



SPONSOR: Sen. Lopez

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 325

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PROPANE PROVIDED THROUGH A COMMUNITY GAS SYSTEM UNDER A PERPETUAL EASEMENT.

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

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

3 § 102. Definitions.

4 As used in this title, unless the context otherwise requires:

5 (1) "Commission" means the Public Service Commission.

6 () "Community gas system" means a propane system whereby a central propane tank is installed above or
7 below ground in a low visibility, common area in a housing development, and underground gas mains are then run to
8 individual property lots.

9 () "Perpetual easement" means a permanent easement given to a propane provider that grants the propane
10 provider the perpetual right to enter upon real property for the purpose of conveying propane and includes a provision
11 that the propane provider be the exclusive provider of propane and is binding on the grantee's successors or assigns
12 and binds and runs with the development of which is pertains.

13 (2) "Public utility" includes every individual, partnership, association, corporation, joint stock company,
14 agency or department of the State or any association of individuals engaged in the prosecution in common of a
15 productive enterprise (commonly called a "cooperative"), their lessees, trustees or receivers appointed by any court
16 whatsoever, that now operates or hereafter may operate for public use within this State, (however, electric cooperatives
17 shall not be permitted directly or through an affiliate to engage in the production, sale or distribution of propane gas or
18 heating oil), any natural gas, propane provided through a community gas system under a perpetual easement, electric
19 (excluding electric suppliers as defined in § 1001 of this title), electric transmission by other than a public utility over
20 which the Commission has no supervisory or regulatory jurisdiction pursuant to § 202(a) or (g) of this title, water,
21 wastewater (which shall include sanitary sewer charge), telecommunications (excluding telephone services provided by
22 cellular technology or by domestic public land mobile radio service) service, system, plant or equipment.

SYNOPSIS

The Public Service Commission ("PSC") has the exclusive supervision and regulation of all public utilities and over their rates. Public utilities under the Act include natural gas, electric, water, wastewater, and telecommunications. Propane is not included. Yet, for many Delawareans, propane is the only source of heat for the household. The reason that the PSC has supervision and regulation over all public utilities and their rates is because public utilities are necessary for the citizens of this State and supervision is needed to ensure that the rates for these utilities are not usurious and unaffordable for people in this State.

This bill adds propane provided through a community gas system under a perpetual easement to the definition of "public utility" thereby given the PSC supervision and regulation over it and the rates charged by providers for it. For many residents of this State, propane, is offered through a community gas system under a perpetual easement. These easements are permanent and not only grant propane providers a perpetual right to enter upon land for the purpose of conveying propane, but also includes a provision that the propane provider be the exclusive provider of propane. These provisions are permanent and binding on every owner of the property in perpetuity.

These "in perpetuity" provisions eliminate any competition for the provision of propane for these homeowners by prohibiting them from obtaining propane from any other provider even if that other provider can provide propane at a lower rate. By authorizing the PSC supervision and regulation over the rate of propane provided through a community gas system under a perpetual agreement, it ensures fairness in the rate for the provision of propane.

Author: Senator Lopez