

SB0841/773025/1

BY: Senator Ready

AMENDMENTS TO SENATE BILL 841, AS AMENDED

AMENDMENT NO. 1

On page 5 of the Education, Energy, and the Environment Committee Amendments (SB0841/423325/1), in line 13 of Amendment No. 1, after “Section” insert “1-101(dd-1)”; in line 22, after “(d)(2)(ii)3.” insert “7-510(d)”; and in the same line, after “7-510.3(o),” insert “7-707(d)”.

On page 6 of the Education, Energy, and the Environment Committee Amendments, in line 1 of Amendment No. 1, after “Section” insert “1-101(a)”; and in line 2, after “7-505(b)(1),” insert “7-707(a) through (c)”.

AMENDMENT NO. 2

On page 44 of the Education, Energy, and the Environment Committee Amendments, after line 20 of Amendment No. 2, insert:

“1-101.

(a) In this division the following words have the meanings indicated.

(DD-1) (1) “RESIDENTIAL RETAIL CUSTOMER” MEANS A RETAIL ELECTRIC OR RETAIL GAS CUSTOMER THAT PURCHASES ELECTRICITY OR GAS FOR USE AT A DOMICILE, INCLUDING ANY INDIVIDUAL WHO ENTERS INTO A DIRECT CONTRACT WITH AN ELECTRICITY SUPPLIER OR GAS SUPPLIER FOR THE PROVISION OF ELECTRICITY OR GAS FOR USE AT A DOMICILE.

(2) “RESIDENTIAL RETAIL CUSTOMER” DOES NOT INCLUDE A RETAIL CUSTOMER WHOSE ACCOUNT SERVES THE PRIMARY BUSINESS OPERATIONS, ANCILLARY BUSINESS FUNCTIONS, OR COMMERCIAL ACTIVITIES

OF A BUSINESS ENTITY OR OTHER NONRESIDENTIAL ORGANIZATION BUT IS CLASSIFIED, DESIGNATED, OR OTHERWISE CODED AS RESIDENTIAL BY THE ELECTRIC OR GAS COMPANY.”.

On page 139 of the Education, Energy, and the Environment Committee Amendments, after line 10 of Amendment No. 2, insert:

“7–510.

(d) (1) This subsection applies to residential electricity supply other than supply offered through:

(i) standard offer service;

(ii) the Department of General Services’ sale of energy under § 7–704.4 of this title; or

(iii) a community choice aggregator under § 7–510.3 of this subtitle.

(2) A residential electricity supplier:

(i) may offer electricity, other than green power, only at a price that does not exceed 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;

(ii) may offer residential electricity supply only for a term not to exceed 12 months at a time;

(iii) may, for electricity supply other than green power, automatically renew the term only if the electricity supplier provides notice to the customer 90 days before and 30 days before renewal;

(iv) may offer green power that meets the requirements of § 7–707 of this title, but may not automatically renew the term with the customer;

(v) subject to paragraph (3) of this subsection, may not offer a variable rate other than a rate that adjusts for seasonal variation not more than twice in a single year; [and]

(vi) may not pay a commission or other incentive-based compensation to an energy salesperson for enrolling customers; AND

(VII) MAY USE CONSOLIDATED BILLING.

(3) Paragraph (2)(v) of this subsection does not prohibit the offer and use of time-of-use rates that establish different rates for periods within a single day.

(4) A residential electricity supplier may not sell to an electric company, and an electric company may not purchase from the electricity supplier, accounts receivable.”;

and after line 17, insert:

“7-707.

(a) In this section, “green power” means energy sources or renewable energy credits that are marketed as clean, green, eco-friendly, environmentally friendly or responsible, carbon-free, renewable, 100% renewable, 100% wind, 100% hydro, 100% solar, 100% emission-free, or similar claims.

(b) This section does not apply to:

(1) the Department of General Services when the Department of General Services sells energy under § 7-704.4 of this subtitle;

(2) a community choice aggregator under § 7-510.3 of this title; or

(3) an electricity supplier when supplying electricity to commercial retail electric customers.

