SPONSOR: Sen. Hansen & Rep. Heffernan & Rep. Burns &
Rep. Minor-Brown & Rep. K. Williams
Sen. Seigfried; Reps. Griffith, Lambert, Phillips, Romer

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 326
AS AMENDED BY
SENATE AMENDMENT NO. 1

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:

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

§ 207. ~~Access~~ Audits and access to, inspection and examination of utility's property, records, etc.

(a) The Commission, by or through its members or duly authorized representatives, shall at all times have access to and the right to inspect and examine any and all books, accounts, records, memoranda, property, plant, facilities and equipment of public utilities. Every public utility shall furnish to the Commission, within such reasonable time as the Commission may order, any information with respect to its books, accounts, records, memoranda, property, plant, facilities, equipment, service, and operations, which the Commission may require in aid of any inspection, examination, inquiry, investigation, or hearing, or in aid of any determination of the value of its property, or any portion thereof, including copies of accounts, records, books, maps, inventories, appraisals, valuations, contracts, reports of engineers, and other data, records and papers; and shall grant to all authorized agents of the Commission access to its premises, property, plant, facilities and equipment and its books, accounts, records and memoranda when requested to.

(b) Management audits of public utilities under the jurisdiction of the Commission.

(1) The Commission shall provide for management audits of any Commission-regulated electric distribution company. The management audits shall include an examination of management effectiveness and operating efficiency. Management audits shall be conducted at least once every five years unless the Commission finds that a specific management audit is unnecessary. A summary of all management audits prepared pursuant to this subsection shall be made public and a complete copy of the audit shall be provided to Commission Staff and the Division of the Public Advocate.

(2) The Commission may require a management audit under this subsection to be performed by one or more independent audit or consulting firms ("contracting firm"). In such case, the Commission, after consultation

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with the public utility and the Division of the Public Advocate, shall select the contracting firm and require the public utility to enter into a contract with the contracting firm. The terms of the contract shall include payment of the contracting firm by the public utility of all reasonable expenses directly related to the performance of the contract, as well as their preparation and presentation of reports and testimony in any contested litigation which may be undertaken as a result of the audit. The contract shall require the contracting firm to work under the direction of the Commission. Neither the public utility, Commission staff, the Division of the Public Advocate, nor any entity other than the contracting firm shall have editorial control over or input into the contracting firm's findings and recommendations, provided, however, that the public utility shall be provided reasonable opportunity to review the findings and recommendations prior to the findings and recommendations becoming final and to comment on any material misstatements the public utility believes exist in the findings and recommendations, and shall be entitled to request that any trade secret, commercial or financial information, or other privileged or confidential information that would be excluded from disclosure under Delaware law or regulations, including the Delaware Freedom of Information Act, 29 Del. C. 10001, et seq., be redacted from any public version of the findings and recommendations. Costs for management audits shall not be recoverable in customer rates.

Section 2. Amend Chapter 3, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 301. Rate schedule and rate classifications.

(f) Rate Transparency.

(1) Each public utility shall prepare, maintain, and file with the Commission for approval, for each customer class it serves, a Rate Summary Table for each rate class showing the total effective rate and itemizing each rate element including each base rate element; each transmission and supply element; and each rider, surcharge, and adjustment mechanism, including, statutory charges, Distribution System Improvement Charge, and any other Commission approved rider or surcharge.

(2) Each component in the Rate Summary Table shall be displayed numerically, using the same units in which the customer is billed. Beginning September 1, 2027, Commission regulated electric utilities shall bill standard offer service customers transmission charges in the same monthly billing determinants as distribution rates.

(3) The Rate Summary Table shall include a schedule that identifies the components of rates that change on a predictable schedule (for example, rates that change annually) and the cadence of such change during the calendar year.

(4) The Commission may reject or require revisions to any Rate Summary Table that it deems incomplete, inaccurate, or inconsistent with approved rates.

(5) The public utility shall include the Rate Summary Table in the public utility's tariff as a separate, clearly labeled section, post the Rate Summary Table for each customer class in an easily accessible location on its website, include the Rate Summary Table for that customer class in its customer bills, and file with the Commission and update in each of the foregoing locations an updated Rate Summary Table at least 30 days after the effective date of any change to any component of its rates.

§ 301A. Plain Language Standard.

In all public facing and customer communications and any submissions to the Commission, public utilities, Commission Staff, and the Division of the Public Advocate should use clear and plain language to the maximum extent possible. Technical terms, abbreviations, and other technical nomenclature should be avoided wherever possible. Where technical language is necessary for specificity, it should be used only to the minimum degree necessary and shall be explained in the simplest form possible.

§ 302. Determination of rate base.

(a) The Commission may, from time to time, ascertain and determine the rate base of any public utility whenever, in the judgment of the Commission, it is necessary so to do for the purpose of carrying out this chapter, and in making such determination the Commission may have access to and use any books, documents, or records in the possession of any department, board, commission or agency of this State or any political subdivision thereof. In ascertaining and determining the rate base, the Commission may determine every fact, matter, or thing which, in its judgment, does or may have any bearing thereon. For electric and natural gas distribution companies the Commission shall use the average year rate base method.

§ 304. Rate changes; notice.

