

**Senate Environmental, Natural Resources & Energy**

**Committee Meeting**

**Official Minutes**

**149<sup>th</sup> General Assembly**

**Second Session**

**Committee Meeting**

**Wednesday May 2<sup>nd</sup>, 2018**

**1:30 p.m.**

**Senate Chamber Meeting Room**

**Meeting Attendance**

**Committee Members:**

**Present:**

Senator Harris McDowell	<a href="mailto:Harris.McDowell@state.de.us">Harris.McDowell@state.de.us</a>	302-744-4147
Senator Stephanie Hansen	<a href="mailto:Stephanie.Hansen@state.de.us">Stephanie.Hansen@state.de.us</a>	302-744-4138
Senator Jack Walsh	<a href="mailto:John.Walsh@state.de.us">John.Walsh@state.de.us</a>	302-744-4163
Senator Ernesto Lopez	<a href="mailto:Ernesto.Lopez@state.de.us">Ernesto.Lopez@state.de.us</a>	302-744-4136
Senator Gerald Hocker	<a href="mailto:Gerald.Hocker@state.de.us">Gerald.Hocker@state.de.us</a>	302-744-4144

**Staff:**

Anthony Bernadzikowski	<a href="mailto:Anthony.Bernadzikowski@state.de.us">Anthony.Bernadzikowski@state.de.us</a>	302-744-4269
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**Attendees:**

**Organization:**

**Phone:**

Steve Baccino	DPL	302-528-2169
Brenna Goggin	DE Nature Society	
James Nutter	Parkowski, Guelke	
Andrew Slater	Division of the Public Advocate	302-241-2550
Jerry Platt	PSC	302-736-7526

Matt Hartigan	PSC	302-736-7532
Sam Hemphill	PSC	302-736-7552
Andrea Kreiner	DNREC	302-735-3480
Susan Lowe	DNREC	302-735-3480
Patrick Emory	DNREC	
Doug Denison	DE Dept. of State	
Lincoln Willis	DEMEC	
James Nutter	PGS	302-448-9723
Michelle Abney		302-312-4238

**Agenda:**

Senator McDowell brought the meeting to order at 1:35 pm. He then called for a motion to accept the minutes of the previous meeting on April 25<sup>th</sup>, 2018. The motion was seconded and received unanimous approval from members of the committee.

HJR 11 (Miro) – *HONORING BOYD AND LIANE SORENSON BY DESIGNATING THE VALLEY ROAD PEDESTRIAN PATHWAY BETWEEN EVANSON ROAD AND LANTANA SQUARE AS “SORENSON’S WAY”.*

HJR 11 was passed out of the committee unanimously.

SB 188 (McDowell) – *AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND ELECTRIC AND NATURAL GAS VEHICLE CHARGING SERVICE.*

*SYNOPSIS: The current definition of public utility includes providers of electric or natural gas charging service. However, many parties believe it is neither desirable nor necessary to regulate such providers in Delaware. This proposed legislation modifies the definition to exempt providers of electric and natural gas vehicle charging service from regulation as a public utility.*

Sen. McDowell asked for testimony from the Public Service Commission. Mr. Matt Hartigan rose to speak.

Mr. Hartigan reiterated a synopsis of the bill.

Sen. McDowell asked if there had been an amendment that had been circulating for SB 188.

Mr. James Nutter (there on behalf of Chesapeake Utilities) mentioned that he had originally drafted an amendment for the bill that would mandate that those charging stations owned by regulated utilities would remain regulated by the Public Service Commission. However, he then mentioned that it seemed more appropriate to add an amendment to exempt natural gas instead. He mentioned that he would draft the amendment in time for a floor vote.

Sen. McDowell asked for further comment on the amendment. Mr. Andrew Slater from the DPA expressed his support for such an amendment.

Sen. McDowell again asked for any comment from the public. He then put forth a vote and the bill was let out of committee unanimously.

SB 189 (McDowell) – AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO THE UNDERGROUND UTILITY AND SAFETY ACT.

*SYNOPSIS: The U.S. Department of Transportation has recently found Delaware to be non-compliant with enforcement of underground excavation violations. This jeopardizes federal funding for the Commissions pipeline safety program. Two principal reasons for this have been the lack of notification to State agencies and the lack of enforcement when damage is known. This bill updates Title 26, Chapter 8 by ensuring notification of excavation damage to the appropriate State agencies for potential penalties or other enforcement proceedings. It provides that either the Attorney General or the Public Service Commission may enforce penalties appropriate for the circumstances and gravity of the violation.*

Sen. McDowell introduced the bill as the “Miss Utility Bill”. He called on Mr. Hartigan to introduce the bill and Mr. Hartigan gave a brief synopsis of the bill. He expressed that it would allow the state of Delaware to comply with federal regulations.

