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AN ACT concerning renewable energy and supplementing Title 48 of the Revised Statutes and amending P.L.1999, c.23.

Establishes "Renewable Energy Transition Act."

PRIME Sponsor _____ /_____

CO-Sponsor	District	CO-Sponsor	District

Same as _____ 10/11 Same as _____ 12/13

Suggested allocation: ss.1-10 – C.48:3-110 et seq.; s.11 – approp.; s.15 – Eff. date & Note to ss.1-11 to 2013/232

AN ACT concerning renewable energy and supplementing Title 48 of the Revised Statutes and amending P.L.1999, c.23.

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

1. (New section) This act shall be known and may be cited as the "Renewable Energy Transition Act."

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

a. New Jersey has been at the forefront of states in energy efficiency and the development and commercialization of renewable energy.

b. New Jersey and its economy is threatened by the harmful consequences of global climate change, rising sea levels, loss of beach and shoreline, greater severity and frequency of major storms such as Superstorm Sandy, higher temperatures, more precipitation, less food production, and other harmful effects.

c. The "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et al.) requires an 80 percent reduction of greenhouse gas emissions by 2050. Compliance with this law requires a commensurate reduction, or more, in greenhouse emissions from public utilities.

d. The technology for reducing greenhouse gas emissions from fossil fuels is proven to be practical and cost-effective.\

e. Various European nations, such as Denmark, Finland, Germany, Iceland, Italy, Norway, and Sweden, are rapidly achieving the goal of substituting renewable energy for fossil fuels and nuclear energy, while remaining among the strongest economies in the world.

f. Renewable energy projects will lead to opportunities, investment, job creation, and economic growth in this State.

g. Renewable energy projects will reduce the locational marginal pricing of wholesale power, local and regional pollutants, transmission and distribution system throughput, the need for fossil fuel infrastructure, and the need for resiliency in the electric grid.

h. A transition to renewable electricity requires large-scale demand response assets which will improve the reliability of the electric grid.

i. The Legislature therefore determines that this State requires a reduction of total electric power consumption of 20 percent by 2025 and 30 percent by 2050, relative to 2012 consumption levels, through energy efficiency; that renewable energy supply the remaining 80 percent electric power consumption needs by the year 2050, with milestone requirements leading to this goal every five years between 2014 and 2050; and that the New Jersey Renewable Energy Utility Corporation be established to help reduce the consumption of electric power and increase the production of

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.

renewable energy in this State.

3. (New section) As used in sections 1 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill):

“Board” shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Corporation" means the New Jersey Renewable Energy Utility Corporation, established by sections 8 and 9 of P.L. , c. (C.) (pending before the Legislatures this bill).

“Electric public utility” shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

“Energy year” or “EY” shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

“Renewable energy certificate” shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

“Solar renewable energy certificate” shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

4. (New section) a. Notwithstanding any law, rule, regulation, or order to the contrary, the Board of Public Utilities shall modify the State’s Energy Master Plan to conform to the requirements of P.L. , c. (C.) (pending before the Legislature as this bill); establish an incentive program for the installation of solar projects which in the aggregate shall generate at least 425 megawatts of direct current capacity per energy year; and for each energy year on or after 2017, shall not add new requirements for solar renewable energy credits in the basic generation service product definition and the basic generation service supplier master agreement.

b. Notwithstanding any law, rule, regulation, or order to the contrary, the Board of Public Utilities shall not permit renewable energy certificates and solar renewable energy certificates from projects that become commercially operational on or after June 1, 2016 to be sold at the basic generation service auction, except as provided in subsection i. of section 9 of P.L. , c. (C.) (pending before the Legislature as this bill).

5. (New section) The Board of Public Utilities shall order the following minimum requirements for each electric public utility:

a. The installation of equipment to allow for the two-way flow of electricity between an electric public utility and a customer of an electric public utility who generates renewable energy.

b. The installation of equipment allowing for better control of voltage levels.

c. The installation of equipment allowing for the use of distributed renewable energy systems during periods of lower voltage.

d. The installation of equipment allowing for energy storage to be used in the event of an emergency.

e. The installation of equipment that corrects for short-term changes in electricity affecting the stability of the electric grid.

f. The establishment of programs to encourage customers of an electric public utility to consume less electricity during a period of peak demand for energy.

g. The installation of equipment allowing for the movement of electricity, as necessary, during a period of peak demand for energy.

h. The installation of equipment to predict, monitor, and track the output of intermittent renewable power that is connected to the electric grid.

i. The installation of equipment allowing for the transition to renewable energy.

6. (New section) The Board of Public Utilities shall require each electric public utility to install demand response equipment and demand response communication and management systems to increase demand response capability to 20 percent of the peak electric power demand in the State by energy year 2025, and establish incentive programs to encourage customers of electric public utilities to install demand response equipment.

