

Senate Environmental and Energy Committee

Draft Minutes
151th General Assembly
Tuesday, January 19, 2021
1:00pm – 3:00pm
Virtual Meeting

Meeting Attendance

Committee Members Present:

Senator Stephanie Hansen

Stephanie.Hansen@delaware.gov

Senator David Wilson

David.L.Wilson@delaware.gov

Senator Marie Pickney

Marie.Pickney@delaware.gov

Senator Trey Paradee

Trey.Paradee@delaware.gov

Senator Gerald Hocker

Gerald.Hocker@delaware.gov

Senator Laura Sturgeon

Laura.Sturgeon@delaware.gov

Absent:

N/A

Other Legislators Present:

Senator Kyle Evans Gay

Kyle.Gay@delaware.gov

Senator David Sokola

David.Sokola@delaware.gov

Staff:

Ms. Jennifer Parrish

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Ms. Taylor Hawk

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Ms. Caitlin Del Collo

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Mr. Michael Soyka

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Mr. Scott Goss

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Mr. Matt Revel

Matthew.Revel@delaware.gov

Ms. Deanna Killen

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Ms. Meghan Mullennix

Meghan.Mullennix@delaware.gov

Ms. Mary Grace Colonna

Mary.Grace.Colonna@delaware.gov

Mr. Joseph Folgham

Joseph.Fulgham@delaware.gov

Ms. Deborah Gottschalk

Deborah.Gottschalk@delaware.gov

Public Attendees:

See Appendix A

Agenda:

I. Opening and Introduction

Senator Hansen opened the meeting by reviewing committee authorization and virtual format technicalities. Senator Hansen reviewed the opportunities for public participation. Senator Hansen took attendance.

Ms. Jenn Parrish provided an overview of technical matters and public comment rules.

II. Senate Bill 22 (Hansen) An Act To Amend Title 3 Of The Delaware Code Relating To Invasive Plants

Senator Hansen reviewed the contents of SB 22 and noted that an identical bill had passed the Senate without opposition the previous year. Senator Hansen recounted that the bill had originated in the Native Species Commission and Ecological Extinction Task Force's recommendations. Senator Hansen summarized the issue of species disappearance in Delaware. Senator Hansen discussed stakeholders and community members involved in the bill's development. Senator Hansen noted that the landscaping industry was in favor of the legislation. Senator Hansen stated that the bill did not take effect until 2022.

Senator Hocker stated his support of SB 22. Senator Hocker expressed concern about invasive plants already present in the state, particularly phragmites plants. Senator Hocker discussed the need for eradication.

Senator Hansen spoke to the difficulty of eradicating invasive species and noted that the Native Species Commission had examined the issue at length. Senator Hansen noted the expense of such an extensive undertaking. Senator Hansen expressed support for Senator Hocker's view that eradication was important and stated her interest in looking at the issue.

Senator Paradee noted that DNREC had phragmites spraying program.

Senator Hansen confirmed the existence of the DNREC program.

Secretary Shawn Garvin, DNREC, confirmed that the program existed and stated that he had asked staff for an update on its activities which he would convey to the committee.

Senator Hocker expressed concern for the effectiveness of this program. Senator Hocker stated that the costs of a successful eradication program are smaller than the costs of inaction.

Senator Hansen agreed with Senator Hocker's emphasis on the importance of eradication and expressed support for exploring eradication policies in the future.

Ms. Parrish began the public comment period on SB 22.

Mr. Matthew Sarver, Native Species Commission and Ecological Extinction Task Force Member, introduced himself as an industry professional with expertise on invasive species control. Mr. Sarver spoke to the impact of invasive species on native biodiversity and conservation. Mr. Sarver expressed support for SB 22. Mr. Sarver also discussed his hope that local nurseries would benefit from an increased interest in local plants.

Mr. Dustyn Thompson, Sierra Club of Delaware, expressed his organization's support for the bill and restated the importance of combatting invasive species. Mr. Thompson noted the relevance to agriculture, with invasive species causing negative damage to that industry.

