ASSEMBLY, No. 5431

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED SEPTEMBER 10, 2026

Sponsored by:
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District 24 (Morris, Sussex and Warren)

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SYNOPSIS

Concerns consumer-regulated electric utilities.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 9/24/26)

AN ACT concerning consumer-regulated electric utilities, supplementing Title 48 of the Revised Statutes, and amending R.S.48:2-13.

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

1. (New section) The Legislature finds and declares that:

a. A reliable, affordable, and sufficient electricity supply is vital to economic growth and public welfare in the State.

b. New industrial, commercial, and data-center developments require rapid access to electricity.

c. Alternative electricity providers, such as consumer-regulated electric utilities, offer a path toward energy innovation and enhanced reliability, while supporting these high-demand users.

d. Authorizing alternative electricity providers, including off-grid generation and microgrids, to generate and sell electricity will introduce market competition and, therefore, reduce the strain on the grid and lower costs passed through to ratepayers.

e. Permitting consumer-regulated electric utilities will further relieve the growing demand currently impacting traditionally-regulated utilities, drive innovation, and create incentives for increasing energy reliability across the State.

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

"Board" means the New Jersey Board of Public Utilities or a successor agency.

"Consumer-regulated electric utility" means an individual, copartnership, association, corporation, or joint stock company that: exclusively provides electric utility service to new industrial, commercial, and other nonresidential loads within the State; and owns, operates, manages, or controls electric generation, distribution, or transmission facilities that are not connected to the State's transmission and distribution system.

"Public utility" means the same as that term is defined in R.S.48:2-13.

3. (New section) a. Notwithstanding any law, rule, regulation, or order to the contrary, a consumer-regulated electric utility shall not be regulated as a public utility and, therefore, shall not be subject to the board's general supervision, regulation, jurisdiction, and control, except as provided in subsection b. of this section.

b. A consumer-regulated electric utility shall be subject to any law, rule, regulation, or order regarding:

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 <u>thus</u> is new matter.

(1) environmental protection permitting;

(2) building and fire codes;

(3) workplace health and safety standards; and

(4) if a consumer-regulated electric utility operates a facility within an existing public right-of-way, any applicable permitting, restoration, public safety, and maintenance requirements, including, but not limited to, storm debris removal.

c. A consumer-regulated electric utility that owns, operates, manages, or controls electric generation, distribution, or transmission facilities, or any combination thereof, and connects to the State's transmission and distribution system shall, upon connection, be regulated as a public utility and shall be subject to the board's general supervision, regulation, jurisdiction, and control.

4. (New section) a. A consumer-regulated electric utility may:

(1) own, operate, manage or control electric generation, distribution, and transmission facilities within the State; and

(2) sell electricity at retail exclusively to new industrial, commercial, and other nonresidential loads within the State.

b. Notwithstanding the provisions of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.), or any other law, rule, regulation, or order to the contrary, a consumer-regulated electric utility that connects to the State's transmission and distribution may maintain its electric generation service or electric power generator functions.

5. R.S.48:2-13 is amended to read as follows:

48:2-13. a. The board shall have general supervision and regulation of and jurisdiction and control over all public utilities as defined in this section and their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Title.

The term "public utility" shall include every individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electricity distribution, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

b. Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over any vehicles engaged in ridesharing arrangements with a maximum carrying capacity of not more than 15 passengers, including the driver, where the transportation of

passengers is incidental to the purpose of the driver or any vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini; hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations, including local airports, or bus employed solely for transporting school children and teachers, to and from school, or any autobus with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

c. Except as provided in section 7 of P.L.1995, c.101 (C.58:26-25), the board shall have no regulatory authority over the parties to a contract negotiated between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in connection with the performance of their respective obligations thereunder. Nothing contained in this title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over, any public-private contract for the provision of water supply services established pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

d. Unless otherwise specifically provided pursuant to P.L.1999, c.23 (C.48:3-49 et al.) **[**,**]** or P.L. , c. (C.) (pending before the Legislature as this bill), all services necessary for the transmission and distribution of electricity and gas, including, but not limited to, safety, reliability, metering, meter reading, and billing, shall remain the jurisdiction of the Board of Public Utilities. The board shall also maintain the necessary jurisdiction , except as provided pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), with regard to the production of electricity and gas to assure the reliability of electricity and gas supply to retail customers in the State as prescribed by the board or any other federal or multi-jurisdictional agency responsible for reliability and capacity in the State.

