



SPONSOR: Sen. Townsend & Rep. Mulrooney

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 135

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO THE PUBLIC SERVICE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 26, Chapter 13 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 1309. Recovery of costs of source-water projects in rates of public utilities.

4 In the case of a public utility subject to the jurisdiction of the Public Service Commission, upon the determination
5 by the Commission that a watershed enhancement project confirmed as useful in protecting source water in a report of the
6 University of Delaware Water Resources Center has been placed into service by the public utility and is used and useful in
7 the provision of public utility services within a 3-year period prior to a general rate case filing, the Commission may allow
8 the public utility to recover, in its rates, its reasonable incurred capital and ongoing operating costs for such project. The
9 report from the University of Delaware Water Resources Center shall, among other things, quantify the amount of funds
10 invested by the public utility in relation to funds invested by any other entity, including Pennsylvania municipalities or
11 water utilities. Nothing in this section precludes the Commission from authorizing an allowance for funds used during
12 construction of any such enhancement project.

13 Section 2. Amend § 302, Title 26 of the Delaware Code by making deletions as shown by strikethrough and
14 insertions as shown by underline as follows:

15 § 302. Determination of rate base.

16 (a) The Commission may, from time to time, ascertain and determine the rate base of any public utility whenever,
17 in the judgment of the Commission, it is necessary so to do for the purpose of carrying out this chapter, and in making such
18 determination the Commission may have access to and use any books, documents, or records in the possession of any
19 department, board, commission or agency of this State or any political subdivision thereof. In ascertaining and determining

20 the rate base, the Commission may determine every fact, matter, or thing which, in its judgment, does or may have any
21 bearing thereon.

22 (b) If a water utility is not, pursuant to § 122(3)c. of Title 16, under review concerning its water system's ability to
23 provide adequate service to its customers under its present certificates of public convenience and necessity or subject to a
24 review by the Commission of the appropriate rates to be charged by the water utility in light of the quality of service being
25 provided to its customers, the Commission will include in the utility's rate base, treat as used and useful utility plant, and,
26 accordingly, allow to be fully recovered in the utility's rates without imputation of revenues, all costs which are incurred by
27 the water utility, in the exercise of its good faith business judgment, in constructing facilities (including without limitation
28 supply, treatment and transmission facilities) to serve the needs of existing customers or of persons who are reasonably
29 anticipated by the water utility to be its customers within 3 years from the date used by the Commission to recognize rate
30 base in the rate proceeding. The number of customers reasonably anticipated to be added within that 3-year period will
31 consist of customer projections which are relied on by the utility and are generated by professional engineers or planners,
32 governmental or regulatory agencies, officials or authorities, or the water utility itself, and which are not arbitrary and
33 capricious. If the water utility does not, by the end of the 3-year period after the date used by the Commission to recognize
34 rate base in the rate proceeding, reach at least 75% of the total number of customers originally anticipated to be served by
35 the facilities, the Commission may only then require the water utility to impute revenues and then only to the extent of the
36 number of customers it originally anticipated to be served by the facilities but who have not, as of the end of the 3-year
37 period, been added. This section does not apply to a watershed enhancement project as defined under § 1309 of this title.

38 (c) If a water utility is not, pursuant to § 122(3)c. of Title 16, under review concerning its water system's ability to
39 provide adequate service to its customers under its present certificates of public convenience and necessity or subject to a
40 review by the Commission of the appropriate rates to be charged by the water utility in light of the quality of service being
41 provided to its customers, the Commission may include in the utility's rate base, treat as used and useful utility plant, and,
42 accordingly, allow to be fully recovered in the utility's rates without imputation of revenues, all costs which are incurred by
43 the water utility, in the exercise of its good faith business judgment, in investments in watershed enhancement projects
44 under terms specifically articulated under § 1309 of this title.

SYNOPSIS

In addition to legislation codifying the recommendations of the Clean Water & Flood Abatement Task Force, other important steps around clean water and clean-water infrastructure should be taken. This bill is intended to promote long-term freshwater security by facilitating private-sector investments in watershed enhancement projects designed to protect high-quality drinking water for Delaware. The bill provides that the Public Service Commission may allow a public utility to recover, in its rates, its reasonable incurred capital and ongoing operating costs for watershed enhancement projects that meet are: 1) confirmed as useful in protecting source water by the University of Delaware Water Resource Center; 2) placed into service; and 3) used and useful in the provision of public utility services within a 3-year period before a general

rate case filing. The bill also provides that the Commission may authorize an allowance of funds used during the construction of such project. This bill is timely as private-sector entities are actively considering investments like these in areas that will improve Delaware's water supply and freshwater resources, and in that Delaware advocates are receiving national recognition and funding for the development of these models.

Author: Senator Townsend