

Senate Environment, Energy, and Transportation Committee Meeting

153rd General Assembly
March 12, 2025
Senate Chamber/Virtual Meeting
10:02 - 11:56 a.m.

[Senate Committee Recording](#)

Committee Members Present:

Senator Stephanie Hansen	Stephanie.Hansen@delaware.gov
Senator Russ Huxtable	Russ.Huxtable@delaware.gov
Senator Elizabeth Lockman (virtually)	Elizabeth.Lockman@delaware.gov
Senator Spiros Mantzavinos	Spiros.Mantzavinos@delaware.gov
Senator Trey Paradee	Trey.Paradee@delaware.gov
Senator Eric Buckson	Eric.Buckson@delaware.gov

Committee Members Absent:

Senator Trey Paradee	Trey.Paradee@delaware.gov
Senator Brian Pettyjohn	Brian.Pettyjohn@delaware.gov

Staff Members Present:

Anna Shields, Legislative Assistant to **Senator Hansen**

Anna.Shields@delaware.gov

Brandon Williams, Legislative Assistant to Senators Huxtable (Vice Chair) and Mantzavinos,

Brandon.Williams@delaware.gov

Kiki Evinger, Policy Director, Senate Majority Caucus

Kathryn.Evinger@delaware.gov

Appendices

Appendix A: Attendees

Appendix B: Submitted Written Public Comment

Introduction

Senator Hansen commenced the meeting at 10:02 and reviewed the hybrid meeting protocol. She explained the meeting structure and the order in which comments would be taken from the committee members and the members of the public. She conducted a roll call, noting that **Senator Mantzavinos** and Senator Pettyjohn were absent. Senator Lockman was present virtually.

Senator Hansen asked for a motion to approve the minutes from Wednesday, January 22, 2025. **Senator Paradee** motioned to approve the minutes. Senator Huxtable seconded the motion. The minutes were approved.

Approved on April 9, 2025

Senator Hansen asked for a motion to approve the minutes from Friday, February 14, 2025. Senator Huxtable motioned to approve the minutes. **Senator Paradee** seconded the motion. The minutes were approved.

Senator Hansen asked for a motion to approve the minutes from Monday, February 24, 2025. Senator Huxtable motioned to approve the minutes. **Senator Paradee** seconded the motion. The minutes were approved.

SB 59 (Hansen) AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND UTILITY RATES ["prudence standard"]

Synopsis: Public utilities are regulated monopolies. Practically speaking, a public utility has no competition in its service territory and, therefore, does not face the economic risks that a for-profit, non-utility company must face. By law, a public utility is authorized the opportunity to earn a reasonable rate of return on the costs it incurs in operating its business.

Under the current Public Utilities Code, in determining the rates that public utilities may charge customers, the Delaware Public Service Commission must apply the "business judgment rule" standard in deciding which costs may be included in a utility's rate base. Forty-eight (48) states in the United States apply the "prudence" standard when setting utility rates, not the "business judgement rule" standard that is applied in Delaware.

The more costs that are included in rate base, the higher the rates that are charged to utility customers. Under the "business judgment rule" standard, the Public Service Commission may not disallow the inclusion of a cost in rate base, even though the cost was incurred imprudently.

For example, a utility may decide to expand the size of its facilities, but overbuilds those facilities at a cost of \$3 million, even though a smaller \$1 million expansion would be adequate to serve its customers and anticipated future growth.

Under the business judgment rule, the Public Service Commission is not able to deny recovery of any part of the cost of the expanded facility and it will be included in rate base. Consequently, customer utility bills have been increasing and could continue to increase significantly.

Amending the Public Utility Code so that the "prudence" standard applies, would give the Public Service Commission the ability to deny, in whole or in part, certain expenses and costs, which can lead to less frequent and less impactful rate increases.

Senator Hansen introduced the bill to the committee and explained that it is part of her package of reforms to address the root causes of recent high utility bills. She explained that Delaware is unusual in that it uses the business judgement rule. The Public Service Commission is bound to approve rate increases unless they find that it does not meet those standards. Forty-eight (48) other states use a prudence standard for their rate increases. She explained that this has been tried in the state before and that it has been controversial. She emphasized that she does not want the voices of the ratepayers to be drowned out by the voices of utilities. She

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stated that she has worked with the Governor's office, the Public Service Commission, and the Public Advocate, to make another attempt at changing the standard. She says that we need to listen to what the rate payers are saying.

Senator Mantzavinos joined the meeting at 10:09.

Senator Hansen continued emphasizing that only two states use the prudence standard. She asked for **Matt Hartigan** to come forward to explain the background.

