mechanism for
35 the recovery by the disclosing electric public utility or gas public
36 utility of its reasonable incremental costs of providing the customer
37 information if those costs are not covered in an existing third-party
38 supplier agreement.

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

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

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

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

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

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

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

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

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

34 f. (1) In addition to the advertising standards adopted by the
35 board pursuant to paragraph (3) of subsection a. of this section, the
36 board, in consultation with the Division of Consumer Affairs in the
37 Department of Law and Public Safety, shall adopt, pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.) interim advertising and marketing standards for electric power
40 suppliers, gas suppliers, brokers, energy agents, marketers, private
41 aggregators, sales representatives, and telemarketers applicable to
42 potential residential customers, within 270 days of the effective date
43 of P.L.2013, c.263, which standards shall include, but not be limited
44 to, prohibiting electric power suppliers, gas suppliers, brokers,
45 energy agents, marketers, private aggregators, sales representatives,
46 and telemarketers from: (a) making false or misleading advertising
47 claims to a potential residential customer; or (b) contacting a
48 potential residential customer by telephone for the purpose of

1 making an unsolicited advertisement if the electric power supplier,
2 gas supplier, broker, energy agent, marketer, private aggregator,
3 sales representative, or telemarketer does not have an existing
4 business relationship with the potential residential customer and the
5 residential customer's telephone number appears on the no
6 telemarketing call list established and maintained by the Division of
7 Consumer Affairs, pursuant to the provisions of section 9 of
8 P.L.2003, c.76 (C.56:8-127), or the national do-not-call registry as
9 maintained by the Federal Trade Commission. The standards shall
10 be effective as regulations immediately upon filing with the Office
11 of Administrative Law and shall be effective for a period not to
12 exceed 18 months, and may, thereafter, be amended, adopted, or
13 readopted by the board in accordance with the provisions of the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

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

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

43

44 ²[2.] 3.² This act shall take effect immediately.