7. (New section) The Board of Public Utilities shall establish incentive programs to encourage electricity storage, including proper amounts and timing of its development and deployment, to enable the renewable electricity transition, and alternatives to electricity storage, including, but not limited to, predictive electric grid resource management and long-range power transmission.

8. a. (New section) There is hereby established the New Jersey Renewable Energy Utility Corporation, a body corporate and politic with corporate succession. The corporation is hereby allocated within the Department of the Treasury, but, notwithstanding this allocation, the corporation shall be independent of any supervision or control by the department or by any body or officer thereof. The corporation is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the corporation of the powers conferred by (P.L. , c. (C.) (pending before the Legislature as this bill) shall be deemed and held to be an essential governmental function of the State.

b. The corporation shall consist of five public members appointed by the Governor as follows: two public members, not members of the Legislature, shall be appointed by the Governor upon recommendation of the Senate President; two public members, not members of the Legislature, shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and one public member, not a member of the Legislature, shall be appointed by the Governor, all for terms of three years. Any vacancy in the membership occurring other than by expiration of

the member's term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of that hearing. Members before entering upon their duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of their abilities. A record of the oaths shall be filed in the office of the Secretary of State.

d. A chairperson shall be appointed by the Governor from the members. The members of the corporation shall elect from their remaining number a vice chairperson and a treasurer. The corporation shall employ an executive director who shall be its secretary and chief executive officer. The powers of the corporation shall be vested in the members in office and three members of the corporation shall constitute a quorum at any meeting. Action may be taken and motions and resolutions may be adopted by the corporation at any meeting by the affirmative vote of at least three members of the corporation. No vacancy in the membership of the corporation shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the corporation.

e. The members of the corporation shall serve without compensation, but the corporation shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, rule, regulation, or order to the contrary, an officer or employee of the State shall not be deemed to have forfeited or shall forfeit any office or employment or any benefits or emoluments thereof by reason of the acceptance of the office of member of the corporation or any services therein.

f. The corporation may be dissolved by an act of the Legislature on condition that the corporation has no debts or obligations outstanding or that provision has been made for the payment or retirement of its debts or obligations. Upon any dissolution of the corporation, all property, funds, and assets shall be vested in the State.

g. A true copy of the minutes of every meeting of the corporation shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at a meeting by the corporation shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes have been delivered, unless during the 10-day period the Governor approves the minutes in which case the action shall become effective upon the Governor's approval. If, in that 10-day period, the Governor returns the copy of the minutes with veto of any action taken by the corporation or any member thereof at that meeting, that action shall be null and void and of no effect. The powers conferred in this subsection upon the Governor shall not in

any way limit, restrict, or alter the obligation or powers of the corporation or any representative or officer of the corporation.

h. On or before March 31 of each calendar year, the corporation shall make an annual report of its activities for the preceding calendar year to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each report shall set forth a complete operating and financial statement covering the corporation's operations during the year.

i. A member, officer, employee, or agent of the corporation shall not have an interest, either directly or indirectly, in any project, or in any contract, sale, purchase, lease, or transfer of real or personal property to which the corporation is a party.

j. Notwithstanding the provisions of any other law, rule, regulation, or order to the contrary, any debt or obligation of the corporation shall be payable from and secured by funds and moneys as determined by the corporation, and shall not be in any way a debt or liability of the State or of any political subdivision thereof, shall not create or constitute any indebtedness, liability, or obligation of the State or of any political subdivision thereof, either legal, moral, or otherwise, and nothing contained in the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall be construed to authorize the corporation to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof.

9. (New section) The New Jersey Renewable Energy Utility Corporation shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the seal at its pleasure;

c. To sue and be sued;

d. To sell, convey, or lease to any person all or any portion of a project for such consideration and upon such terms as the corporation may determine to be reasonable;

e. To acquire, purchase, manage, operate, hold, and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements, and arrangements necessary or incidental to the performance of its duties;

f. To procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it deems desirable;

g. To establish long-term contracts and market-based standard offer contracts for the purchase of renewable energy certificates and solar renewable energy certificates through a competitive solicitation process to be held at least once every calendar quarter, and to develop contracts and procedures regarding the long-term contracts and standard offer contracts for small, renewable energy providers;

h. To sell renewable energy certificates and solar renewable energy certificates from renewable energy projects which become commercially operational on or after June 1, 2016 to an electric public utility at a price which allows the corporation to generate revenue to pay for the corporation's costs and expenses;

i. To phase-in solar renewable energy projects which become commercially operational before June 1, 2016 into the long-term contract solicitation process, over a three-year period, as determined by the corporation. T

j. To offer solar renewable energy projects which become commercially operational before June 1, 2016 a reduced contract price according to standards developed by the corporation which rate solar energy projects according to the age of the projects.

