



SPONSOR: Sen. McDowell & Rep. Heffernan

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 265

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO RENEWABLE ENERGY PORTFOLIO STANDARDS.

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

Section 1. Amend § 354, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 354. Renewable energy portfolio standards, eligible energy resources and industrial exemption.

(i)(1) ~~The State Energy Coordinator in consultation with the Commission,~~ The Director of the Division of Energy and Climate of DNREC may freeze the minimum cumulative solar photovoltaics requirement for regulated utilities if the ~~Delaware Energy Office~~ Division of Energy and Climate of DNREC determines that the annual change in the total cost of complying with this requirement during a compliance year exceeds ~~4%~~ 0.5% of the total retail cost of electricity for customers of retail electricity suppliers during the same compliance year.

(2) In the event of a freeze, the minimum cumulative percentage from solar photovoltaics shall remain at the percentage for the year in which the freeze is instituted. The freeze shall be lifted upon a finding by the ~~Coordinator, in consultation with the Commission,~~ Director of the Division of Energy and Climate of DNREC that the annual change in the total cost of compliance can reasonably be expected to be under the ~~4%~~ 0.5% threshold.

(3) ~~The total cost of compliance shall include the costs associated with any ratepayer funded state solar rebate program, SREC purchases, and solar alternative compliance payments.~~ The total cost of compliance under this subsection includes the costs associated with any ratepayer-funded state solar rebate program; the cost of SRECs generated by solar photovoltaics, as defined by § 352(6)a. of this title; and solar alternative compliance payments utilized by the commission-regulated electric utility under § 353(a) of this title to comply with the requirements of this section.

(j)(1) ~~The State Energy Coordinator in consultation with the Commission,~~ The Director of the Division of Energy and Climate of DNREC may freeze the minimum cumulative eligible energy resources requirement for regulated utilities if the ~~Delaware Energy Office~~ Division of Energy and Climate of DNREC determines that the annual change in the total cost

of complying with this requirement during a compliance year exceeds 3% 1% of the total retail cost of electricity for customers of retail electricity suppliers during the same compliance year.

(2) In the event of a freeze, the minimum cumulative percentage from eligible energy resources shall remain at the percentage for the year in which the freeze is instituted. The freeze shall be lifted upon a finding by the Coordinator, ~~in consultation with the Commission, Director of the Division of Energy and Climate of DNREC~~ that the annual change in the total cost of compliance can reasonably be expected to be under the 3% 1% threshold.

~~(3) The total cost of compliance shall include the costs associated with any ratepayer funded state renewable energy rebate program, REC purchases, and alternative compliance payments. The total cost of compliance under this subsection includes the costs associated with any ratepayer-funded state solar rebate program, the cost of RECs and SRECs generated by eligible energy resources, and alternative compliance payments utilized by the commission-regulated electric utility under § 353(a) of this title to comply with the requirements of this section.~~

(k) DNREC shall adopt rules and regulations to specify the procedures for exercising its duties under subsections (i) and (j) of this section.

Section 2. Amend § 362, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 362. Rules and regulations.

(b) For regulated utilities, the Commission shall further adopt rules and regulations to specify the procedures for ~~freezing~~ implementing a decision of the Director of the Division of Energy and Climate of DNREC to freeze the minimum cumulative solar photovoltaic requirement and eligible energy resources requirement as authorized under § 354(i) and (j) of this title, and for adjusting the alternative compliance payment and solar alternative compliance payment as authorized under § 358(d)(4) and (e)(3) of this title.

Section 4. This Act takes effect 90 days after its enactment into law.

SYNOPSIS

This Act amends the Renewable Energy Portfolio Standards Act (REPSA) to provide for a workable cost cap to protect Delmarva Power customers from sharp annual increases in their bills due to the cost of procuring renewable energy.

This Act authorizes the Director of the Division of Energy and Climate of the Department of Natural Resources and Environmental Control (DNREC) to freeze the renewable portfolio standard (RPS) if the cost of compliance to Delmarva Power customers increases by more than 1% a year, or 0.5% for solar power, without shutting down the RPS permanently. However, this Act requires the Director to lift a freeze if the increase in costs is expected to fall below the annual cost caps.

This Act revises the RPS cost cap provisions by making it clear that the cost caps measure the annual increase in the cost of compliance with REPSA. This Act reduces the cost cap thresholds from 3% to 1% for renewable energy overall and from 1% to 0.5% for solar energy.

Finally, the Act delineates the authority to promulgate regulations on the part of DNREC and the Public Service Commission to avoid any regulatory conflict and ensure that the agencies work together to implement REPSA while protecting customers from sharp cost increases.

Author: Senator McDowell