Ms. Sheila Smith, Delaware Ornithological Society, stated that invasive species were a major threat to native bird populations, affecting the food chain, habitat, and biodiversity. Ms. Smith spoke about the burden on conservation's resources of combatting invasive species. Ms. Smith expressed support for SB 22 as a start in combatting the problem.

Ms. Aimee Isaac, Center for the Inland Bays, introduced her organization and expressed support for SB 22. Ms. Isaac discussed the cost and damages of invasive species, including \$160 billion a year nationally in damages. Ms. Isaac cited their experience managing the 150-acre James Farm Ecological Reserve and combatting many of the species listed in the bill. Ms. Isaac stated that identifying and prohibiting new invasive species was an important task. Ms. Isaac requested that lines 28 and 70 be amended to require annually updates to the invasive list and watch list.

Senator Hansen stated that updating the list of invasive species had been discussed during the drafting of the bill. Senator expressed support for the concept but discussed the logistical questions involved in such a provision. Senator Hansen stated that the issue would be helpful to look at in the future, although it was important to move SB 22 into law quickly.

Senator Hansen asked if there were more questions on SB 22. There were none.

III. Senate Bill 33 (Hansen) An Act to Amend Title 26 Of The Delaware Code Relating To Renewable Energy Portfolio Standards

Senator Hansen introduced SB 33 and read the synopsis. Senator Hansen discussed a forum that took place the previous week that had dealt with the bill in detail. Senator Hansen stated her intention to raise and address some frequent concerns. Senator Hansen began by summarizing the concern that the energy supply would be unstable above a 30% RPS, causing blackouts. Senator Hansen requested that Secretary Garvin respond to this concern.

Secretary Shawn Garvin, DNREC, stated that these concerns were not based in fact. Sec. Garvin explained that the belief arose from a PJM 2014 study which looked at renewable liability at 30% and found no issues. Sec. Garvin stated that this study did not conclude or suggest that anything higher than 30% would be problematic. Sec. Garvin conveyed DNREC's confidence that the stability would be reliable.

Senator Hansen summarized a common concern that DelMarva or other regulated entities could at will pay high prices for the renewable energy certificates (REC) and solar renewable energy certificates (SRECS) at or above the alternative compliance list's prices. The theory was that they could then pass those charges along to consumers. Senator Hansen explained that this led to fear that the bill lacked protections for consumers. Senator Hansen asked for testimony on the matter.

Mr. Andrew Slater, the Delaware Public Advocate, explained that the cost cap of \$25 was a cap on rates that could not be surpassed. Mr. Slater also elaborated that the alternative compliance price of \$150 was also a cap that could not be surpassed. Mr. Slater also discussed how regulated entities and related groups were involved in the renewable energy task force to set the auction each year which had gone smoothly. Mr. Slater conveyed his confidence that there were consumer protections included in the standards.

Senator Hansen recounted the concerns about the effect on consumer bills. Senator Hansen asked for testimony.

Ms. Anne Lindner, DelMarva Power, stated that the firm had made projections and models based on SB 33. Ms. Lindner stated that the cost to ratepayers was projected to go down over time due to other contracts. Ms. Lindner stated that without taking into account impacts of other contracts over time, bills under SB 33 would modestly increase.

Senator Hansen clarified and summarized these points, discussing the Blume and wind contracts that Ms. Lindner mentioned. Senator Hansen stated that rates were currently around \$8 and would stay the same for several years. Senator Hansen stated that when expensive contracts with Blume and wind lapsed, consumers would be paying less, around \$1. With the bill's standards coming into effect during that time, rates would potentially be around \$1.50.

Mr. Andrew Slater restated this understanding, emphasizing that the expensive contracts would end and consumers would be paying less money for more renewable energy.

Secretary Shawn Garvin clarified that the Blume contract fee was not part of the renewable energy standards.

Senator Hansen invited committee comments and questions.

