

“Energy agent” means a person that is duly registered by the Board to arrange the sale of retail electricity or electric related services between government aggregators or private aggregators and electric power suppliers, but does not take title to the electric sold.

“Energy portfolio” means all of the electrical energy supplied by a particular electric power supplier or basic generation service provider to New Jersey retail customers.

“Fuel cell” means an electrochemical device that converts chemical energy in a hydrogen or hydrogen-rich fuel directly into electricity, without combustion.

“GATS system” means the Generation Attribute Tracking System that, as of April 19, 2004, is under development by PJM Interconnection.

“Geothermal energy” means energy generated by a steam turbine, driven by hot water or steam extracted from geothermal reservoirs in the earth’s crust.

“Installed capacity obligation” means the requirement for an electric power supplier or basic generation service provider to obtain an amount of electrical generation capacity to meet load service obligations under the reliability rules of PJM Interconnection. Installed capacity includes the generation capacity which a company considers part of its own electric system, including wholly owned units, jointly-owned units, non-utility generation (NUGs), and purchases.

“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 contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers.

“Net metering” means the difference between the electricity generated on the customer’s side of the meter using wind or solar photovoltaic systems and the amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period as determined by a meter which is allowed to run backwards.

“NJDEP” means the New Jersey Department of Environmental Protection.

“Old-growth timber” means wood or plant matter taken from a forest in the late successional stage of forest development, including plant matter taken from the forest floor. Late successional forests contain live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old-growth timber varies significantly by forest type and from one biogeoclimatic zone to another.

“PJM Interconnection” means the regional transmission organization (RTO) that coordinates the movement of

wholesale electricity in the PJM region, as defined in this section.

“PJM region” means the area within which the movement of wholesale electricity is coordinated by PJM Interconnection, as defined in this section. (“PJM” stands for Pennsylvania–Jersey–Maryland.) The PJM region is described in the Amended and Restated Operating Agreement of PJM Interconnection, which is incorporated herein by reference, as amended and supplemented. The Operating Agreement can be obtained on the PJM Interconnection website at www.pjm.com, or by writing to PJM Interconnection, Legal Department, 955 Jefferson Avenue, Norristown, PA 19403. As of April 19, 2004, the PJM region includes all or parts of Delaware, Maryland, New Jersey, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

“Qualified renewable energy” means electricity that may be used in complying with the minimum portfolio requirements set forth at N.J.A.C. 14:4-8.3 for class I renewable energy, including solar electric generation requirements, and/or class II renewable energy. Provisions governing the types of energy that qualify as class I renewable energy, solar electric generation, and class II renewable energy, are set forth at N.J.A.C. 14:4-8.4, 8.5 and 8.6, respectively.

“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 meets the requirements of this subchapter. There are three kinds of RECs—class I RECs, which represent the environmental benefits or attributes of one megawatt-hour of class I renewable energy generation; class II RECs, which represent the environmental benefits or attributes of one megawatt-hour of class II renewable energy generation; and solar RECs, which represent the environmental benefits or attributes of one megawatt-hour of solar electric generation.

“Renewable fuel” means a fuel that is naturally regenerated over a short time scale and is either derived from the sun (such as thermal, photochemical or photoelectric), or from other natural sources such as wind, hydropower, geothermal and tidal energy, or photosynthetic energy stored in biomass. This term does not include a fossil fuel, a waste product from a fossil source, or a waste product from an inorganic source.

“Reporting year” means the 12-month period from June 1st through May 31st. A reporting year shall be numbered according to the calendar year in which it ends, so that reporting year 2005 runs from June 1, 2004 through May 31, 2005.

“Retail choice” or “retail competition” means the ability of retail customers to purchase electric generation service from electric power suppliers, or to choose basic generation service, as defined in this section. This term also includes the ability of any electric power supplier, upon meeting

basic licensing requirements, to offer electric generation service to retail customers.

“Retail customer” means any person that is an end user of electricity and is connected to any part of the transmission and distribution system within an electric public utility’s service territory in New Jersey. This term includes an aggregator, as well as the customer of a private sector aggregator or government aggregator, but does not include a wholesale customer.