Sen. McDowell asked if the bill gave the PSC the power to levy a new penalty. Mr. Hartigan confirmed that this was the case. Sen. McDowell then asked the public if they were satisfied with this.

Sen. Hocker expressed his displeasure with the power to levy such a penalty and mentioned that he had gotten a great deal of correspondence from contractors who disagree with the provision. He asked why the legislation was necessary.

Mr. Hartigan responded that the legislation was necessary because the federal Department of Transportation could take over the State’s pipeline program if such legislation was not passed.

Sen. McDowell, to address Sen. Hocker’s concerns, asked for clarification that the penalties would not be levied if the contractors gave adequate notice before digging and doing work.

Mr. Jerry Plat, an engineer with the PSC, rose to speak. He mentioned that the utility company is responsible for marking and that the excavator is responsible for adhering to that marking.

Mr. Slater acknowledged the contractors concerns, but stated that the bill only gave the PSC the power to levy fines and did not guarantee that such fines would be levied at all. He mentioned that the legislation would give the PSC the ability to see the specific details of any given violations and that the PSC already had the power to levy such fines.

Sen. Hocker reiterated that the contractors were concerned as to why such legislation would be necessary if the PSC already had the power to levy such fines.

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Mr. Plat mentioned that the legislation was necessary because it gave the state a chance to move forward on complying with federal regulations, which it needed to do within five years.

Sen. McDowell asked if that had adequately addressed Sen. Hocker's concerns.

Sen. Hocker again expressed his dissatisfaction with the legislation on behalf of the contractors.

Sen. McDowell asked if it would be appropriate to ask the Controller General to create a study to follow the effectiveness of the legislation. The question was met with affirmation from the public.

Sen. Hocker asked if the bill would give the PSC the power to levy criminal penalties.

Sen. McDowell said that it certainly would not. He asked for more question by members of the committee or the public.

Kim Wilson of Comcast spoke up and mentioned that Comcast had concerns with the legislation. She requested that the bill be paused for a week for them to convene with the PSC.

Sen. Hocker mentioned that the bill had been introduced very quickly, giving those it would affect very little time to properly understand it. Sen. McDowell agreed. Sen. Hocker requested that the bill be tabled for a week and Sen. McDowell accepted.

SB 190 (McDowell) – AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITY RATES.

*SYNOPSIS: This addition to Section 303 provides the Commission with the flexibility to consider and approve a low income residential utility rate or discount for qualified low income customers (those approved to participate in the Low Income Home Energy Assistance Program), provided that such rate may not provide a discount over 25% of the average customer class usage. This permits those customers to receive utility distribution services at a lower cost. In the case of Delmarva Power the discount is estimated to be no more than \$10 -15 per month.*

Ms. Samantha Hemphill rose on behalf of the PSC to give a brief synopsis of the bill.

Mr. Slater spoke to express his support of the bill.

Sen. Hocker moved to release the bill. The motion was passed unanimously.

SB 191 (McDowell) – AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND DELMARVA POWER & LIGHT COMPANY'S INTEGRATED RESOURCE PLANNING.

*SYNOPSIS: The Public Service Commission conducts an annual review of the process by which Delmarva Power obtains electricity to deliver to its customers. With 100% of supply coming from market based auctions, there has been little need to continue the Integrated Resource Plan (IRP) planning process. Under current legislation, Delmarva Power must conduct a complete IRP every*

*two years. The IRP, while helpful in exploring possible changes in long term approaches to electric supply, is an expensive process, the cost of which is added to utility rates. This Bill extends the filing time for future IRP's to those occasions when Delmarva Power elects to make a significant change in its source of electric supply or as the Commission may direct. This will reduce the customer costs to complete an IRP every two years, along with Commission time and effort for review.*

Sen. McDowell introduced the bill as being put forth on behalf of Delmarva Power. Mr. Hartigan rose to give a brief synopsis of the bill.

Mr. Steve Baccino rose to express his support of the bill on behalf of Delmarva Power. He mentioned that there were provisions in the bill that would require them to do an IRP if certain situations were to occur.

Sen. McDowell asked for questions from the committee. Sens. Lopez and Hocker asked to be added as cosponsors to the legislation.

Ms. Andrea Kreiner of DNREC rose to speak. She mentioned that she had just seen the bill yesterday and said that DNREC would like time to work on an amendment to assist DNREC in their cost calculations in relation to IRPs.

Mr. Slater said that he would not support an amendment to the bill because ratepayers should not have to pay for something that DNREC can do on its own.

Mr. Hartigan expressed his support for not adding an amendment to the bill.

Sen. McDowell moved to release the bill. It was passed unanimously.

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Sen. McDowell adjourned the meeting.

Meeting minutes prepared by Anthony Bernadzikowski.