Senator Hocker recounted the history of the Renewable Energy Portfolio and his experience with the original legislation. Senator Hocker discussed a guarantee at that time that consumers would not be asked to pay more than 3% for sustainable energy supply. Senator Hocker stated that the number was currently at 19%. Senator Hocker expressed skepticism that this deal was ever meant to be honored. Senator Hocker spoke about his experiences paying differing rates from different providers. Senator Hocker expressed opposition to making consumers pay more. Senator Hocker

also stated that controversial bills should not be heard virtually. Senator Hocker stated his opposition to the bill.

Senator Hansen stated that the cost for consumers would not go up. Senator Hansen emphasized the importance of timing. Senator Hansen discussed a relevant lawsuit and mentioned that the bill included a compromise for the parties to this lawsuit. Senator Hansen stated that DNREC and the Public Advocate, parties to the lawsuit, have agreed on this negotiated solution. Senator Hansen stated that court matters created a deadline at the end of January to pass the compromise, which would be in the public interest.

Senator Paradee asked for clarification on the new rate cost caps and enforcement.

Mr. Andrew Slater, stated that there was currently a percentage-based system. The bill would adjust to a more market-based approach, with \$25 and \$150 caps as opposed to percentages, which would address some of the disagreement and causes of the lawsuit.

Secretary Shawn Garvin, stated that the lawsuit and compromise originated in issues Senator Hocker raised. Sec. Garvin discussed that the 19% the Senator has mentioned was a number contested. Sec. Garvin stated that DNREC calculated the percent was 3%. Sec. Garvin stated that this bill was a solution to the calculation issue and was a time sensitive matter.

Senator Hocker stated his concerns about unknown outcomes and expressed displeasure with the evolution of the renewable portfolio standards since their passage.

Senator Sturgeon expressed her support of the bill. Senator Sturgeon expressed awareness of skepticism but stated her view that the bill was more compromise than controversial. Senator Sturgeon recounted differing views on the bill and thanked the sponsors for striking a balance.

Senator Pickney expressed support for the bill and echoed concerns of constituents. Senator Pickney requested clarification on why 50% RPS was dropped as a proposal.

Sec. Garvin stated that 40% was the result of negotiation between stakeholders. Sec. Garvin discussed the bill's attempted passage the previous year, mentioning the broad support found for 40%. Sec. Garvin stated that this could be evaluated in the future. Sec. Garvin also noted that comparing numbers to neighboring states was not always reliable, due to the difference between clean and renewable energy labels and subsidized nuclear plants in other states.

Senator Wilson requested clarification on the difference between 19% and 3% calculations. Senator Wilson conveyed constituent concerns.

Sec. Garvin explained that the 19% was the result of a calculation DNREC disagreed with. Sec. Garvin explained that that calculation excluded other major costs. Sec. Garvin restated that their calculation put the number at 3%. Sec. Garvin restated that the bill putting the measurements on a market-based approach solves the confusion.

Senator Hansen asked for specificity on the delta between 19% and 3%.

Sec. Garvin cited the exclusion of transmission costs and the inclusion of the Blume contract as factors leading to the contested 19%.

Mr. Thomas Noyes, DNREC, echoed Sec. Garvin's assessment that Blume and transmission costs were the largest factors in the discrepancy. Mr. Noyes elaborated on the areas of disagreement in the calculation process.

Mr. Andrew Slater, stated that the debate was over using the total bill. Mr. Slater stated that the calculation system was currently flawed and subjective, which the bill would address.

Senator Hansen opened public comment, which was managed by Ms. Parrish.

Mr. Andrew Gohn, American Clean Power Association, expressed support for SB 33. Mr. Gohn stated that DE had been a leader in the expansion in clean energy but had stagnated in progress. Mr. Gohn stated that DE has the second least ambitious RPS target on the east coast.

Mr. Bill Andrew, Delaware Electric Cooperative, expressed support for clean energy. Mr. Andrew stated that they had submitted a clean energy plan to all legislative partners.

Senator Hansen discussed the difference between clean and renewable energy policies.

Mr. Dustyn Thompson, Sierra Club and RPS Coalition, stated that there was false information on the proposal circulating. Mr. Thompson reviewed the checks and balances to prevent increasing rates for consumers.

Mr. Charles Garlow, DEEVA, expressed support for the bill and called for even higher standards to combat climate change.