“Societal benefits charge” means a charge imposed by an electric public utility, at a level determined by the Board, in accordance with N.J.S.A. 48:3-60.

“Solar alternative compliance payment” or “SACP” means a payment of a certain dollar amount per megawatt-hour, which a supplier/provider may submit in lieu of complying with the solar electric generation requirements in Table A in N.J.A.C. 14:4-8.3.

“Solar electric generation” means creation of electricity using a system that employs solar radiation to produce energy that powers an electric generator. Solar electric generation includes technologies that utilize the photovoltaic effect. Solar electric generation is a type of class I renewable energy.

“Solar REC” means a type of REC, as defined in this section, issued by the Board or its designee, which represents the environmental benefits or attributes of one megawatt-hour of solar electric generation, as defined in this section.

“Supplier/provider” means an electrical power supplier or a basic generation service provider, as those terms are defined in this section.

“True-up period” means the period each year from the end of the reporting year until September 1.

Amended by R.2003 d.260, effective July 7, 2003.

See: 35 N.J.R. 94(a), 35 N.J.R. 2892(a).

Rewrote “Fuel Cell” and “PJM Interconnection, L.L.C.”.

Amended by R.2004 d.151, effective April 19, 2004.

See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).

Rewrote the section.

14:4-8.3 Minimum percentage of renewable energy required

(a) Each supplier/provider, as defined at N.J.A.C. 14:4-8.2, that sells electricity to retail customers in New Jersey, shall ensure that the electricity it sells each reporting year in New Jersey includes at least the minimum percentage of qualified renewable energy, as defined at N.J.A.C. 14:4-8.2, required for that reporting year from each category specified in Table A below:

Table A

Minimum Percentage of Renewable Energy—2004 through 2008

Reporting Year	Solar Electric Generation (solar RECs)	Class I Renewable Energy	Class II Renewable Energy	Total Renewable Energy
2004	0.01%	.74%	2.5%	3.25%
2005	0.017%	0.983%	2.5%	3.5%
2006	0.036%	1.964%	2.5%	4.5%
2007	0.076%	2.924%	2.5%	5.5%
2008	0.16%	3.84%	2.5%	6.5%

(b) The Board shall adopt rules setting the minimum percentages of solar electric generation, class I renewable energy, and class II renewable energy required for reporting year 2009 and each subsequent reporting year. These minimum percentages shall be no lower than those required for reporting year 2008 in Table A above. Each of the rules setting such minimum percentage shall be adopted at least two years prior to the minimum percentage being required.

(c) A supplier/provider shall meet the requirements for solar electric generation in Table A above through submittal of solar RECs, or through submittal of one or more SACP, as those terms are defined at N.J.A.C. 14:4-8.2.

(d) A supplier/provider may choose to meet the class I and class II renewable energy requirements in Table A above through supplying renewable energy or through the use of RECs in accordance with N.J.A.C. 14:4-8.8. However, class I and class II renewable energy RECs shall be used only after the GATs system is operational and the Board has authorized such use by Board order.

(e) If a supplier/provider complies with this subchapter by directly supplying solar electric generation, class I renewable energy, and/or class II renewable energy to customers, the energy shall be supplied to customers during the reporting year.

(f) A supplier/provider may, in lieu of meeting the requirements in Table A above, comply with this subchapter by submitting the appropriate number of ACPs or SACP, in accordance with N.J.A.C. 14:4-8.10.

(g) The following shall apply to the type of energy used for compliance with each of the requirements in Table A above:

1. Solar RECs may be used to meet any requirement in Table A, whether the requirement is for solar electric generation, class I renewable energy, or class II renewable energy;

2. Direct supply of solar electric generation may be used to meet class I or class II renewable energy requirements, but shall not be used to meet solar electric generation requirements;

3. Class I renewable energy may be used to meet class I renewable energy requirements or class II renewable energy requirements, but shall not be used to meet solar electric generation requirements; and

4. Class II renewable energy shall be used only to meet class II renewable energy requirements, and shall not be used to meet solar electric generation requirements or class I renewable energy requirements.

