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Assemblywoman  ANNETTE QUIJANO 
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Co-Sponsored by:
Senators B.Smith and Bateman

SYNOPSIS
Directs BPU to establish standards concerning local government renewable energy generation demonstration projects utilizing renewable energy technologies.

CURRENT VERSION OF TEXT
As reported by the Senate Environment and Energy Committee on December 1, 2011, with amendments.

(Sponsorship Updated As Of: 1/10/2012)

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

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

3. "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;

"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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

Assembly ATU committee amendments adopted September 13, 2010.

Senate SEN committee amendments adopted December 1, 2011.
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, 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;

"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;

"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;

"Central renewable energy generation system" or "CREG system" means a separately metered, Class I renewable energy generation system that has been established and installed at a site that is owned or controlled by a municipality or county after the effective date of P.L. , c. (pending before the Legislature as this bill), that generates power for sale into the PJM grid, and that is licensed by the board pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87);

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, 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 resource recovery facility or hydropower 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 heat and power facility" or "co-generation facility" means a generation facility which produces electric energy, 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;

"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;

"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.;

"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;

"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 and shall be numbered according to the calendar year in which it ends;

"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;
"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;
"Local government renewable energy generation entity” or
“LGREG entity” means a subdivision, office, or department of or a
limited liability corporation or other legal entity established by a
municipality or county, which entity is licensed by the board
pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87)
and manages the establishment, installation, and operation of a
CREG system;
"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;
"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;
"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, and equipment and services appurtenant to electric output by such facility for sale to or use by 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;

"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;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten 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;

"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;

"Renewable energy certificate" or "REC" means a certificate
representing the environmental benefits or 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;

"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;

"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;

"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;

"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 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;

"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; and

"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.2009, c.289, s.1) [1]

[1][2] 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."

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.] h. of this section, a gas energy efficiency portfolio standard pursuant to subsection [h.] i. 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; and

(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.[1]

[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, 2025, that requires suppliers or providers to purchase at least the following number of kilowatt-hours from solar electric power generators in this State:

- EY 2011: 306 Gigawatthours (Gwhrs)
- EY 2012: 442 Gwhrs
- EY 2013: 596 Gwhrs
- EY 2014: 772 Gwhrs
- EY 2015: 965 Gwhrs
- EY 2016: 1,150 Gwhrs
- EY 2017: 1,357 Gwhrs
- EY 2018: 1,591 Gwhrs
- EY 2019: 1,858 Gwhrs
- EY 2020: 2,164 Gwhrs
- EY 2021: 2,518 Gwhrs
- EY 2022: 2,928 Gwhrs
- EY 2023: 3,433 Gwhrs
- EY 2024: 3,989 Gwhrs
- EY 2025: 4,610 Gwhrs
- EY 2026: 5,316 Gwhrs
- EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators in this State, and to establish a framework within which suppliers and providers shall purchase at least 2,518 Gwhrs in the energy year 2021 and 5,316 Gwhrs in the energy year 2026 from solar electric power generators in this State, provided, however, that the number of solar kilowatt-hours required to be purchased by each supplier or provider, when expressed as a percentage of the total number of solar kilowatt-hours purchased in this State, shall be equivalent to each supplier's or provider's proportionate share of the total number of kilowatt-hours sold in this State by all suppliers and providers.
The solar renewable portfolio standards requirements in this paragraph [(3) of this subsection] shall automatically increase by 20% for the remainder of the schedule in the event that the following two conditions are met: (a) the number of SRECs generated meets or exceeds the requirement for three consecutive reporting years, starting with energy year 2013; and (b) the average SREC price for all SRECs purchased by entities with renewable energy portfolio standards obligations has decreased in the same three consecutive reporting years. The board shall exempt providers' existing supply contracts that are: (a) effective prior to the date of P.L.2009, c.289; or (b) effective prior to any future increase in the solar renewable portfolio standard beyond the multi-year schedule established in this paragraph [(3) of this subsection].