Ms. Cheryl Siskin expressed support for the suggested 50% standard. Ms. Siskin expressed concerns about climate change, especially for Delaware's low-lying land. Ms. Siskin expressed her belief the rates would decrease. Ms. Siskin supported the bill.

Ms. Peggy Shultz, League of Women Voters of Delaware, expressed support for SB 33 and discussed the extensional threat of climate change. Ms. Shultz also stated that the league supported an RPS of at least 50%. Ms. Shultz discussed the favorable cost analysis of renewable energy. Ms. Shultz called for an amendment to increase RPS to 50%.

Senator Hansen stated that DEMEC had reached out to express a neutral position on SB 33.

Mr. John Irwin, Delaware's Sierra Club's Climate and Energy Committee, expressed their hope that Delaware would rise to the opportunity to address climate change. Mr. Irwin discussed the natural disasters associated with climate change and mentioned Delaware's vulnerability. Mr. Irwin discussed the damages of fossil fuels. Mr. Irwin stated that providing stability and growth in the solar industry was another benefit of increasing RPS. Mr. Irwin discussed the cost of not addressing climate change. Mr. Irwin called for political courage to combat the problem. Mr. Irwin supported SB 33.

Ms. Sherri Evans-Stanton, Sierra Club, expressed support for SB 33. Ms. Stanton emphasized urgency of passing the bill to resolve the litigation issue. Ms. Evans-Stanton discussed the benefits of RPS and the included consumer safeguards. Ms. Evans-Stanton discussed the Sierra Club's past advocacy and community engagement, citing community support for increasing RPS. Ms. Evans-Stanton also expressed the belief that renewable energy was beneficial economically. Ms. Evans-Sherri called for a 50% RPS and expressed support for passing the bill out of committee.

Ms. Anne Kirby, Delaware Energy Service Coalition and Green Buildings Delaware, expressed support for SB 33. Ms. Kirby expressed the view that energy policy should be part of economic recovery. Ms. Kirby discussed the opportunity for economic growth through renewable energy. Ms. Kirby conveyed community support for the bill. Ms. Kirby also stated that the minimum RPS should be 50%.

Ms. Beth Chajes, Citizens Climate Lobby, stated that their organization supported SB 33, citing the damages of climate change and its effects. Ms. Chajes called for a higher RPS and expressed belief in the economic benefits.

Ms. Jill Gaumer, Sierra Club, expressed support for SB 33, calling for a higher RPS of 50% and citing climate change. Ms. Gaumer spoke about the environmental efforts of Delaware politicians on a national level but expressed disappointment in state action. Ms. Gaumer cited experts and evidence that higher RPS was necessary.

Ms. Donna Shand, Delaware United, expressed support for SB 33.

Mr. Dale Savis, Delaware Solar Energy Coalition, expressed support for SB 33 and stated interest in increasing RPS on a faster timetable.

Ms. Nancy Hannigan expressed support for SB 33 and called for at least a 50% RPS. Ms. Hannigan stated that this was an opportunity to be a regional leader.

Mr. David Stevenson, Caesar Rodney Institute, expressed support for a clean energy bill with a broader focus than renewable energy. Mr. Stevenson expressed the view that renewables were the solution of the past, an outdated proposal. Mr. Stevenson recounted some history of renewable energy policy, specifically reviewing the litigation previously discussed. Mr. Stevenson also spoke to skepticism on the cost cap, asking how this would be different than the past.

Mr. Bruce Burcat, Merrick Action, expressed support for the purpose of SB 33 but called for stronger standards. Mr. Burcat expressed dissatisfaction with the delay for benefits of job growth and emission reductions. Mr. Burcat referenced a proposal from his organization. Mr. Burcat expressed support for SB 33 but called for amendment.

Ms. Aimee Isaac, Center for the Island Bays, stated that climate change threatened the inland bays through various challenges to the land and the community. Ms. Isaac stated that Sussex County had many homes built in flood zones. Ms. Isaac cited projected sea level rise and its impact on residential communities. Ms. Isaac expressed support for SB 33 but requested amendments for more ambitious targets.