(h) The percentage requirements in (a) through (g) above take effect on June 1, 2004. For the five-month period starting January 1, 2004 and ending at the start of reporting year 2005 (June 1, 2004), the percentage requirements shall be as follows:

Time period	Class I	Class I or II	Total
January 1, 2004 through May 31, 2004	0.375%	1.25%	1.625%

(i) Upon the Board’s adoption of a tracking system for class I and II renewable energy, a supplier/provider shall no longer be authorized to demonstrate compliance with this subchapter using direct supply of any type of renewable energy. All RPS compliance shall thereafter be submitted in the form of RECs.

Repeal and New Rule, R.2004 d.151, effective April 19, 2004.
See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).
Section was “Implementation schedule”.

14:4-8.4 Compliance with solar electric generation requirements

(a) The requirements in Table A of N.J.A.C. 14:4-8.3 for solar electric generation shall be met through the submittal of solar RECs, as defined at N.J.A.C. 14:4-8.2; or submittal of SACPs in accordance with N.J.A.C. 14:4-8.10. Direct supply of solar electric generation may be used to meet class I or class II renewable energy requirements, but shall not be used to meet the solar electric generation requirements in Table A.

(b) A supplier/provider shall not use a solar REC that has been used to satisfy another state’s renewable energy requirements for compliance with the requirements at N.J.A.C. 14:4-8.3 for solar electric generation.

(c) The same renewable energy shall not be used for more than one of the following:

1. Creation of a REC under N.J.A.C. 14:4-8.9;
2. Direct supply to customers for compliance with any of the requirements in this subchapter;
3. Direct supply to customers for compliance with another state’s renewable energy standards; or
4. Creation of a REC or other type of attribute or credit, for use in complying with another state’s renewable energy requirements.

Repeal and New Rule, R.2004 d.151, effective April 19, 2004.
See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).
Section was “Reporting requirements of the interim standards”.

14:4-8.5 Compliance with class I renewable energy requirements

(a) This section sets forth the types of energy that qualify as class I renewable energy for the purposes of this subchapter. The Board has determined that energy listed at (b) below qualifies as class I renewable energy, with no prior approval required. Energy listed at (d) and (e) below shall qualify as class I renewable energy if the conditions specified in those subsections are met.

(b) The following qualify as class I renewable energy for the purposes of this subchapter, with no prior approval required:

1. Solar electric generation, either in the form of solar RECs or as direct supply to customers;
2. Electricity derived from wind energy;
3. Electricity derived from wave or tidal action;
4. Electricity that is geothermal energy, as defined in N.J.A.C. 14:4-8.2;
5. Electricity generated by the combustion of methane gas captured from a landfill;
6. Electricity generated by a fuel cell powered by methanol, ethanol, landfill gas, digester gas, biomass gas, or other renewable fuel. Electricity generated by a fuel cell powered by a fossil fuel shall not qualify as class I renewable energy for the purposes of this subchapter;
7. Electricity generated by the combustion of gas from the anaerobic digestion of food waste and sewage sludge at a biomass generating facility;
8. Electricity generated through a class I renewable energy project funded by the societal benefits charge, as defined at N.J.A.C. 14:4-8.2; and
9. Electricity generated through a project funded through the Board’s Clean Energy Program.

(c) For purposes of this section, the term “combustion of biomass” includes both the burning of captured methane gas derived from biomass, as well as the direct firing of biomass.