k. To allow solar renewable energy projects which become commercially operational before June 1, 2016 not to meet the renewable portfolio standard in order to balance ratepayer interests and prevent harmful volatility in the solar renewable energy certificate market.

l. To procure contracts for solar renewable energy certificates such that 20 percent of all procured contracts are for residential projects producing less than 10 kilowatts of rated direct current generating capacity per energy year, and at least 40 percent of all contracts are for projects producing between 10 kilowatts and 1,000 kilowatts of rated direct current generating capacity per energy year;

m. To procure contracts that minimize costs to ratepayers and provide funding for renewable energy projects;

n. To evaluate the value of renewable energy in order to adjust incentives for renewable energy projects; and

o. To keep the corporation's annual administrative costs below 7.5 percent of the corporation's annual revenue.

10. (New section) An electric public utility shall only purchase renewable energy certificates and solar renewable energy certificates from the New Jersey Renewable Energy Utility Corporation established pursuant to sections 8 and 9 of P.L. , c. (C.) (pending before the Legislature as this bill).

11. (New section) There shall be appropriated annually from the societal benefits charge revenues, received by the board pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), such additional monies as shall be necessary to support the operations of the New Jersey Renewable Energy Utility Corporation, established pursuant to section 8 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

"Base load electric power generation facility" means an electric power generation facility intended to be operated at a greater than 50 percent capacity factor including, but not limited to, a combined cycle power facility and a combined heat and power facility **[**;**]**.

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

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

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

"Basic generation service provider" or "provider" means a provider of basic generation service **[**;**]**.

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

options. Basic generation service transition costs shall also include the payments by an electric public utility pursuant to a competitive procurement process for basic generation service supply during the transition period, and costs of any such process used to procure the basic generation service supply [;].

"Board" means the New Jersey Board of Public Utilities or any successor agency [;].

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

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

"Bondable transition property" means the property consisting of the irrevocable right to charge, collect and receive, and be paid from collections of, transition bond charges in the amount necessary to provide for the full recovery of bondable stranded costs which are determined to be recoverable in a bondable stranded costs rate

order, all rights of the related electric public utility under such bondable stranded costs rate order including, without limitation, all rights to obtain periodic adjustments of the related transition bond charges pursuant to subsection b. of section 15 of P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments, money and proceeds arising under, or with respect to, all of the foregoing **[**;**]**.

"British thermal unit" or "Btu" means the amount of heat required to increase the temperature of one pound of water by one degree Fahrenheit **[**;**]**.

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

"Brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant **[**;**]**.

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

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

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L.2012, c.24, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner **[**;**]**.

"Class II renewable energy" means electric energy produced at a hydropower facility with a capacity of greater than three megawatts or a resource recovery facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities **[**;**]**.

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

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

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

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

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

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

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid [,]; (2) an on-site generation facility [,]; (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87) [,]; (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1) [,]; (5) directly connected to the electric grid at [69kilovolts] 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-87) [,]; or (6) is certified by the board, in consultation with the Department of Environmental Protection, as

being located on a brownfield, on an area of historic fill, or on a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system [;].

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

"Customer account service" means metering, billing, or such other administrative activity associated with maintaining a customer account [;].

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

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

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

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

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

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

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

"Electronic signature" means an electronic sound, symbol or process, attached to, or logically associated with, a contract or other record, and executed or adopted by a person with the intent to sign the record **[**;**]**.

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

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

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator **[**;**]**.

"Energy efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers **[**;**]**.

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

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

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

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

"Financing entity" means an electric public utility, a special purpose entity, or any other assignee of bondable transition property, which issues transition bonds. Except as specifically

provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity which is not itself an electric public utility shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto **[**;**]**.

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

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

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

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service **[**;**]**.

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

"Government energy aggregation program" means a program and procedure pursuant to which a government aggregator enters into a written contract for the provision of electric generation service or

gas supply service on behalf of business or residential customers within its territorial jurisdiction [;].

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

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

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

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

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

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

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

"Market transition charge" means a charge imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public utility, at a level determined by the board, on the electric public utility customers for a limited duration transition period to recover stranded costs created as a result of the introduction of electric

power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) **[**;**]**.

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes the contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers **[**;**]**.

"Mid-merit electric power generation facility" means a generation facility that operates at a capacity factor between baseload generation facilities and peaker generation facilities **[**;**]**.

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

"Net proceeds" means proceeds less transaction and other related costs as determined by the board **[**;**]**.

"Net revenues" means revenues less related expenses, including applicable taxes, as determined by the board **[**;**]**.

"Offshore wind energy" means electric energy produced by a qualified offshore wind project **[**;**]**.

"Offshore wind renewable energy certificate" or "OREC" means a certificate, issued by the board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project **[**;**]**.