Mr. Evan Vaughan, MidAtlantic Renewable Energy Coalition, restated their hope that legislators would consider his organization's proposed near-term schedule for RPS changes that would bring benefits sooner. Mr. Vaughan cited research that this course of action was an effective cost choice. Mr. Vaughan stated belief in potentially superior stability of renewable energy to fossil fuels.

Mr. Cory Budischak, engineering professor at Temple University, recounted some data on the need for action on energy policy to combat climate change. Mr. Budischak expressed support for SB 33.

Mr. Rob Garagiola expressed support for SB 33.

Mr. Robert Overmiller, stated his opposition to SB 33 and stated opposition to government regulation of power source purchases, believing the threat of climate change to be overstated.

Ms. Meri Weiss, Koach Yarok community group and the RPS coalition, expressed support of SB 33 and called for amendment for higher standards.

Mr. Jack Guerin, Unitarian Universalist Advocacy Network, expressed support for SB 33,

Mr. Clem Dinsmore stated that he had sent Senator Hansen three suggested amendments to the RPS. One would articulate the goals and purposes of the RPS, correcting the limited focus on cost of renewable energy. The second would clarify parameters of the public service commission's ability to establish RPS requirements beginning in 2036. The third would remove laws or administrative actions that suppress incentives for residents and developers to undertake renewable energy projects. Mr. Dinsmore elaborated on two such provisions.

Senator Hansen invited attendees that were not able to speak due to time constraints to submit written comments. Senator Hansen also invited attendees interested in energy policy to participate in Friday forums on climate and energy.

Senator Pickney conveyed a message from Mr. Willis, a constituent unable to speak earlier in the meeting, who expressed concerns about unreliability of renewable energy sources and possible negative consequences.

Senator Hansen asked if any committee members wished to offer additional comments. There were none.

Senator Paradee motioned to adjourn the meeting.

Senator Wilson seconded.

Senator Hansen adjourned the meeting at 3:02.

Appendix A: Public Attendees

Matthew Sarver
Cathryn Soriano, DNREC
Chris Dipietro, U.S. Wind
Roman Battaglia
William Murtha
Emily Greene
Don Brill
Randall Chase
Christina Bryan, Delaware Healthcare
Association
Rhett Ruggerio, Ruggerio Wilson &
Associates
Mary Debenedictis, DEMEC
Emily Knearl, Delaware Nature Society
Rob Book, Delaware Electric Cooperative,
Inc.
Meri Weiss, Koach Yarok
Sherri Evans-Stanton, Sierra Club
Clem Dinsmore
Lisa Lock, Delaware Interfaith Power & Light
Evan Vaughan, MAREC Action
Jessica Inhof, Delaware Dept. of Agriculture
Lisa Borin Ogden, DNREC
Nancy Willing, Civic League for NCC
Rob Garagiola, Compass Government
Relations
Jack Thompson, Fridays for Future DE
Brett Swan, DNREC
Charles Anderson, City of Seaford
Anne Farley, DPL
Rick Armitage, Armitage DeChene &
Associates
Carol Clapham, IHB
David Stevenson, Caesar Rodney Institute
Gordon Simmons
Scott Lynch
Andrew Slater, Division of the Public
Advocate
Laird Stabler, Dakota Power
Coralie Pryde, LWVDE
Patrick Emory, DNREC
William Paulin, Kuehne Chemical Company,
Inc.
Jacob Owens, Delaware Business Times
Evan Park, University of Delaware

