SPONSOR: Rep. Schwartzkopf & Rep. Longhurst & Rep. D. Short & Rep. Hudson

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2

TO

SENATE BILL NO. 150

Section 1. AMEND Senate Bill No. 150 on lines 5 through 22 by alphabetically inserting the following definitions as shown by underline and renumbering as appropriate:

(1) "Affected electric energy provider" means an electric distribution company, rural electric cooperative, or municipal electric company serving energy customers in Delaware.

(2) "Affected energy provider" means an affected electric energy provider or affected natural gas distribution company.

(3) "Affected natural gas distribution company" means a natural gas distribution company serving energy customers in Delaware.

(4) “Commission” means the Delaware Public Service Commission

(5) "Energy efficiency" means a decrease in consumption of electric energy or natural gas on a per unit of production basis which does not cause a reduction in the quality or level of service provided to the energy customer, achieved through measures or programs that target consumer behavior, or replace or improve the performance of equipment, processes, or devices. Energy efficiency can also mean the reduction in transmission and distribution losses associated with the design and operation of the electrical system.

(6) "Energy savings" means reductions in electricity consumption, reductions in natural gas consumption, electricity peak demand response programs resulting in reduced electricity consumption, or measurable efficiency gains from the transition to lower-emission fuels, as determined by the Secretary through regulations pursuant to §8059(h)(3) of this title.

(7) “Secretary” means the Secretary of the Department of Natural Resources and Environmental Control.

Section 2. AMEND Senate Bill No. 150 by inserting after line 431 the following:

(h) Expansion of cost-effective energy efficiency programs. -- Notwithstanding progress towards the achievement of the energy savings targets in § 1502(a) of Title 26, each affected energy provider shall implement energy efficiency, energy conservation, and peak demand reduction programs that are cost-effective, reliable, and feasible as determined through regulations promulgated pursuant to §8059(h)(3) of this title and delivered in collaboration with the Sustainable Energy Utility as described herein.

(1) Development and delivery of programs. --

a. An advisory council consisting of 13 members shall be established by the Secretary and shall include two representatives of the Sustainable Energy Utility, and one representative of each of the following sectors: (i) affected energy providers, (ii) manufacturing, (iii) agriculture, (iv) environmental, (v) commercial, (vi) residential, and (vii) low-income sectors. The advisory council will assist affected energy providers in the development of energy efficiency, peak demand reduction, and emission-reducing fuel switching programs to meet the requirements of this section and in evaluation, measurement and verification of energy savings. Programs shall be designed to maximize the cost-savings benefits for ratepayers by utilizing private financing and allowance proceeds from the Regional Greenhouse Gas Initiative to the maximum extent practicable and consistent with this section, as the preferred sources of program financing prior to expenditures that would otherwise be eligible for rate recovery. The advisory council shall also recommend adoption of financing mechanisms, including, but not limited to, on-bill financing, property assessed clean energy ("PACE") models, and other innovative financing tools.

b. The advisory council, in collaboration with the Public Service Commission staff, and the Public Advocate, shall recommend candidate energy efficiency, and reduction, and emission-reducing fuel-switching program elements that are cost-effective, reliable, and feasible, including financing mechanisms. Such programs shall prioritize the use of energy audits to identify comprehensive energy efficiency measures that maximize cost-effective savings. The advisory council shall recommend three-year program portfolios and define associated savings targets for the consideration of each affected energy provider.

c. Unless otherwise provided, affected energy providers shall prepare and submit to the advisory council three-year program plans, schedules, and budgets designed to reflect the recommended program portfolios, including the defined energy savings targets. On a three-year cycle, the advisory council shall review energy efficiency, peak demand reduction, and fuel switching program plans for each affected energy provider and recommend them for approval by the appropriate regulatory authority, if it finds them to be cost-effective through

a net-cost-benefit analysis that quantifies expected cost savings when considered in their entirety pursuant to regulations required by §8059(h)(3) of this title. Such programs must reduce overall utility bills.

d. Evaluation, measurement, and verification costs incurred by the advisory council and affected energy providers shall be included as costs in the cost-effectiveness test for the program portfolios. Costs shall be reimbursed first by any direct revenues from the programs, including but not limited to revenues from wholesale capacity markets. If such revenues are greater than program costs, the additional revenues shall be applied towards reducing the costs of future energy efficiency programs. If such revenues are less than program costs, the remaining costs shall be allocated to affected energy providers on the basis of total annual sales of energy and reimbursed by affected energy providers as part of energy efficiency and peak demand response program operation costs.

e. The Commission shall review the programs and portfolios recommended by the advisory council, including evaluating the projected net-cost savings, in determining whether to approve such programs for implementation by Commission-regulated affected energy providers. Notwithstanding any provision in Title 26, the Commission shall approve the recovery of appropriate costs incurred by Commission-regulated affected energy providers for approved programs and portfolios on an annual basis, in the same manner as other supply resources, including allocated costs pursuant to §8059(h)(1) of this title. The Commission shall approve cost recovery for cost-effective energy savings resulting from cost-effective programs and portfolios of Commission-regulated affected energy providers that are verified through procedures established in regulations promulgated pursuant to §8059(h)(3) of this title and determined not to increase overall utility bills. Recovery of appropriate costs shall be through a rate-recovery mechanism that is consistent with the goals and objectives of this section and recommended by the advisory council, filed by the affected energy providers, and approved by the Commission.