"Off-site end use thermal energy services customer" means an end use customer that purchases thermal energy services from an on-site generation facility, combined heat and power facility, or co-generation facility, and that is located on property that is separated from the property on which the on-site generation facility, combined heat and power facility, or co-generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way **[**;**]**.

"On-site generation facility" means a generation facility, including, but not limited to, a generation facility that produces Class I or Class II renewable energy, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is

located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way, or if the end use customer is purchasing thermal energy services produced by the on-site generation facility, for use for heating or cooling, or both, regardless of whether the customer is located on property that is separated from the property on which the on-site generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way **[**;**]**.

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity **[**;**]**.

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

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

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

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

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, **[**ten**]** 10 percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition,

unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the Securities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 1935 or its successor **[**;**]**.

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

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

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

"Related competitive business segment of an electric public utility or gas public utility" means any business venture of an electric public utility or gas public utility including, but not limited to, functionally separate business units, joint ventures, and partnerships, that offers to provide or provides competitive services **[**;**]**.

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility **[**;**]**.

"Reliability pricing model" or "RPM" means PJM's capacity-market model, and its successors, that secures capacity on behalf of electric load serving entities to satisfy load obligations not satisfied

through the output of electric generation facilities owned by those entities, or otherwise secured by those entities through bilateral contracts [;].

"Renewable energy attributes" means the beneficial effect of renewable energy to this State, including, but not limited to, reducing pollutants and harmful gas emissions, creating jobs, incentivizing investment, creating economic growth, reducing peak demand and throughput in the transmission and distribution system, reducing dependence on out-of-State sources of energy, increasing energy security, protecting against the volatile price of fossil fuel, providing sources of power during an emergency, reducing the cost of fossil fuels, and enhancing the image of the State as an energy efficient, progressive, and high-tech state. The provision of renewable energy attributes shall be considered valuable services rendered to the State by a generator of renewable energy.

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

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

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

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

to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs **[**;**]**.

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

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

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

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

"Shopping credit" means an amount deducted from the bill of an electric public utility customer to reflect the fact that such customer has switched to an electric power supplier and no longer takes basic generation service from the electric public utility **[**;**]**.

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

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

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged

customers, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls **[**;**]**.

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

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

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

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

"Standard offer capacity price" or "SOCP" means the capacity price that is fixed for the term of the SOCA and which is the price to be received by eligible generators under a board-approved SOCA **[**;**]**.

"State entity" means a department, agency, or office of State government, a State university or college, or an authority created by the State **[**;**]**.

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

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

section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery mechanisms therefor **[**;**]**.

"Thermal efficiency" means the useful electric energy output of a facility, plus the useful thermal energy output of the facility, expressed as a percentage of the total energy input to the facility **[**;**]**.

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

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

"Transition period" means the period from August 1, 1999 through July 31, 2003 **[**;**]**.

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

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

(cf: P.L.2012, c.24, s.1)

13. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read as follows:

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;

(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and

(3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

b. 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 initiate a proceeding and shall adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

(1) A methodology for disclosure of emissions based on output pounds per megawatt hour;

(2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a meaningful comparison with a supplier's or basic generation service provider's emission levels; and

(3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

Such 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."**]** “Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

(a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and

(b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) By July 1, 2009, the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a greenhouse gas emissions portfolio standard to mitigate leakage or another regulatory mechanism to mitigate leakage applicable to all electric power suppliers and basic generation service providers that provide electricity to customers within the State. The greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage shall:

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

(b) Exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the regulation.

Unless the Attorney General or the Attorney General's designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally burden interstate commerce or would be preempted by federal law, the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage.

d. 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 initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, renewable energy portfolio standards that shall require:

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I or Class II renewable energy sources;

(2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources. <u>The following percentage of kilowatt-hours sold in this State by each</u>

electric power supplier and each basic generation service provider shall be from in-State, Class I renewable energy sources:

EY 2015	11%
EY 2020	20%
EY 2025	30%
EY 2030	40%
EY 2035	50%
EY 2040	60%
EY 2045	70%
EY 2050	80%.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection;

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on [June 1, 2028] June 1, 2014, the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs
EY 2013	596 Gwhrs
EY 2014	2.050%
EY 2015	2.450%
EY 2016	2.750%
[EY 2017	3.000%
EY 2018	3.200%
EY 2019	3.290%
EY 2020	3.380%
EY 2021	3.470%
EY 2022	3.560%
EY 2023	3.650%
EY 2024	3.740%
EY 2025	3.830%
EY 2026	3.920%
EY 2027	4.010%

EY 2028 4.100%, and for every energy year thereafter, at least 4.100% per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators connected to the distribution system in this State, and to establish a framework within which, of the electricity that the generators sell in this State, suppliers and providers shall each obtain at least 3.470% in the energy year 2021 and 4.100% in the

energy year 2028 from solar electric power generators connected to the distribution system in this State, provided, however, that:]

(a) The board shall determine an appropriate period of no less than 120 days following the end of an energy year prior to which a provider or supplier must demonstrate compliance for that energy year with the annual renewable portfolio standard;

(b) No more than 24 months following the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally;

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2012, c.24 from any increase beyond the number of SRECs mandated by the solar renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all providers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers. The board shall implement the provisions of this subsection in a manner so as to prevent any subsidies between suppliers and providers and to promote competition in the electricity supply industry.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection, or compliance with the requirements of this subsection may be demonstrated to the board by suppliers or providers through the purchase of SRECs.