Bruce Burcat, MAREC Action
Charlie Garlow, DEEVA
Shweta Arya, Delaware Interfaith Power and
Light
Marvin H.
Stephanie Thompson
Debbie Hamilton, Hamilton Goodman
Partners
Heather Contant, DEMEC
Matt Bittle, Delaware State News
James Colligan, DNREC
Martin Willis
Mark Nielson, Delaware Electric Cooperative
Kyle Schwab
Sarah Haas
Lincoln Willis, DEMEC
John Sykes, Delaware Interfaith and Light
Rebecca Kidner
Patrick Zemanek
Bryon Short, Delaware Contractors
Association
S. Sullivan
Bahareh Van Boekhold, Green Bulding
United
Kimberly Schlichting, DEMEC
Anne Lindner
Robert Overmiller
Bill Andrew, Delaware Electric Cooperative
Willie Scott, Delaware Sierra Club
Bailey Brooks
Kimberly Cole
Nicholas Dinardo
James Dechene, Artmitage Dechene &
Associates
David Mangler, Department of State
Donna Shand, Delaware United
Jeffrey Richardson, Imani Energy
Alexandra Shull, Compass Management
Partners
Hayes Framme
N. Brady, DDA
Jameson Tweedie
Beth Chajes, Citizens' Climate Lobby
Amy Cornelius, GreenBeams
Verity Watson

Kim Gomes
Bernard Marczyk, Cornerstone Government
Affairs
Aimee Isaac, DE Center for the Inland Bays
Kathleen Rutherford
James Nutter, Parkowski, Guerke & Swayze
Claire Simmers
Olivia Farro, Fridays for Future
Esosa Iriowen, Wilmington University
Thomas Noyes, DNREC
Tim Daniels, Dakota Power Partners LLC
Deborah Cuomo
Lizzie Lewis, Hamilton Goodman Partners
Jim White, Delaware Nature Society
Samantha Hemphill
John Irwin, DE Sierra Club
Ian McGowan
Emily Rose
Joseph Fitzgerald, Fitzgerald Consulting, Inc.
Kevin Thompson
Bonnie Metz, Verizon
Brandon Williams
Andrew Gohn, American Clean Power Association
Nancy Hannigan
Bob Byrd, ByrdGnomes
Mary Kate McLaughlin
Maurice Simpson
Lisa Oberdorf, Delmarva Power
Pamela Patone, Municipal Services Commission of the City of New Castle
Jack Guerin, Unitarian Universalist Delaware Advocacy Network
Peggy Schultz, League of Women Voters Delaware
Cory Budischak
Scott Kidner
Dayna Cobb, DNREC
Stephen Cottrell
Julie Fedele, Controller General's Office
Kim Willson, RWA
Austin Calaman, Lewes Board of Public Works
Rob Underwood, DNREC
Deborah Hamilton, Hamilton Goodman Partners
Susan Mack
Rebecca Calvello, Delaware State Senate
Mike Faust
Sandra Simmons, DE Lutheran Office for Public Policy
Tracy Surles, New Castle County, Public Works Department
Rebecca Ferraloro, DNREC
Patrick McCullar, Delaware Municipal Electric Corporation Inc.

Jennifer Atwood
Steve Baccino, Chesapeake Utilities
Corporation
Dale Davis, CMI Solar & Electric Inc. &
DSEC
Jill Gaumer
Anne Kirby
Matt Hartigan, Delaware Public Service
Commission
Sheila Smith, Delaware Ornithological
Society
Dustyn Thompson, Sierra Club
Shawn Garvin, DNREC
Abigail Armstrong
Cheryl Siskin, Sierra Club of Delaware
Iskeisha Stuckey, Food Bank of Delaware
Sydney Hyer, DCADV

Glenn Moore, Delmarva Power
Ashley Kennedy
Natalie Crisenzo
Eric Morrison
Devera Scott, Delaware Department of Justice
Katie Barlotta, Green Building United
Lori Murphy Lee, PJM Interconnection
Christopher Bason, Delaware Center for the Inland Bays
Dale Davis, CMI Solar & Electric
Regina Katz, American Clean Power Association
Thomas Panetta
John Flaherty, Lewes Board of Public Works
Bill Johnson, Delaware Coalition for Open Government

Appendix B: *Public Documents (See attached)*

B- 1: *Steve Cottrell, Delaware Audubon Society*

B- 2: *Gary Myers*

B- 3: *Aimee Isaac, CIB Board Appointee of the Senate Pro Tem*

B- 4: *Jack Thompson, Caesar Rodney Institute Center for Energy & Environment*

B- 5: *Jack Guerin, Unitarian Universalist Delaware Advocacy Network (UUDAN)*