(c) An electricity supplier that supplies electricity to residential retail electric customers may not market electricity as green power unless:

(1) the percentage of the electricity being offered, or the equivalent number of renewable energy credits associated with the electricity being marketed as green power, that is eligible for inclusion in meeting the renewable energy portfolio standard equals or exceeds the greater of:

(i) 51%; or

(ii) 1% higher than the renewable energy portfolio standard for the year the electricity is provided to the customer;

(2) the Commission approves the price of the electricity being marketed as green power in accordance with subsection (d) of this section; and

(3) the electricity supplier submits an application to the Commission that:

(i) describes the electricity being marketed as green power, including the green power source and percentage of the electricity that is green power;

(ii) describes how the green power complies with State law and regulations; and

(iii) includes any other information the Commission considers necessary.

(d) (1) The price approved by the Commission under subsection (c)(2) of this section shall be determined through:

(i) a proceeding held in accordance with paragraph (2) of this subsection; or

(ii) a proceeding held in accordance with paragraph (3) of this subsection.

(2) (i) Each year the Commission shall hold a proceeding to set a price per megawatt-hour for electricity marketed as green power under this section that may not be exceeded by an electricity supplier except as provided in paragraph (3) of this subsection.

(ii) Subject to paragraph (4) of this subsection, the price set by the Commission under subparagraph (i) of this paragraph may:

1. exceed the maximum price per megawatt-hour that is authorized under § 7-510(d)(2)(i) of this title; and

2. differ based on the amount and source of the electricity generation.

(iii) During a proceeding held under subparagraph (i) of this paragraph, the Commission:

1. shall consider:

A. the price of the energy purchased, including the total cost of the renewable energy credits;

B. the amount of electricity that is eligible for inclusion in meeting the renewable energy portfolio standard; AND

C. [the state in which the electricity was generated; and

D.] applicable market data; and

2. may consider whether the purchase of renewable energy credits was bundled with a power purchase agreement from the energy sources associated with the credit.

(3) (i) On request by an electricity supplier, the Commission shall hold a proceeding to set a price per megawatt-hour for electricity marketed as green power for that electricity supplier.

(ii) Subject to paragraph (4) of this subsection, at a proceeding held under this paragraph the Commission may set a price per megawatt-hour that is higher than the price determined in the proceeding held under paragraph (2) of this subsection for an electricity supplier if:

1. the electricity supplier demonstrates to the Commission's satisfaction, based on an independent third-party audit, that the actual cost to the electricity supplier for the generation or supply of electricity exceeds that of the price determined through the proceeding held in accordance with paragraph (2) of this subsection;

2. the increased price reflects only the cost of the electricity marketed as green power and is not associated with any of the electricity supplier's other costs; and

3. the electricity supplier demonstrates to the Commission's satisfaction that the electricity supplier has a significant long-term investment in renewable energy that meets the renewable energy portfolio standard under § 7-703 of this subtitle.

(iii) During a proceeding held under this paragraph, the Commission shall consider:

1. whether the purchase of renewable energy credits was bundled with a power purchase agreement from the energy sources associated with the credit;

2. the price of the energy purchased, including the total cost of the renewable energy credits or power purchase agreements;

3. the amount of electricity that is eligible for inclusion in meeting the renewable energy portfolio standard; AND

4. [the state in which the electricity was generated; and

5.] applicable market data.

(4) (i) A price approved by the Commission under this subsection may not exceed 150% of the maximum price per megawatt-hour that is authorized under § 7-510(d)(2)(i) of this title unless the Commission determines that the actual cost of the green power exceeds that amount.

(ii) Within 120 days after approving a price for green power that exceeds 150% of the maximum price per megawatt-hour that is authorized under § 7-510(d)(2)(i) of this title, and annually for as long as the price exceeds that amount, the Commission shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, that:

1. demonstrates that the approved price represents only the actual price of the green power; and

2. includes the Commission's order authorizing the price of the green power.

(iii) If the Commission has approved for 3 consecutive years a price for green power that exceeds 150% of the maximum price per megawatt-hour that is authorized under § 7-510(d)(2)(i) of this title, the Commission shall include in the annual report required under subparagraph (ii) of this paragraph:

1. information on market conditions that necessitate the approved price of the green power that exceeds 150% of the maximum price per megawatt-hour that is authorized under § 7-510(d)(2)(i) of this title; and

2. a recommendation of whether to increase the limitation on the maximum price of green power above which the Commission is required to make a determination under this paragraph.

(5) The Commission:

(i) shall annually review a price approved under paragraph (3) of this subsection; and

(ii) may, on its own initiative, or on petition by the Office of People's Counsel, require an electricity supplier offering green power under a price

established under paragraph (3) of this subsection to demonstrate that the price continues to meet the requirements of paragraph (3) of this subsection.”.