The renewable energy portfolio standards adopted by the board pursuant to paragraphs (1) and (2) of this subsection 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.\"] “Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The renewable energy portfolio standards adopted by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and

shall be effective for a period not to exceed 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the ⟦"Administrative Procedure Act"⟧ “Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

(4) within 180 days after the date of enactment of P.L.2010, c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind renewable energy certificate program to require that a percentage of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from offshore wind energy in order to support at least ⟦1,100⟧ 3,000 megawatts of generation from qualified offshore wind projects by 2030, and 4,500 megawatts of generation from qualified offshore wind projects by 2050.

The percentage established by the board pursuant to this paragraph shall serve as an offset to the renewable energy portfolio standard established pursuant to paragraphs (1) and (2) of this subsection and shall reduce the corresponding Class I renewable energy requirement.

The percentage established by the board pursuant to this paragraph shall reflect the projected OREC production of each qualified offshore wind project, approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), for ⟦twenty⟧ 20 years from the commercial operation start date of the qualified offshore wind project which production projection and OREC purchase requirement, once approved by the board, shall not be subject to reduction.

An electric power supplier or basic generation service provider shall comply with the OREC program established pursuant to this paragraph through the purchase of offshore wind renewable energy certificates at a price and for the time period required by the board. In the event there are insufficient offshore wind renewable energy certificates available, the electric power supplier or basic generation service provider shall pay an offshore wind alternative compliance payment established by the board. Any offshore wind alternative compliance payments collected shall be refunded directly to the ratepayers by the electric public utilities.

The rules established by the board pursuant to this paragraph 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.).

e. 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 initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing:

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at non-discriminatory rates to industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as measured in watts, are eligible for net metering. If the amount of electricity generated by the customer-generator, plus any kilowatt hour credits held over from the previous billing periods, exceeds the electricity supplied by the electric power supplier or basic generation service provider, then the electric power supplier or basic generation service provider, as the case may be, shall credit the customer-generator for the excess kilowatt hours until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits or, if the customer-generator chooses, credit the customer-generator on a real-time basis, at the electric power supplier's or basic generation service provider's avoided cost of wholesale power or the PJM electric power pool's real-time locational marginal pricing rate, adjusted for losses, for the respective zone in the PJM electric power pool. Alternatively, the customer-generator may execute a bilateral agreement with an electric power supplier or basic generation service provider for the sale and purchase of the customer-generator's excess generation. The customer-generator may be credited on a real-time basis, so long as the customer-generator follows applicable rules prescribed by the PJM electric power pool for its capacity requirements for the net amount of electricity supplied by the electric power supplier or basic generation service provider. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 2.5 percent of the State's peak electricity demand;

(2) safety and power quality interconnection standards for Class I renewable energy source systems used by a customer-generator that shall be eligible for net metering.

Such standards or rules shall take into consideration the goals of the New Jersey Energy Master Plan, applicable industry standards, and the standards of other states and the Institute of Electrical and Electronic Engineers. The board shall allow electric public utilities to recover the costs of any new net meters, upgraded net meters, system reinforcements or upgrades, and interconnection costs through either their regulated rates or from the net metering customer-generator;

(3) credit or other incentive rules for generators using Class I renewable energy generation systems that connect to New Jersey's

electric public utilities' distribution system but who do not net meter; and

(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority. The standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system using a net metering billing account, which system is located on property owned by the customer, provided that: (a) the property is not land that has been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, provided, however, that the municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement of this subparagraph (a), (b) the system is not an on-site generation facility, (c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another, and (d) all of those facilities are within the service territory of a single electric public utility and are all served by the same basic generation service provider or by the same electric power supplier. The standards shall provide that in order to qualify for net metering aggregation, the customer's solar electric power generation system shall be sized so that its annual generation does not exceed the combined metered annual energy usage of the qualified customer facilities, and the qualified customer facilities shall all be in the same customer rate class under the applicable electric public utility tariff. For the customer's facility or property on which the solar electric generation system is installed, the electricity generated from the customer's solar electric generation system shall be accounted for pursuant to the provisions of paragraph (1) of this subsection to provide that the electricity generated in excess of the electricity supplied by the electric power supplier or the basic generation service provider, as the case may be, for the customer's facility on which the solar electric generation system is installed, over the annualized period, is credited at the electric power supplier's or the basic generation service provider's avoided cost of wholesale power or the PJM electric power pool real-time locational marginal pricing rate. All electricity used by the customer's qualified facilities, with the exception of the facility or property on which the solar electric power generation system is

installed, shall be billed at the full retail rate pursuant to the electric public utility tariff applicable to the customer class of the customer using the electricity. A customer may contract with a third party to operate a solar electric power generation system, for the purpose of net metering aggregation. Any contractual relationship entered into for operation of a solar electric power generation system related to net metering aggregation shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements. Any incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board. The board shall adopt net metering aggregation standards within 270 days after the effective date of P.L.2012, c.24.