This exemption shall apply to the number of SRECs that exceeds the number 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 purchase requirements set forth in this paragraph [(3) of this subsection]. Such incremental new requirements shall be distributed over the electric power suppliers and providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all suppliers are subject to the new requirement.

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."

The renewable energy portfolio standards adopted by the board pursuant to paragraph (3) 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 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the "Administrative Procedure Act."

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; and

(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.

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."

f. 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, after notice, provision of the opportunity for comment, and a public hearing, shall undertake a local government renewable energy generation demonstration project under which the board shall adopt standards which require electric public utilities to offer non-discriminatory rates to an LGREG entity. The electric public utility shall be responsible for reading the utility meters of facilities of municipalities or counties which have established LGREG entities and shall render a bill to each LGREG entity at the standard prevailing tariff rates for electric generation service and electric delivery service that are normally applicable to each such facility and otherwise in accordance with the applicable regulations, including any applicable net metering regulations to the extent a facility meets the requirements of the net metering regulations. Subject to compliance by each licensed CREG system with applicable requirements of the PJM electric power pool for generators, including without limitation, PJM metering requirements, the LGREG entity shall take title to the energy generated by each such CREG system, sell such energy into the PJM electric power pool's real-time energy market, and arrange for the electric public utility to receive the gross payments for energy and capacity received from PJM associated with the energy generated by each such CREG system, without deduction for any fees or penalties paid or payable to PJM by the entity. For each kilowatt-hour of energy sold by the LGREG entity operating a CREG system for which the electric public utility receives such assigned PJM payments, the electric public utility shall pay the
LGREG entity an amount equal to the then prevailing per kilowatt-hour BGS rate for fixed price customers, or if there is no such rate, a reasonably comparable amount determined by the board; provided that, if the aggregate generation of all CREG systems operated by an LGREG entity exceeds the aggregate amount of electricity supplied by the electric power supplier or BGS provider to the facilities of the municipality or county over an annualized period, the price for such excess generation shall be the average over such annualized period of 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, which may require an adjustment to the amounts previously paid by the electric public utility to the LGREG entity. Such payments, or the financial equivalent of such payments, shall be made by the electric public utility to the LGREG entity no more frequently than monthly and may be made through tariff or contract according to the preference of the electric public utility with which LGREG entity is registered. Any difference between the amounts paid by the electric public utility to the LGREG entity and the PJM payments received by the electric public utility associated with such CREG system energy, positive or negative, along with the electric public utility’s incremental costs of implementing and administering the payments, shall flow through a reconciliation clause of the electric public utility’s tariff.

An LGREG entity may contract for and accept any gifts, grants, loans of funds or financial or other aid in any form from any person, including an individual, authority, partnership, or otherwise, or from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality, or political subdivision thereof to provide funding for any costs associated with the establishment, installation, or operation of a CREG system. CREG systems that are connected to the distribution system may earn eligible energy credits, SRECs, or other applicable incentives. An LGREG entity shall not be considered an electric public utility. All LGREG entities and CREG systems shall be licensed by the board. The board’s licensing requirements shall ensure sound and uniform business practices. The board shall adopt and implement an LGREG entity and CREG system licensing procedure within 30 days after the effective date of P.L. , c. (pending before the Legislature as this bill). For the purposes of the licensing procedure established pursuant to this subsection, the board shall issue an order in writing either approving or disapproving an LGREG entity or CREG system application for licensing within 30 days of the date of receipt of such application. If the board fails to either approve or disapprove the application within the 30-day period, the application shall be deemed to be approved.
The purpose of the local government renewable energy generation demonstration project shall be to demonstrate the feasibility of utilizing an LGREG entity or other like entity to allow local governments and other entities, public and private, which own or control noncontiguous properties to benefit from available Class I renewable energy technologies.

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.

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.

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.

