SPONSOR: Rep. Heffernan & Sen. Hansen
Reps. Minor-Brown, Burns, Morrison, Berry, Collins, Lambert, Phillips, Snyder-Hall, Gorman, Chukwuocha, K. Williams, Harris; Sens. Pinkney, Huxtable, Lockman

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 393

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PROTECTIONS FOR PUBLIC UTILITY CONSUMERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

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

§ 218. Violations and penalties.

(a) Whoever knowingly performs, commits, or does, or participates in performing, committing or doing, or knowingly causes, participates or joins with others in causing any public utility to do, perform or commit, or advises, solicits, persuades, or knowingly instructs, directs or orders any officer, agent or employee of any public utility to perform, commit or do any act or thing forbidden or prohibited by this chapter, shall be fined not more than $1,000 or imprisoned not more than 6 months or both.

(b) This section ~~shall~~ does not apply to violations for which another specific penalty is provided in this chapter.

(c) An individual who is licensed by the Commission to sell electricity or electricity supply services to residential retail electric customers on behalf of an electric supplier as an employee or agent of the electric supplier may not be fined or imprisoned under this section.

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

§ 226. Enhanced certification requirements.

(a) The Commission must develop a training and educational program for any entity or individual that is certified by the Commission as an electric supplier.

(b) The Commission must develop the program in consultation with interested stakeholders, including electric suppliers.

(c) The program must require that a designated representative of each certified electric supplier demonstrate a thorough understanding of the Commission's regulations regarding all of the following:

(1) Sales.

(2) Consumer protection.

(3) Any other matter the Commission deems appropriate.

(d) At the conclusion of the training, the Commission must do all of the following:

(1) Conduct an examination.

(2) On a satisfactory score, certify that the designated representative of the certified electric supplier has successfully completed the training.

(e) The Commission must determine the schedule and frequency by which a designated representative of a certified electric supplier must complete the training and certification.

(f) A designated representative of an electric supplier who applies for certification must complete the training and certification prior to the issuance of the certification.

(g) A certified designated representative of a certified electric supplier must attest annually that all sales agents, including employees, and contractors, have completed supplier provided training consistent with Commission standards.

(h) The Commission may adopt regulations that include appropriate penalties or sanctions for failure to comply with this section.

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

§ 317. Electric supplier reporting requirements.

(a) For purposes of this section "third-party electric supplier" means a company that purchases electricity on the open market and sells it to a residential customer.

(b) On or before the 15th day of each month, each third-party electric supplier must submit a report to the Commission on customer choice in its service territory for the preceding month in a form designed by the Commission, including all of the following:

(1) The total kilowatt–hours distributed to customers purchasing electricity from a third–party electric supplier.

(2) The total supply cost charged to customers purchasing electricity from a third–party electric supplier.

(3) The total cost that customers specified in paragraph (b)(2) of this section would have paid under standard offer service.

(4) The net third–party electric supplier total cost compared to the net standard offer service cost.

(5) The total third–party electric supplier average rate.

(6) The standard offer service average rate.

(7) The difference between the total third–party electric supplier average rate and the standard offer service average rate.

(8) The third–party electric supplier average residential rates broken out by supplier and the variance between each of these rates and the standard offer service average rate.

(9) The third–party electric supplier average general service nondemand rates broken out by supplier and the variance between each of these third–party electric supplier rates and the standard offer service average rate.

(10) The third–party electric supplier average general service demand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate.

(11) The third–party electric supplier average large power demand rates broken out by supplier and the variance between each of these third–party electric supplier rates and the standard offer service average rate.

(12) Other pertinent information the Commission considers appropriate.

(c) The Commission must adopt procedures to implement this section.

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

§ 405. Third-party electric supplier contract renewal.

(a) A third-party electric supplier must provide written confirmation of enrollment within 15 business days of enrollment.

(b) A third-party electric supplier must provide written notification at least 15 days in advance of any changes to the customer's rate.

(c) A third-party electric supplier may not renew service with a residential or small commercial customer unless the customer is provided with written notice of the pending renewal of a contract 90 and 30 days before the end of the contract term and the customer agrees to renew in writing as evidenced by written or electronic signature.

(d) For purposes of this section, "small commercial customer" means a customer taking service under a current electric distribution company tariff governing service classification "small general service non-demand rate" or the current Cooperative tariff governing service classification "general service."

(e) A written notice required under this section must be distributed in the same format that the customer has elected to receive other notifications from the electric supplier.

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

§ 406. Residential electric supplier regulations.

(a) A third-party electric supplier that purchases electricity on the open market and sells it to a residential customer may not do any of the following:

(1) Offer electricity, other than renewable energy, at a price that exceeds the trailing 12-month average of the electric company's standard offer service rate in the electric company's service territory as of the date of agreement with the customer.

(2) Offer residential electricity supply for a term that exceeds 12 months at a time.

(3) Automatically renew a term for supply of renewable energy.

(4) Offer a variable rate other than a rate that adjusts for seasonal variation more than twice in a single year.

(5) Pay a commission or other incentive-based compensation to an energy salesperson for enrolling customers.

(6) Charge early termination, cancellation, or non-renewal fees; late fees; fees to access the electric supplier's services; minimum monthly charges; enrollment fees; and interest charges.

(b) Nothing in this section prohibits the offer and use of time-of-use rates that establish different rates for periods within a single day.

SYNOPSIS

This Act provides that an individual electric supplier agent cannot be fined or imprisoned for violations under Section 218 of Chapter I of Title 26.

This Act provides that the Commission must develop a training and educational program for any entity or individual that is certified by the Commission as an electric supplier that demonstrates a thorough understanding of the Commission's regulations regarding (1) sales; (2) consumer protection; and (3) any other matter the Commission deems appropriate.

This Act requires that third-party electric supplier report data concerning customer choices in its service territory and third-party electric supplier rates. They must submit a monthly report to the Commission on customer choice in their service territories for the preceding month, including all of the following: (1) the total kilowatt hours distributed to customers purchasing electricity from a third-party electric supplier; (2) the total supply cost charged to customers purchasing electric from a third–party electric supplier; (3) the total cost that customers who chose third-party suppliers would have paid under standard offer service; (4) the net third–party total cost compared to the standard offer service; (5) the total third–party average rate; (6) the standard offer service average rate; (7) the difference between the total third–party average rate and the standard offer service average rate; (8) the third–party average residential rates broken out by supplier and the variance between each of these rates and the standard offer service average rate; (9) the third–party average general service nondemand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate; (10) the third–party average general service demand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate; (11) the third–party average large power demand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate; and (12) other pertinent information the Commission considers appropriate.

This Act requires a third-party electric supplier to provide residential customers or small commercial customers with written notice of the pending renewal of a contract 90 and 30 days before the end of the contract term is scheduled to occur and provides regulations regarding electric supplier rates. It requires a third-party electric supplier to provide written confirmation within 15 business days of enrollment and written notification at least 15 days in advance of any changes to the customer's rate.

This Act requires a greater than majority vote for passage because § 28 of Article IV of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to give jurisdiction to inferior courts or justices of the peace of "such … misdemeanors as the General Assembly may from time to time … prescribe."