(a) Unless the Commission otherwise orders, no public utility shall make any change in any existing rate except after 60 days notice to the Commission, which notice shall plainly state the changes proposed to be made in the rates then in force and the time when the changes will go into effect, and for changes to base rates, shall include the test period and test year applicable for the request. All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules filed and in force at the time and kept open to public inspection. Public notice of all proposed changes shall be given in a form and manner set by the Public Utilities Commission. The Commission, for good cause shown, may allow changes in rates without requiring the 60-days' notice and/or public notice under such conditions as it may prescribe. All such changes shall be immediately indicated upon its schedules by such public utility.

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(b) In prescribing conditions for rate changes, the Commission is specifically authorized and empowered to conduct proceedings in which it limits the number or type of issues it will consider in determining whether or not to permit or allow such changes. The Commission may adopt or change regulations to govern such limited issue rate proceedings.

(c) As part of any base rate change filing, a public utility may be subject to a regulatory accounting review of transactions included on the public utility's books and records for ratemaking purposes, including transactions to and from affiliated companies to ensure transactions and other accounting entries are required only for the provision of regulated utility service. The regulatory accounting review may be conducted by staff for the Commission or such expert as selected by staff for the Commission. The regulatory accounting review may begin immediately upon the filing of the notice required by this section. The results of the regulatory accounting review shall be provided to all parties in the proceeding. A public utility shall not be subject to an accounting review as described in this section if there was a previous regulatory accounting review covering the same test year as proposed in the rate change filing.

§ 306. Effective date of rate change; refund bond.

(a) The Commission, upon the filing of a petition for a proposed change to any rate, may within 60 days after said filing:

(1) Suspend the operation of such rate change for a period not to exceed 7 months after said filing; provided, however, that if the Commission has not reached its decision within said 7 months after filing, the public utility may place ~~their~~ 50% of the increase in proposed new rate as compared to the existing rate into effect, and 75% after 12 months, under bond in accordance with subsection (b) of this ~~section;~~ section.

(2) Determine that a portion of such change shall become effective not later than ~~60~~ 90 days after the filing of the petition on a temporary basis pending the final decision of the Commission.

(b) ~~Upon~~ On or after the termination of the 7 months as set forth in paragraph (a)(1) of this section 50% of the proposed rate change, and 75% after 12 months, shall automatically become effective if the public utility files with the Commission a bond in a reasonable amount approved by the Commission with sureties approved by the Commission, conditioned upon the refund, in a manner to be prescribed by order of the Commission, to the persons entitled thereto of the amount of the excess, if the rate so put into effect is finally determined to be excessive; or there may be substituted for such bond other arrangements satisfactory to the Commission for the protection of the parties interested. In no event shall a public utility put a rate into effect under bond as authorized in this subsection that would constitute an increase in excess of ~~15 percent~~ 15% of the public utility's gross intrastate operating revenues.

(c) Notwithstanding subsections (a) and (b) of this section, ~~60~~ 90 days after said filing, a public utility may put a rate into effect under bond as authorized in subsection (b) of this section, provided that the increase does not constitute an

increase in excess of ~~15 percent~~ 15% of the public utility's annual gross intrastate operating revenues or $2,500,000 annually, whichever is less. This subsection shall not apply to any proposed rate change sought by a public utility under regulations adopted pursuant to § 304(b) of this title.

§ 316. Cost recovery prohibitions.

(a) The Commission shall ensure that all regulated utilities do not use customer funds to subsidize nonregulated activities.

(b) A public utility shall not recover the following costs from its customers, whether as part of proposed base rate costs, a rider, or other charges:

(6) For any public utility with more than 25,000 customers, expenses related to distribution rate case proceedings for attorneys' fees and fees to engage external expert witnesses or consultants incurred after the filing date that exceed the combined amount spent by Commission staff and the Division of the Public Advocate on attorneys' fees and fees to engage external expert witnesses or consultants.

Section 3. Amend Chapter 5, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512. Settlements are to be encouraged.

(d) All Orders issued by the Commission shall contain adequate support and rationale for any conclusions made by the Commission, including specific facts and factors on which the conclusions are based. This includes an explanation and a discussion of major elements of the settlement when issuing an order accepting or denying certain settlement agreements.

Section 4. Amend Chapter 10, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1008. Duties of electric distribution companies.

(a) Each electric distribution company shall maintain its facilities and provide products and services which are safe, efficient, sufficient, adequate, and reliable. Each electric distribution company shall implement procedures to require all electric suppliers to deliver energy to the electric distribution company at locations and in amounts which are adequate to meet each supplier's obligations to its customers. Unless otherwise ordered by the Commission, each Commission-regulated electric distribution company shall not recover in rates annual non-mandatory capital spending in excess of: for years 2026 and 2027, $70,000,000.00; and for year 2028 and continuing thereafter, 5% of its rate base approved in its most recent base rate case. For purposes of this section, non-mandatory capital spending shall mean all capital spending by the electric distribution company, except spending:

(1) On its vegetation management program.

(2) On its inspection and maintenance program.

(3) Related to new business and new customer requirements.

(4) On facility relocations.

(5) On required statutory and regulatory requirements.

(6) On emergency failures.

Section 5. This Act is severable. If a provision of this Act or the application of this Act to a person or circumstance is held invalid, the invalidity does not affect the provisions or applications of this Act that can be given effect without the invalid provision or application.