e. Notwithstanding the provisions of subsection a. of this section, the board shall have the authority to classify as regulated the sale of any thermal energy service by a cogenerator or district heating system, for the purpose of providing heating or cooling to a residential dwelling if, after notice and hearing, **[**it**]** the board determines that the customer does not have sufficient space on **[**its**]** the customer's property to install an alternative source of equivalent thermal energy, there is no contract governing the provision of

thermal energy service for the relevant period of time, and that sufficient competition is no longer present, based upon consideration of such factors as: ease of market entry; presence of other competitors; and the availability of like or substitute services in the relevant geographic area. Upon such a classification, the board may determine such rates for the thermal energy service for the purpose of providing heating or cooling to a residential dwelling as it finds to be consistent with the prevailing cost of alternative sources of thermal energy in similar situations. The board, however, shall continue to monitor the thermal energy service to such residential dwellings and, whenever the board finds that the thermal energy service has again become sufficiently competitive pursuant to the criteria listed above, the board shall cease to regulate the sale or production of the service. The board shall not have the authority to regulate the sale or production of steam or any other form of thermal energy, including hot and chilled water, to non-residential customers.

f. Nothing contained in this Title shall extend the powers of the board to include supervision and regulation of, or jurisdiction and control over, an entity engaged in the provision or use of sewage effluent for the purpose of providing a cooling medium to an end user or end users on a single site, which provision results in the conservation of potable water which would otherwise have been used for such purposes.

g. Except as provided herein, the board shall have no regulatory authority over the parties to a contract entered into between the governing body of a city of the first class and a duly incorporated nonprofit association in connection with the performance of their respective obligations thereunder when the governing body of a city of the first class shall determine by ordinance that it is in the public interest to contract with that duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or any component part or parts thereof, including a water filtration system as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), upon approval of the contract pursuant to the provisions of section 6 of P.L.2002, c.47 (C.58:28-7).

Notwithstanding any other provision of P.L.2002, c.47, whenever the governing body of a city of the first class enters into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of

section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), and that governing body operates water supply facilities as authorized pursuant to the provisions of N.J.S.40A:31-4, which supply water to customers within another local unit, the nonprofit association or governing body shall be subject to the jurisdiction, rate regulation, and control of the Board of Public Utilities as provided in N.J.S.40A:31-23, to the extent the nonprofit association or governing body supplies water to customers within that other local unit.

(cf: P.L.2002, c.47, s.10)

6. This act shall take effect immediately.

STATEMENT

This bill concerns consumer-regulated electric utilities (CREUs).

Specifically, the bill authorizes a CREU to: (1) own, operate, manage or control electric generation, distribution, and transmission facilities within the State; and (2) sell electricity at retail exclusively to new industrial, commercial, and other nonresidential loads within the State. The bill also permits a CREU that connects to the State's transmission and distribution system to maintain its electric generation service or electric power generator functions.

The bill exempts a CREU from regulation as a public utility. However, under the bill, a CREU that owns, operates, manages, or controls electricity generation, distribution, or transmission facilities, or any combination thereof, and connects to the State's transmission and distribution system is to be regulated as a public utility and subject to the Board of Public Utilities' general supervision, regulation, jurisdiction, and control. Additionally, the bill provides that a CREU will be subject to any law, rule, regulation, or order regarding environmental protection permitting; building and fire codes; workplace health and safety standards; and any applicable permitting, restoration, public safety, and maintenance requirements, including, but not limited to, storm debris removal, if the CREU operates a facility in an existing public right-of-way.

Under the bill, a CREU is defined as an individual, copartnership, association, corporation, or joint stock company that: exclusively provides electric utility service to new industrial, commercial, and other nonresidential loads within the State; and owns, operates, manages, or controls electric generation, distribution, or transmission facilities that are not connected to the State's transmission and distribution system.