Such rules shall require the board or its designee to issue a credit or other incentive to those generators that do not use a net meter but otherwise generate electricity derived from a Class I renewable energy source and to issue an enhanced credit or other incentive, including, but not limited to, a solar renewable energy credit, to those generators that generate electricity derived from solar technologies.

Such standards or rules 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."**]** “Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market. The board shall not impose a fee for the cost of implementing and overseeing a greenhouse gas emissions portfolio standard adopted pursuant to paragraph (2) of subsection c. of this section, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

g. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency portfolio standard that may require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent an electric public utility from meeting the requirements of this section

by contracting with another entity for the performance of the requirements.

h. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy efficiency portfolio standard that may require each gas public utility to implement energy efficiency measures that reduce natural gas usage for heating in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

i. After the board establishes a schedule of solar kilowatt-hour sale or purchase requirements pursuant to paragraph (3) of subsection d. of this section, the board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, increased minimum solar kilowatt-hour sale or purchase requirements, provided that the board shall not reduce previously established minimum solar kilowatt-hour sale or purchase requirements, or otherwise impose constraints that reduce the requirements by any means.

j. The board shall determine an appropriate level of solar alternative compliance payment, and permit each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The value of the SACP for each Energy Year, for Energy Years 2014 through 2028 per megawatt hour from solar electric generation required pursuant to this section, shall be:

EY 2014 $339
EY 2015 $331
EY 2016 $323
EY 2017 $315
EY 2018 $308
EY 2019 $300
EY 2020 $293
EY 2021 $286
EY 2022 $279
EY 2023 $272
EY 2024 $266
EY 2025 $260
EY 2026 $253
EY 2027 $250
EY 2028 $239.

The board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, an increase in solar alternative compliance payments, provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the

electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts through a competitive process, direct electric public utility investment and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders. If the board allows the offering of contracts pursuant to this subsection, the board may establish a process, after hearing, and opportunity for public comment, to provide that a designated segment of the contracts approved pursuant to this subsection shall be contracts involving solar electric power generation facility projects with a capacity of up to 250 kilowatts.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

(1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;

(2) maintain adequate regulatory authority over non-competitive public utility services;

(3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;

(4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;

(5) make energy services more affordable for low and moderate income customers;

(6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;

(7) achieve the goals put forth under the renewable energy portfolio standards;

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

m. The board shall ensure the availability of financial incentives under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and appropriate coverage across all ratepayer segments, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.

n. For projects which are owned, or directly invested in, by a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), the board shall determine the number of SRECs with which such projects shall be credited; and in determining such number the board shall ensure that the market for SRECs does not detrimentally

affect the development of non-utility solar projects and shall consider how its determination may impact the ratepayers.

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:

(1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;

(2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;

(3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and

(4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs and ORECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. SRECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.

q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this section may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of $40,000 per megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed a notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility's filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project approved pursuant to this subsection shall not exceed 10 megawatts. No more than 90 days after its receipt of a completed application for designation pursuant to this subsection, the board shall approve, conditionally approve, or disapprove the application. The notice escrow shall be reimbursed to the facility in full upon either rejection by the board or the facility entering commercial operation,

or shall be forfeited to the State if the facility is designated pursuant to this subsection but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in each energy year following energy year 2016, a proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered "connected to the distribution system" only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar power electric generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.

(2) The board shall approve the designation of the proposed solar power electric generation facility as "connected to the distribution system" if the board determines that:

(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;

(b) the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;

(c) the impact of the designation on electric rates and economic development is beneficial; and

(d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.