Matt Hartigan explained that a formal DAG conducted the research and found that Delaware is one of only two (2) states that uses this standard.

Senator Hansen asked when this was tried last.

Matt Hartigan responded that it was tried about 10 years ago, but it was unsuccessful.

Senator Buckson asked **Matt** to explain how this benefits the customer.

Matt responded that there are a number of items that meet the business judgement standard but that would not meet the prudence standard.

Matt Hartigan was excused.

There were no questions from the committee.

Anna Shields facilitated in-person public comment.

Marcus Beal from Delmarva Power shared the company's opposition to SB 59. His full comments are attached in the appendix.

Joe Fitzgerald, on behalf of the New Castle County Chamber of Commerce, expressed opposition.

Peggy Schultz, on behalf of the League of Women Voters of Delaware, expressed the organization's support for the bill.

Dustyn Thompson from the Delaware Chapter of the Sierra Club shared the support.

Drew Slater, the Executive Director of the Delaware Sustainable Energy Utility, emphasized that every single utility uses the prudence standard in every other jurisdiction. He continued that, as such, it is silly to argue that this would be a burden on the utility.

Brandon Williams facilitated virtual public comment.

Rob Bullock from the 9/13 Community Alliance expressed support for the bill. He did direct his questions to PJM; **Senator Hansen** clarified that public comment is public comment, not a conversation.

SB 60 w/ SA 1 (Hansen) AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND UTILITY RATES.

Synopsis: This Act requires the Delaware Public Service Commission to ensure that all regulated utilities do not use customer funds to subsidize unregulated activities for example, lobbying activities, political contributions, charitable contributions, and certain advertising and public relations activities. This Act places a cap on annual capital expenses in the amount of \$125 million for electric distribution companies. This Act also contains a severability clause.

Senate Amendment 1 Synopsis: This amendment restricts a public utility from recovering from customers organizational or membership dues but only to the extent that the organization engages in lobbying or similar activities intended to influence the outcome of legislation, rules, ballot measures, or regulatory decisions. This amendment also caps an electric distribution company's non-mandatory spending category, as defined in 26 Del. Admin. C. Ch. 3007, such that it shall not exceed 5% of its rate base approved by the Public Service Commission in its most recent distribution base rate case.

Senator Hansen introduced the bill to the committee and summarized it. She explained that this was discussed in the Energy Stakeholders Group. She shared that she heard a concern from Chesapeake Utilities regarding being unable to account for trade organization dues that provide training to utility employees. To ensure that we are not inhibiting employee training, she has added Senate Amendment 1 to clarify.

Senator Hansen called **Matt Hartigan** to explain where the \$125 million value came from.

Matt Hartigan explained that their consultant recommended a cap of \$115 million, so a \$125 million cap would give room to account for inflation.

Senator Hansen asked him to confirm that there is a provision allowing for emergency spending.

Matt Hartigan confirmed that that is the case.

Senator Buckson thanked **Senator Hansen** for this bill and SB 59. He asked **Matt** if Delmarva would have exceeded this in the past 3 years

Matt responded that yes it would have, they averaged about \$175 million.

Senator Buckson asked if that was a normal trajectory or if that has increased over the past few years.

Matt responded that it has increased significantly over the past few years due to Exelon's initiative to increase earnings per share through increasing the rate base in their distribution utilities.

Senator Buckson responded to clarify that he did say increasing earnings per share, which **Matt** responded that he did. Senator Buckson continued that we want to respect the free market but that this is not a pure free market situation.

Senator Hansen asked **Matt** to explain further that “Delmarva spends to a budget, not a plan.”

Matt Hartgian responded that the budget is never reduced, that if they budget for a project that is not completed, they just spend the money elsewhere. This drives rate cases which then drives increasing delivery charges.

Senator Mantzavinos asked about if there is a cap today and where that \$115 million came from.

Matt Hargian clarified that there is not a cap now. He stated that they had a consultant that recommended a cap of \$115 million.

Senator Mantzavinos asked for clarity regarding what an extraordinary circumstance is or if there is a difference between emergency and extraordinary circumstances.

Matt Hartigan responded that it falls under “mandatory investment.”

Senator Mantzavinos asked that if this passes, would there be a path to ensure we can accommodate economic growth and new business.

Matt Hartigan responded yes.

Senator Mantzavinos asked about the amendment and what a non-mandatory spending category is.

Matt Hartigan clarified that it includes things like replacing equipment that in their opinion is not at the end of its useful life or projects that are not needed to maintain the safe and reliable operation of the system.