i. For the portion of efficiency programs not financed through SEU-secured private financing or Regional Greenhouse Gas Initiative allowance proceeds, or other SEU resources, the Commission shall utilize a process that achieves the efficient and timely recovery on an annual basis by Commission-regulated affected energy providers of appropriate costs and associated rates of return related to implementing activities and programs recommended by the advisory council.

ii. For Commission-regulated affected energy providers, appropriate costs incurred arising out of activities and programs recommended by the advisory council that are not subject to contemporaneous recovery shall be subject to deferred accounting treatment to ensure that program costs are less than

expected savings. Program costs may not be placed in the permanent rate base, nor exceed the amortization schedule of the deferred accounting treatment.

iii. Peak demand reduction programs of Commission-regulated affected energy providers that are currently under review or already have been approved by the Commission, including dynamic pricing and direct load control, shall not be subject to review and approval by the advisory council.

f. Affected energy providers that are not regulated by the Commission may elect to develop, implement and fund programs for energy efficiency and peak demand reduction recommended for approval by the Board of Directors for rural electric cooperatives or the pertinent local regulatory authorities for municipal electric companies. For purposes of any comparable plan implemented pursuant to the requirements of §363 of Title 26, energy efficiency resulting in a reduction in overall energy consumption that exceeds 10% of the electricity provider's 2007 electric consumption shall constitute an eligible energy resource under §352(6) of Title 26, provided such energy provider has first achieved the 15% energy savings goal as required by §1502(a)(1) of Title 26 and determined pursuant to §8059(h)(3) of this title. Such energy efficiency shall be measured and verified as provided in §8059(h)(3) of this title.

g. The affected energy providers and the Sustainable Energy Utility shall collaborate to promote available energy efficiency and peak demand reduction programs through a common marketing platform provided by the SEU, which shall serve as an easily accessible resource for all residents of Delaware seeking to save money through energy efficiency.

h. Nothing in this section shall reduce the authority of the Sustainable Energy Utility as defined in this title. The Sustainable Energy Utility, at its discretion, may provide private financing, allowance proceeds from the Regional Greenhouse Gas Initiative, or other financial resources to reduce implementation costs of energy efficiency programs in coordination with the affected energy providers and may collaborate with affected energy providers to provide efficiency programs.

(2) Annual Reporting. -- DNREC shall annually publish a report on statewide electricity and natural gas consumption and electricity peak energy demand and make the report available to the general public by December 31 of each calendar year. All affected energy providers shall provide actual and projected electric and natural gas consumption and peak usage data to DNREC on an annual basis as specified in regulations promulgated pursuant to §8059(h)(3) of this title. The report shall identify progress toward the energy and peak savings targets of § 1502(a) of Title 26. In determining compliance with the applicable energy savings requirements, the Secretary shall exclude reported electricity savings or

natural gas savings that are not adequately demonstrated and documented, in accordance with the regulations promulgated under §8059(h)(3) of this title.

(3) Evaluation, measurement, and verification of energy efficiency.

a. Not later than June 30, 2015, the Secretary of the Department of Natural Resources and Environmental Control, with the cooperation of affected energy providers, shall, by regulation, establish the requirements of this subsection, including, but not limited to:

i. Evaluation, measurement and verification procedures and standards, including impact evaluation, environmental outcomes, process evaluation, market effects, and cost-effectiveness evaluation;

ii. Requirements under which affected energy providers shall demonstrate, document, and report compliance with the energy savings targets established under § 1502(a) of Title 26; and

iii. Procedures and standards for defining and measuring electricity savings and natural gas savings that can be counted towards the energy savings targets established under § 1502(a) and § 1502(b) of Title 26.

b. All regulations promulgated under this chapter shall be adopted under the Administrative Procedures Act, Chapter 101 of Title 29. Regulations promulgated by the Secretary shall not differ significantly among affected natural gas distribution companies or among affected electric energy providers. Regulations promulgated pursuant to this chapter and case decisions issued under the auspices of this chapter by the Secretary shall be subject to direct appeal to the Superior Court pursuant to the provisions of the Administrative Procedures Act, Chapter 101 of Title 29. The Environmental Appeals Board shall not have jurisdiction over any such appeal.

SYNOPSIS

This amendment addresses the expansion of cost-effective energy programs under the direction of an advisory council composed of members of the Sustainable Energy Utility and others. The SEU will collaborate with affected energy providers on a common marketing platform for these programs.

Further, this amendment will reduce average customer energy bills and will create local jobs by driving investments in energy efficiency that displace more expensive energy supply purchases. Energy efficiency investments create in-state jobs, lower energy bills for Delaware consumers and businesses, prevent dollars from being sent across borders, encourage the development of skilled energy professionals and labor force in Delaware, stimulate innovation, and cause a reinvestment of Delaware dollars in Delaware. Efficiency investments lead to substantial environmental and health benefits from reduced air pollution, make homes healthier and more comfortable, increase grid reliability, decrease vulnerability to energy price spikes, increase energy security, and boost the economy.