(3) The board shall act within 90 days of its receipt of a completed application for designation of a solar power electric generation facility as "connected to the distribution system," to either approve, conditionally approve, or disapprove the application. If the proposed solar electric power generation facility does not commence commercial operations within two years

following the date of the designation by the board pursuant to this subsection, the designation of the facility as "connected to the distribution system" shall be deemed to be null and void, and the facility shall thereafter be considered not "connected to the distribution system."

s. In addition to any other requirements of P.L.1999, c.23 or any other law, rule, regulation or order, a solar electric power generation facility that is not net metered or an on-site generation facility and which is located on land that has been actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, shall only be considered "connected to the distribution system" if (1) the board approves the facility's designation pursuant to subsection q. of this section; or (2) (a) PJM issued a System Impact Study for the facility on or before June 30, 2011, (b) the facility files a notice with the board within 60 days of the effective date of P.L.2012, c.24, indicating its intent to qualify under this subsection, and (c) the facility has been approved as "connected to the distribution system" by the board. Nothing in this subsection shall limit the board's authority concerning the review and oversight of facilities, unless such facilities are exempt from such review as a result of having been approved pursuant to subsection q. of this section.

t. (1) No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, including those owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1). Projects certified under this subsection shall be considered "connected to the distribution system", shall not require such designation by the board, and shall not be subject to board review required pursuant to subsections q. and r. of this section. Notwithstanding the provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or order to the contrary, for projects certified under this subsection, the board shall establish a financial incentive that is designed to supplement the SRECs generated by the facility in order to cover the additional cost of constructing and operating a solar electric power generation facility on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section

13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers. The issuance of SRECs for all solar electric power generation facility projects pursuant to this subsection shall be deemed "Board of Public Utilities financial assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

(2) Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any other law, rule, regulation, or order to the contrary, the board, in consultation with the Department of Environmental Protection, may find that a person who operates a solar electric power generation facility project that has commenced operation on or after the effective date of P.L.2012, c.24, which project is certified by the board, in consultation with the Department of Environmental Protection pursuant to paragraph (1) of this subsection, as being located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility, which projects shall include, but not be limited to projects located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), or a person who owns property acquired on or after the effective date of P.L.2012, c.24 on which such a solar electric power generation facility project is constructed and operated, shall not be liable for cleanup and removal costs to the Department of Environmental Protection or to any other person for the discharge of a hazardous substance provided that:

(a) the person acquired or leased the real property after the discharge of that hazardous substance at the real property;

(b) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(c) the person, within 30 days after acquisition of the property, gave notice of the discharge to the Department of Environmental Protection in a manner the Department of Environmental Protection prescribes;

(d) the person does not disrupt or change, without prior written permission from the Department of Environmental Protection, any engineering or institutional control that is part of a remedial action for the contaminated site or any landfill closure or post-closure requirement;

(e) the person does not exacerbate the contamination at the property;

(f) the person does not interfere with any necessary remediation of the property;

(g) the person complies with any regulations and any permit the Department of Environmental Protection issues pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

(h) with respect to an area of historic fill, the person has demonstrated pursuant to a preliminary assessment and site investigation, that hazardous substances have not been discharged; and

(i) with respect to a properly closed sanitary landfill facility, no person who owns or controls the facility receives, has received, or will receive, with respect to such facility, any funds from any post-closure escrow account established pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of the facility.

Only the person who is liable to clean up and remove the contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g) and who does not have a defense to liability pursuant to subsection d. of that section shall be liable for cleanup and removal costs.

u. No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to establish a registration program. The registration program shall require the owners of solar electric power generation facility projects connected to the distribution system to make periodic milestone filings with the board in a manner and at such times as determined by the board to provide full disclosure and transparency regarding the overall level of development and construction activity of those projects Statewide.

v. The issuance of SRECs for all solar electric power generation facility projects pursuant to this section, for projects connected to the distribution system with a capacity of one megawatt or greater, shall be deemed "Board of Public Utilities financial assistance" as provided pursuant to section 1 of P.L.2009, c.89 (C.48:2-29.47).

w. No more than 270 days after the date of enactment of P.L.2012, c.24, the board shall, after notice and opportunity for public comment and public hearing, complete a proceeding to consider whether to establish a program to provide, to owners of solar electric power generation facility projects certified by the board as being three megawatts or greater in capacity and being net metered, including facilities which are owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is designed to supplement the SRECs generated by the facility to further the goal of improving the economic competitiveness of commercial and industrial customers taking power from such projects. If the board determines to establish such a program

pursuant to this subsection, the board may establish a financial incentive to provide that the board shall issue one SREC for no less than every 750 kilowatt-hours of solar energy generated by the certified projects. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provisions of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers.

x. Solar electric power generation facility projects that are located on an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved, or an impervious surface may be owned or operated by an electric public utility and may be approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

(cf: P.L.2012, c.24, s.2)

14. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of ⟦this act⟧ P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) The costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of ⟦this act⟧ P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act. The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in this act shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) Nuclear plant decommissioning costs;

(3) The costs of demand side management programs that were approved by the board pursuant to its demand side management

regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of [this act] P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act. Within four months of the effective date of this act, and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of this act; provided that the funding for such programs be no less than 50% of the total Statewide amount being collected in public electric and gas utility rates for demand side management programs on the effective date of this act for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of this act, and provided that 25% of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in public electric and gas utility rates for demand side management programs on the effective date of this act, except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental

benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding;

(4) Manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) The cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of ⟦this act⟧ P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of ⟦this act⟧ P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of ⟦this act⟧ (C.48:3-85).