(d) Electricity produced through combustion of the following types of biomass shall qualify as class I renewable energy, provided that the NJDEP provides Board staff with a biomass sustainability determination for the biomass in accordance with (f) and (g) below:

1. A bioenergy crop, as defined at N.J.A.C. 14:4-8.2, including wood produced at a biomass energy plantation;
2. Wood from the thinning or trimming of trees and/or from a forest floor, provided that the wood is not old-growth timber, as defined at N.J.A.C. 14:4-8.2; and

that the wood is unadulterated by noncellulose substances or material;

3. Gas generated by anaerobic digestion of biomass fuels other than food waste and sewage sludge, including bioenergy crops and agricultural waste; and

4. Either of the following types of wood, provided that the wood is unadulterated by noncellulose substances or material:

i. Ground or shredded pallets or other scrap wood, with all nails and other metal removed, produced at a facility that is classified as a Class B recycling facility by the New Jersey Department of Environmental Protection's Bureau of Landfill and Recycling Management, or at an equivalent recycling facility approved by the State environmental agency in which the facility is located; or

ii. Wood shavings and/or scrap from a lumberyard or a paper mill, excluding black liquor, as defined at N.J.A.C. 14:4-8.2.

(e) Electricity produced through combustion of a type of biomass not described in this section may qualify as class I renewable energy for the purposes of this subchapter, provided that the NJDEP provides Board staff with a biomass sustainability determination for the biomass in accordance with (f) and (g) below.

(f) To support a biomass sustainability determination, a supplier/provider or biomass facility operator shall demonstrate all of the following:

1. The generation facility meets NJDP requirements for state-of-the-art (SOTA) air pollution control at N.J.A.C. 7:27-8;

2. The generation facility's ash management practices comply with NJDEP requirements; and

3. All plant matter used directly as biomass fuel was cultivated and harvested in a sustainable manner, in accordance with a management plan approved by the State environmental agency or agricultural agency in the state in which the plant was grown. If the plant matter is not used directly as biomass fuel, but is subject to alteration after its harvest and before its use as biomass fuel, this determination is not required.

(g) To obtain a biomass sustainability determination, a supplier/provider or biomass facility operator shall submit a request for the determination, including any documentation required by NJDEP. The request shall be submitted to the NJBPU Office of Clean Energy, PO Box 350, Trenton, New Jersey 08625. The supplier/provider or biomass facility operator shall simultaneously provide a copy of the request to the NJDEP's Office of Innovative Technology, PO Box 409, Trenton, New Jersey 08625.

(h) If a biomass sustainability determination is required for class I renewable energy used to comply with this subchapter, the supplier/provider shall submit the determination as part of the annual report required under N.J.A.C. 14:4-8.11, or the biomass facility operator shall submit the determination by September 1 of each year. If the determination is not submitted annually, the energy shall not qualify for use to comply with this subchapter, and the supplier/provider shall submit RECs or ACPs to make up the shortfall. A determination submitted to Board staff after the due date of the annual report shall not be accepted, and the electricity shall not be counted towards the supplier/provider's compliance with this subchapter.

(i) A supplier/provider that uses electricity generated through use of biomass to comply with this subchapter shall maintain documentation that the biomass meets the requirements of this section. If the supplier/provider or biomass facility operator obtained an NJDEP biomass sustainability determination, the supplier/provider or biomass facility operator shall maintain the request for the determination and all supporting documentation on file for five years, and shall produce that documentation upon request by the Board or its designee. In addition, the supplier/provider or biomass facility operator shall annually provide to the Board an affidavit from the operator of the generating facility, certifying that the generating facility continues to operate in conformity with the request and documentation originally provided.

(j) If a generating facility that uses biomass is covered by an NJDEP biomass sustainability determination, and there is a change in the operation of the facility or in the composition of the biomass used as fuel, including in its cultivation and harvesting, any supplier/provider that intends to rely on the facility in the following year for RPS compliance shall do one of the following:

1. Submit a new application for a biomass sustainability determination to the Board. The new application shall be submitted as part of the annual report required under N.J.A.C. 14:4-8.11; or

2. Ensure that the biomass facility operator submits a new determination within 30 days after the change is made, and no later than the date upon which the annual report is due under N.J.A.C. 14:4-8.11.

(k) Failure to submit the information required under (j) above shall disqualify the electricity produced from the facility from use as class I renewable energy as of the date the change in the operation or fuel was made.

(l) Electricity produced through combustion of the following substances shall not qualify as class I renewable energy for the purposes of this subchapter:

1. Treated, painted or chemically coated wood;
2. Municipal solid waste;