Senator Paradee asked if both the elements of this bill are common in other states or if we would be an outlier.

Matt Hartigan responded that he is not sure about cost caps but that this is not unprecedented in Delaware, Delaware has implemented this previously.

Senator Hansen said that the indirect spending component is not unique to Delaware. As far as the cost cap goes, she is not sure, but knows that Delmarva has worked under this in the past in Delaware. She shared that she will call the former Public Advocate forward to speak more to this.

Senator Buckson said that he is always fearful of chasing other states because we want to do what is best for us. He asked if \$175 million is 100% of the improvements or just a small portion.

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Matt responded that it is 100%.

Senator Buckson responded that he doesn't make sense because that gives a 100% return on investment.

Matt responded that that is correct.

Senator Buckson continued that this is not like a free market because in a free market the consumer could leave.

Matt continued that to their credit they have built a safe and reliable network, but at great expense in their opinion.

Senator Mantzavinos asked about redundancy between this and the prudence standard and if this bill and SB 59 would have the same effect..

Matt responded that the prudence standard does not necessarily speak to a cap.

Senator Hansen responded that they might have the same effect, but there's no guarantee. We cannot be sure that the utility will be the most conservative with regard to what utilities bill to ratepayers. ISR report. SB 59 asks "was it prudent for you to have spent that money" whereas SB 60 gives a cap for the rate case from the beginning, so that you're not begging for forgiveness rather than asking for permission.

Senator Seigfried asked for clarity as to what "capital expenditures" are for Delmarva.

Matt responded that they are poles, wires, transformers, substation equipment, trucks.

Senator Seigfried asked what happens if the company spends \$150 million instead of \$125 million, what happens to the \$25 million?

Matt responded that it just wouldn't be recoverable through the rate case.

Senator Seigfried asked if the \$125 million is reasonable for the time frame that this bill covers.

Matt responded that he believes it is reasonable.

Senator Buckson asked about large databases inside this overall grid that would be planned to go online, the costs to bring that online, are we absorbing the costs for data centers in other states.

Matt responded yes but that that is a transmission cost not a delivery cost.

Senator Hansen called for **Drew Slater**, who was the Public Advocate while the last cap on Delmarva Power was in effect, to speak to what happened during that time.

Drew Slater stated that some of the best reliability improvements we have ever seen occurred during the last period Delmarva was subject to a cap. Drew explained the ISR report, sharing some of his comments from 2019.

Anna Shields facilitated in-person public comment.

David Stevenson from the Caesar Rodney Institute noted that this is the bill that he is commenting on today. He shared his opposition to the cap. His full comments are attached.

Marcus Beal from Delmarva Power requested an amendment to SB 60. He also requested additional time to review SA 1 to SB 60 before the bill is brought to the floor. His full comments are attached.

Joe Fitzgerald, on behalf of the New Castle County Chamber of Commerce, expressed that the cost cap is the primary concern of the Chamber. He is concerned that this bill would put Delaware at a competitive disadvantage. He requests that the committee table the bill.

Tyler Micik from the Delaware State Chamber of Commerce shared the Chamber's opposition to the bill.

Steve Baccino from Chesapeake Utilities spoke in support of Senate Amendment 1 to SB 60. He spoke to the importance of trade associations.

Peggy Shultz, on behalf of the League of Women Voters Delaware, spoke in support of the bill.

Marrisa McClenton from the Delaware Chapter of the Sierra Club spoke on behalf of the chapter Chair, Dustyn Thompson, in support of the bill.

Dina Vendetti from CDCC asked for the inclusion of all of her members and that utility companies continue to be included in the discussion.

Lisa Oberdorf from Delmarva Power clarified that they already do not recover for lobbying expenses.

Brandon Williams facilitated virtual public comment.

Rob Bullock from the 9/13 Community Alliance echoed **Senator Buckson's** comments about data centers.

SB 61 (Hansen) AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND VOTING BY MEMBERS OF THE PJM INTERCONNECTION REGIONAL TRANSMISSION ORGANIZATION.

Synopsis: This bill requires disclosure of votes cast at meetings of, or Matters before, the PJM Interconnection Regional Transmission Organization.

Senator Hansen explained the background of SB 61 and how PJM's decision-making flows down to ratepayers.

Senator Hansen called Jamie Nutter, representing Delaware Electric Cooperative, forward.