On and after the date of enactment of P.L. , c. (C.) (pending before the Legislature as this bill), all funds imposed and collected pursuant to this subsection which, as of the commencement of each State fiscal year, have not been allocated to the gas public utilities and electric public utilities to recover costs of the program established under this subsection or any other law authorizing the use of funds from the societal benefits charge, shall be appropriated for the purpose of funding grants for Class I renewable energy projects and to support the operations of the New Jersey Renewable Energy Utility Corporation established pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), as approved by the board.

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 ⟦(C.48:2-29.31 et seq.)⟧ (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42U.S.C. s. 8621 et seq., and funds collected by electric and natural gas utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

(cf: P.L.1999, c.23, s.12)

15. This act shall take effect immediately.

STATEMENT

This bill establishes the “Renewable Energy Transition Act.”

The bill requires the Board of Public Utilities (board) to adopt minimum requirements for each electric public utility which include introducing equipment and programs to provide for: 1) two-way flow of electricity between electric public utilities and customers generating renewable energy; 2) better control of voltage levels; 3) use of distributed renewable energy systems during periods of lower voltage; 4) energy storage to be used in the event of an emergency; 5) corrections for short-term changes in electricity affecting the stability of the electric grid; 6) encouraging electric public utilities’ customers to consume less electricity during periods of peak demand for energy; 7) movement of electricity, as necessary, during periods of peak demand for energy; and 8) predicting, monitoring, and tracking the output of intermittent renewable power that is connected to the electric grid.

The bill provides that the board is to modify the State’s Energy Master Plan to conform to the requirements this bill; establish a new incentive program for the installation of solar projects generating at least 425 megawatts of energy per energy year; and remove renewable energy credits and solar renewable energy credits from the basic generation service product definition and the basic generation service supplier master agreement.

The bill provides that the board is to require each electric public utility to install demand response equipment to increase demand response capability to 20 percent of the peak electric power demand in the State by energy year 2025. Further, the bill requires the board to study the need for electricity storage, including amounts and timing of its development and deployment, to enable the renewable electricity transition, and alternatives to electricity storage, including, but not limited to, predictive electric grid resource management and long-range power transmission.

The bill defines “renewable energy attributes” as the beneficial effect of renewable energy to this State, including, but not limited to: reducing pollutants and harmful gas emissions, creating jobs, reducing peak demand and throughput in the transmission and distribution system, reducing dependence on out-of-State sources of energy, increasing energy security, protecting against the volatile price of fossil fuel, providing sources of power during an emergency; reducing the cost of fossil fuels, and enhancing the image of the State as an energy efficient, progressive, and high-tech state. The definition further provides that the provision of renewable energy attributes is to be considered a valuable service rendered to the State by the generator of renewable energy.

The bill requires that a certain percentage of the electricity sold in this State be from Class I renewable energy sources. The percentage of electricity sold in this State that is from Class I renewable energy resources is to increase once every five energy years between energy years 2015 and 2050. Beginning with energy year 2015, 11 percent of the electricity sold in this State is to be from Class I renewable energy sources. By energy year 2050, 80 percent of the electricity sold in this State is to be from Class I renewable energy sources.

The bill creates a quasi-governmental authority, the New Jersey Renewable Energy Utility Corporation (corporation). The corporation is to consist of five public members, not members of the Legislature, appointed by the Governor for terms of three years, as follows: two members upon recommendation of the Senate President; two members upon recommendation of the Speaker of the General Assembly; and one member appointed by the Governor. A chairperson is to be appointed by the Governor from the members. The corporation is to employ an executive director who is to be its secretary and chief executive officer. A copy of the minutes of every meeting of the corporation is to be delivered to the Governor. The Governor may veto any action taken by the corporation within a 10-day period following the meeting. The corporation is to submit an annual report of its activities to the Governor and the Legislature.

The powers of the corporation include establishing long-term contracts and market-based standard offer contracts for the purchase of renewable energy certificates and solar renewable energy certificates through a competitive solicitation process, and selling renewable energy certificates and solar renewable energy certificates to an electric public utility. Any debt or obligation of the corporation is to be payable by the corporation, and is not to be in any way a debt or liability of the State or of any of its political subdivisions. Further, the bill requires an electric public utility to purchase renewable energy certificates and solar energy certificates only from its customers or the corporation.

Finally, the bill requires that all funds collected from public utility customers pursuant to the societal benefits charge, which have not been allocated to electric or gas public utilities to recover costs of the programs authorized to receive funding, be appropriated for the purpose of funding grants for Class I renewable energy projects and to support the operations of the corporation, as approved by the board.

Establishes “Renewable Energy Transition Act.”