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.
The board shall determine an appropriate level of solar alternative compliance payment, and establish a 15-year solar alternative compliance payment schedule, that permits 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 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.

The board may allow electric public utilities to offer long-term contracts 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.

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.

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.
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.

The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in the Department of the Public Advocate, 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.

Class I RECs 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 two energy years.

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

"Approved central renewable energy generation system” or “approved CREG system” means a separately metered, Class I renewable energy generation system that has been established and installed within an eligible municipality with its site plan approved by the municipal governing body or at a site that is within and owned or controlled by a municipality after the effective date of P.L. , c. (pending before the Legislature as this bill), that generates power for sale into the PJM grid, and that is licensed by the board pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87);

"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;

"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, 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;

"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;

"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, 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 resource recovery facility or hydropower 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 heat and power facility" or "co-generation facility" means a generation facility which produces electric energy, 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;

"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;

"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.;

"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 municipality” means a municipality with an approved CREG system that has submitted an application to PJM by December 31, 2010 and (1) has its approved CREG system located on an existing brownfields development area as designated by the New Jersey Department of Environmental Protection pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1); or (2) has its approved CREG system located on property that is included as a site on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. s.9605 within the municipality’s borders; or (3) has a federal military installation located partially or entirely within its borders;

"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 and shall be numbered according to the calendar year in which it ends;

“Federal military installation” means a base, camp, post, station, yard, center, homeport facility or ship, or any other activity under the jurisdiction of a department, agency, or other instrumentality of the federal Department of Defense, including a leased facility, except that such term shall not include any facility used primarily for civil works, rivers and harbor projects, or flood control projects;

"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;

"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;

“Local government renewable energy generation entity” or “LGREG entity” means a subdivision, office, or department of, or a limited liability corporation or other legal entity established by, a municipality, which entity is licensed by the board pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87), which oversees the establishment and installation of, and which arranges to purchase a portion of the production of, an approved CREG system, limited to no more than five megawatts of the CREG system’s capacity, to help meet the electricity-related needs of the municipality or the electricity related needs of other governmental entities for their operations that are within or adjacent to the municipality;

"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;

"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, and equipment and services appurtenant to electric output 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;

"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;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten 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);

"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;

"Renewable energy certificate" or "REC" means a certificate representing the environmental benefits or 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 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;

"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;
"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;
"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 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;

"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; and

"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.¹
(cf: P.L.2010, c.57, s.1)²

21. 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.):

“Approved central renewable energy generation system” or
“approved CREG system” means a separately metered, Class I
renewable energy generation system that has been established and
installed within an eligible municipality with its site plan approved
by the municipal governing body or at a site that is within and
owned or controlled by a municipality after the effective date of
P.L. , c. (pending before the Legislature as this bill), that
generates power for sale into the PJM grid, and that is licensed by
the board pursuant to subsection f. of section 38 of P.L.1999, c.23
(C.48:3-87);

"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, 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;

"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;

"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, 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 resource recovery facility or hydropower 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, 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;

"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.;
"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.);

“Eligible municipality” means a municipality with an approved CREG system that has submitted an application to PJM by December 31, 2012 and (1) has its approved CREG system located on an existing brownfields development area as designated by the New Jersey Department of Environmental Protection pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1); or (2) has its approved CREG system located on property that is included as a site on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C. s.9605 within the municipality’s borders; or (3) has a federal military installation located partially or entirely within its borders;

"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;

"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;

“Federal military installation” means a base, camp, post, station, yard, center, homeport facility or ship, or any other activity under the jurisdiction of a department, agency, or other instrumentality of the federal Department of Defense, including a leased facility,
except that such term shall not include any facility used primarily for civil works, rivers and harbor projects, or flood control projects;

"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;

"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;