Jamie Nutter explained that DEC is a non-profit. DEC does not vote at these meetings and that he has concerns regarding the definition of affiliate. He explained that Old Dominion does vote at PJM, but that DEC is one of eleven members of Old Dominion (ODEC) and subsequently does not influence or control ODEC votes or explicitly endorse those votes. Subsequently, DEC is also concerned about the impact that ODEC's votes could have on DEC's reputation.

Senator Hansen called forward **Kimberly Schlichting** from the Delaware Municipal Electric Cooperative.

Kimberly Schlichting gave background on DEMEC. DEMEC and their nine member communities are seeking the same exemption that was included in Maryland. They explained that they advocate for all ratepayers, not just DEMEC ratepayers. She feels that this does not fix the issue of high costs. She is requesting the same exemption as was included in Maryland's bill. Her full comments are attached.

Senator Hansen asked about the ability to attend the 400-some meetings that are held.

Kimberly responded that they do have contractors attend some of the meetings. She explained that the sum of these meetings are burdensome for small utilities.

Senator Hansen asked if they know what they're voting on ahead of time and for clarification about if they know their votes and if they are already reported back to them.

Kimberly responded that the issue is the requirement to explain how their vote was in the public interest as their mandate as an organization is to operate in the public interest.

Senator Hansen asked for more clarity about what they receive back from the consultants who vote on their behalf.

Senator Buckson stated generally that he thinks that this is a fair ask and that it makes sense to him.

Senator Mantzavinos asked **Kimberly** for clarity about how they vote and if they vote as a bloc.

Kimberly responded that it is not a bloc vote and that DEMEC has its own vote at PJM.

Senator Mantzavinos asked for clarity about coverage and reporting back.

Kimberly responded that yes they do that since they do not have the capacity to attend every meeting. She added that she feels what they are doing is working.

Senator Hansen clarified that this is not about keeping rates low, this is about trying to understand how PJM is making decisions. That affects what we are able to do here. She says regardless of what the utility is doing to keep rates low, this is about knowing what the voting members are doing. She asked about what format reports from the consultant come in.

Kimberly responded that she does not believe that the report that comes back from the consultant would be in the format that she is asking for. She also stated that she does not understand what problem this bill is trying to solve.

Senator Seigfried asked about how the meetings run, who chairs them, and about how decisions are made.

Kimberly said that if this were to be postponed they could provide more information to the committee.

Anna Shields facilitated in-person public comment.

Tyler Micik, representing the Delaware State Chamber of Commerce, expressed their opposition to the bill.

Marcus Beal from Delmarva Power testified in opposition of SB 61. His full comments are attached.

Joe Fitzgerald, representing the New Castle County Chamber of Commerce, testified in opposition.

Peggy Schultz, representing the League of Women Voters Delaware, testified in support of the bill.

Dustyn Thompson from the Delaware Chapter of the Sierra Club testified in support of the bill. He also shared that he has tried to access PJM public meetings in the past and has been unable to gain access. He feels that this is important to provide the insight into the votes taken rather than the simple list of what vote was cast.

Brandon Williams facilitated virtual public comment.

Rob Bullock from the 9/13 Community Alliance echoed Dustyn's comments about transparency.

Conclusion

Senator Hansen asked for a motion to adjourn the meeting. Mantzavinos motioned to adjourn. **Senator Paradee** seconded the motion. The meeting was subsequently adjourned at 11:56.

Appendix A: Attendees

In-Person Attendees

Matt Hartigan, Public Service Commission (PSC)

Kimberly Schlichting, President and CEO, Delaware Municipal Electric Cooperative (DEMEC)

Dina Vendetti, President, Central Delaware Chamber of Commerce (CDCC)

Tyler Micik, Director, Public Policy and Government Relations, Delaware State Chamber of Commerce (DSCC)

David Stevenson, Director, Center for Energy Competitiveness, Caesar Rodney Institute (CRI)

Marcus Beal, Regional Vice President (Bay Region), Government and External Affairs, Delmarva Power

Joe Fitzgerald, Lobbyist, Fitzgerald Consulting, on behalf of the New Castle County Chamber of Commerce (NCCCC)

Steve Baccino, Government Affairs Director, Chesapeake Utilities Corporation

Jamie Nutter, Attorney, Parkowski, Guerke, & Swayze, P.A., on behalf of the Delaware Electric Cooperative (DEC)

Peggy Schultz, League of Women Voters Delaware

Dustyn Thompson, Chapter Director, Sierra Club Delaware Chapter

Marissa McClenton, Sierra Club Delaware Chapter

Drew Slater, Executive Director, Sustainable Energy Utility (SEU); former Public Advocate

Virtual Attendees

Rob Bullock, 9/13 Community Alliance