



SPONSOR: Sen. McDowell & Rep. Paradee
Reps. Heffernan, Kowalko

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 188

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND ELECTRIC AND NATURAL GAS VEHICLE CHARGING SERVICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

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

§ 102 Definitions.

As used in this title, unless the context otherwise requires:

(1) "Commission" means the Public Service Commission.

(2) "Public utility" includes every individual, partnership, association, corporation, joint stock company, agency or department of the State or any association of individuals engaged in the prosecution in common of a productive enterprise (commonly called a "cooperative"), their lessees, trustees or receivers appointed by any court whatsoever, that now operates or hereafter may operate for public use within this state, (however, electric cooperatives shall not be permitted directly or through an affiliate to engage in the production, sale or distribution of propane gas or heating oil), any natural gas, electric (excluding electric or natural gas vehicle charging service, and electric suppliers as defined in § 1001 of this title), water, wastewater (which shall include sanitary sewer charge), telecommunications (excluding telephone services provided by cellular technology or by domestic public land mobile radio service) service, system, plant or equipment.

Section 2. 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:

§ 1001 Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Aggregator" means any person or entity who contracts with an electric distribution company, electric supplier or PJM Interconnection (or its successor) to provide energy services, which facilitate battery storage systems for grid-integrated electric vehicles and related technologies.

(2) "Ancillary services" means services that are necessary for the transmission and distribution of electricity from supply sources to loads and for maintaining reliable operation of the transmission and distribution system.

(3) "Broker" means a person or entity that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to retail electric customers.

(4) "Commission" means the Delaware Public Service Commission.

(5) "Community-owned energy generating facility" means a renewable energy generating facility that has multiple owners or customers who share the output of the generator, which may be located either as a stand-alone facility or behind the meter of a participating owner or customer. The facility shall be interconnected to the distribution system and operated in parallel with an electric distribution company's transmission and distribution facilities.

(6) "DEC" means the Delaware Electric Cooperative and its successors.

(7) "Demand-side management" means cost effective energy efficiency programs that are designed to reduce customers' electricity consumption, especially during peak periods.

(8) "Direct access" means the right of electric suppliers and their customers to use an electric distribution company's transmission and distribution system on a nondiscriminatory basis at rates, terms and conditions of service comparable to the electric distribution company's own use of the system to transmit or distribute electricity from any electric supplier to any customer.

(9) "Distribution facilities" means electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to customers, up through and including the point of physical connection with electric facilities owned by the customer.

(10) "Distribution services" means those services, including metering, relating to the delivery of electricity to a customer through distribution facilities.

(11) "DP&L" means Delmarva Power & Light Company and its successors.

(12) "Electric distribution company" means a public utility owning and/or operating transmission and/or distribution facilities in this State.

(13) "Electricity demand response" has the same definition set forth in § 1501 of this title.

(14) "Electric or natural gas vehicle charging service" means a person, entity or agency that provides retail electric or natural gas vehicle charging service for the general public.

(1415) "Electric supplier" means a person or entity certified by the Commission that sells electricity to retail electric customers utilizing the transmission and/or distribution facilities of a nonaffiliated electric utility, including:

- a. Municipal corporations which choose to provide electricity outside their municipal limits (except to the extent provided prior to February 1, 1999);
- b. Electric cooperatives which, having exempted themselves from the Commission's jurisdiction pursuant to §§ 202(g) and 223 of this title, choose to provide electricity outside their assigned service territories; and
- c. Any broker, marketer or other entity (including public utilities and their affiliates).

(1516) "Electric supply service" means the provision of electricity and related services to customers.

(1617) "Fuel cell" means an electric generating facility that:

- a. Includes integrated power plant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy, and
- b. May include an inverter and fuel processing system or other plant equipment to support the plant's operation or its energy conversion, including heat recovery equipment.

(1718) "Grid-integrated electric vehicle" means a battery-run motor vehicle that has the ability for 2-way power flow between the vehicle and the electric grid and the communications hardware and software that allow for the external control of battery charging and discharging by an electric distribution company, electric supplier, PJM Interconnection, or an aggregator.

(1819) "Integrated resource planning" means the planning process of an electric distribution company that systematically evaluates all available supply options, including but not limited to: generation, transmission and demand-side management programs, during the planning period to ensure that the electric distribution company acquires sufficient and reliable resources over time that meet its customers' needs at a minimal cost.

(1920) "Marketer" means a person or entity that purchases and takes title to electricity for sale to customers in this State.

(2021) "Retail competition" means the right of a customer to purchase electricity from an electric supplier.

(2122) "Retail electric customer" or "customer" means a purchaser of electricity for ultimate consumption and not for resale in this State, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

(2223) "Returning customer service" means the electric supply service offered to customers with a peak monthly load of 1000 kW or more, which have left standard offer service as of April 30, 2007, and later decide to receive electric supply service from their electric distribution company. For purposes of determining customers eligible for returning customer service, peak monthly load shall be measured by the electric distribution company's separate customer account, not by facility or service location or by customer, in aggregate or otherwise.

81 (~~23~~24) "Standard offer service" means the provision of electric supply service after the transition period by a
82 standard offer service supplier to customers who do not otherwise receive electric supply service from an electric
83 supplier.
84 (~~24~~25) "Standard offer service supplier" means the electric distribution company serving within its certificated
85 service territory.
86 (~~25~~26) "Transition period" means the period of time beginning with the implementation of retail competition and
87 ending on the dates specified in § 1004 of this title.
88 (~~26~~27) "Transmission facilities" means electric facilities located in Delaware and owned by a public utility that
89 operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to customers (including
90 any customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and
91 including the point of physical connection with electric facilities owned by the customer.
92 (~~27~~28) "Transmission services" means the delivery of electricity from supply sources through transmission
93 facilities.

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.

Author: Senator McDowell