“Local government renewable energy generation entity” or “LGREG entity” means a subdivision, office, or department of, or a limited liability corporation or other legal entity established by, a municipality, which entity is licensed by the board pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87), which oversees the establishment and installation of, and which arranges to purchase a portion of the production of, an approved CREG system, limited to no more than five megawatts of the CREG system’s capacity, to help meet the electricity-related needs of the municipality or the electricity related needs of other governmental entities for their operations that are within or adjacent to the municipality;

"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 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, and equipment and services appurtenant to electric sales output 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;

"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;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten 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);

"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 certificate" or "REC" means a certificate
representing the environmental benefits or 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;
"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;

"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;

"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 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;

"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; and

"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.\(^2\)

(cf: P.L.2011, c.9, s.2)

'2. 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.”

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].

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, 2025, that requires suppliers or providers to purchase at least the following number of kilowatt-hours from solar electric power generators in this State:

<table>
<thead>
<tr>
<th>Year</th>
<th>Gigawatthours (Gwhrs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2011</td>
<td>306 Gwhrs</td>
</tr>
<tr>
<td>EY 2012</td>
<td>442 Gwhrs</td>
</tr>
<tr>
<td>EY 2013</td>
<td>596 Gwhrs</td>
</tr>
<tr>
<td>EY 2014</td>
<td>772 Gwhrs</td>
</tr>
<tr>
<td>EY 2015</td>
<td>965 Gwhrs</td>
</tr>
<tr>
<td>EY 2016</td>
<td>1,150 Gwhrs</td>
</tr>
<tr>
<td>EY 2017</td>
<td>1,357 Gwhrs</td>
</tr>
<tr>
<td>EY 2018</td>
<td>1,591 Gwhrs</td>
</tr>
<tr>
<td>EY 2019</td>
<td>1,858 Gwhrs</td>
</tr>
<tr>
<td>EY 2020</td>
<td>2,164 Gwhrs</td>
</tr>
<tr>
<td>EY 2021</td>
<td>2,518 Gwhrs</td>
</tr>
<tr>
<td>EY 2022</td>
<td>2,928 Gwhrs</td>
</tr>
<tr>
<td>EY 2023</td>
<td>3,433 Gwhrs</td>
</tr>
<tr>
<td>EY 2024</td>
<td>3,989 Gwhrs</td>
</tr>
</tbody>
</table>
EY 2025  4,610 Gwhrs
EY 2026  5,316 Gwhrs
EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators in this State, and to establish a framework within which suppliers and providers shall purchase at least 2,518 Gwhrs in the energy year 2021 and 5,316 Gwhrs in the energy year 2026 from solar electric power generators in this State, provided, however, that the number of solar kilowatt-hours required to be purchased by each supplier or provider, when expressed as a percentage of the total number of solar kilowatt-hours purchased in this State, shall be equivalent to each supplier's or provider's proportionate share of the total number of kilowatt-hours sold in this State by all suppliers and providers.

The solar renewable portfolio standards requirements in this paragraph [(3) of this subsection] shall automatically increase by 20% for the remainder of the schedule in the event that the following two conditions are met: (a) the number of SRECs generated meets or exceeds the requirement for three consecutive reporting years, starting with energy year 2013; and (b) the average SREC price for all SRECs purchased by entities with renewable energy portfolio standards obligations has decreased in the same three consecutive reporting years. The board shall exempt providers' existing supply contracts that are: (a) effective prior to the date of P.L.2009, c.289; or (b) effective prior to any future increase in the solar renewable portfolio standard beyond the multi-year schedule established in this paragraph [(3) of this subsection]. This exemption shall apply to the number of SRECs that exceeds the number 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 purchase requirements set forth in this paragraph [(3) of this subsection]. Such incremental new requirements shall be distributed over the electric power suppliers and providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all suppliers are subject to the new requirement.

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."

The renewable energy portfolio standards adopted by the board
pursuant to paragraph (3) 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
30 months after such filing, and shall, thereafter, be amended,
adopted or readopted by the board in accordance with the
"Administrative Procedure Act"; 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 megawatts of generation
from qualified offshore wind projects.

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 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

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; and

(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.

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."

f. 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, immediately upon the effective date of P.L. , c. (pending before the Legislature as this bill), permit local government renewable energy generation demonstration projects for which the board shall adopt standards which require electric public utilities to offer non-discriminatory rates to the applicable LGREG entities. The electric public utility shall be responsible for reading the utility meters of facilities of government entities which are members of established LGREG entities and shall render a bill to each LGREG entity at the standard prevailing tariff rates for electric generation service and electric delivery service that are normally applicable to each such facility and otherwise in accordance with the applicable regulations, including any applicable net metering regulations to the extent a facility meets the requirements of the net metering regulations. Subject to compliance by each licensed approved CREG system with applicable requirements of the PJM electric power pool for generators, including without limitation, PJM metering requirements, the LGREG entity shall take title to the energy generated by each such approved CREG system, sell such energy into the PJM electric power pool's real-time energy market, and arrange for the electric public utility to receive the gross payments for energy and capacity received from PJM associated with the energy generated by each such approved CREG system, without
deduction for any fees or penalties paid or payable to PJM by the entity. For each kilowatt-hour of energy sold by the LGREG entity from such an approved CREG system for which the electric public utility receives such assigned PJM payments, the electric public utility shall pay the LGREG entity an amount equal to the then prevailing per kilowatt-hour BGS rate for fixed price customers, or if there is no such rate, a reasonably comparable amount determined by the board; provided that, if the aggregate generation of all approved CREG systems serving an LGREG entity exceeds the aggregate amount of electricity supplied by the electric power supplier or BGS provider to the CREG-serving facilities over an annualized period, the price for such excess generation shall be the average over such annualized period of 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, which may require an adjustment to future payments for the amounts previously paid by the electric public utility to the LGREG entity. Such payments, or the financial equivalent of such payments, shall be made by the electric public utility to the LGREG entity monthly and may be made through tariff or contract according to the preference of the electric public utility with which LGREG entity is registered. Any difference between the amounts paid by the electric public utility to the LGREG entity and the PJM payments received by the electric public utility associated with such approved CREG system energy, positive or negative, along with the electric public utility’s incremental costs of implementing and administering the payments, shall flow through a reconciliation clause of the electric public utility’s tariff.

An LGREG entity may contract for and accept any gifts, grants, loans of funds or financial or other aid in any form from any person, including an individual, authority, partnership, or otherwise, or from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality, or political subdivision thereof to provide funding for any costs associated with the establishment, installation, or operation of an approved CREG system. Approved CREG systems that are connected to the distribution system may earn eligible energy credits, SRECs, or other applicable incentives. An LGREG entity shall not be considered an electric public utility. All LGREG entities and approved CREG systems shall be licensed by the board. The board’s licensing requirements shall ensure sound and uniform business practices. The board shall adopt and implement an LGREG entity and approved CREG system licensing procedure within 30 days after the effective date of P.L. c. (pending before the Legislature as this bill). For the purposes of the licensing procedure established pursuant to this subsection, the board shall issue an order in writing either approving or disapproving an LGREG entity or approved CREG system.
application for licensing within 30 days of the date of receipt of such application. If the board fails to either approve or disapprove the application within the 30-day period, the application shall be deemed to be approved.

The purpose of the local government renewable energy generation demonstration projects shall be to demonstrate the feasibility of utilizing LGREG entities or other like entities to allow local governments and other entities, public and private, which own or control noncontiguous properties to benefit from or provide available Class I renewable energy technologies.

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.

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.

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.

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
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.

The board shall determine an appropriate level of solar alternative compliance payment, and establish a 15-year solar alternative compliance payment schedule, that permits 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 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.

The board may allow electric public utilities to offer long-term contracts 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.

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.

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.

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.

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.

Class I RECs 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 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.¹

This act shall take effect immediately.