SENATE, No. 4214

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 2, 2021

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

Requires Division of Rate Counsel to consider environmental impacts of proposed rate or service measure when representing public interest in certain proceedings and appeals.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the consideration of environmental factors in certain proceedings and appeals initiated by the Division of Rate Counsel, and amending P.L.2005, c.155.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 48 of P.L.2005, c.155 (C.52:27EE-48) is amended to read as follows:

48. Division of Rate Counsel; jurisdiction.

The Division of the Rate Counsel in, but not of, the Department of the Treasury shall have the authority to conduct investigations, initiate studies, conduct research, present comments and testimony before governmental bodies, issue reports, and produce and disseminate consumer guides on any matters that fall within the Rate Counsel's jurisdiction. The Rate Counsel shall also have the authority to represent the public interest as set forth below.

a. Utilities. The Division of Rate Counsel may represent and protect the public interest, as defined in section 12 of P.L.2005, c.155 (C.52:27EE-12), in proceedings before, and appeals from, any State department, commission, authority, council, agency, or board that is charged with **[**the regulation or control of**]** regulating or controlling any business, industry, or utility **[**regarding**]** with respect to a requirement that the business, industry, or utility provide a service or **[**regarding the fixing of**]** fix a rate, toll, fare, or charge for a product or service. The Division of Rate Counsel may initiate any such proceedings when the director determines that a discontinuance of, or a change in, a required service or a rate, toll, fare, or charge for a product or service is in the public interest. In making such determination, and in evaluating how the public interest can best be served in any proceeding or appeal initiated pursuant to this subsection, the director shall consider both:

(1) the affordability and equitability of the proposed rate or service measure, in comparison to the status quo and other viable alternatives; and

(2) the actual and potential effects of the proposed rate or service measure on the climate and environment, including, but not limited to: (a) the social cost of carbon, in comparison to the status quo and other viable alternatives, that will result from the proposed rate or service measure; (b) whether, and the extent to which, the proposed rate or service measure, in comparison to the status quo and other viable alternatives, will aid or hinder the State's ability to timely fulfill its de-carbonization goals; and (c) whether, and the extent to which, the proposed rate or service measure, in comparison to the status quo and other viable alternatives, will

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

cause or contribute to cumulative environmental or public health stressors that are higher in an overburdened community than in other communities.

When representing the public interest, pursuant to this subsection, the division shall prioritize those cases that are determined, by the director, to have the most potential to either negatively or positively impact: the social cost of carbon; the ability of the State to timely fulfill its de-carbonization goals; or the number, type, or extent of environmental or health stressors that are present in an overburdened community.

As used in this subsection:

"De-carbonization goals" means the renewable energy-related and carbon emissions-related goals and targets established pursuant to New Jersey's Energy Master Plan; the greenhouse gas emissions standards, renewable energy portfolio standards, emissions portfolio standards, solar and offshore wind energy requirements, zero-emissions certificate standards, energy storage, energy efficiency, energy savings, and peak demand reduction standards and requirements, community solar energy program standards and dual-use solar energy program standards, and electric vehicle standards variously established pursuant to the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et al.), the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.), the State's offshore wind economic development act, P.L.2010, c.57 (C.48:3-87.1 et al.), the State's zero emissions certificate act, P.L.2018, c.16 (C.48:3-87.3 et al.), the State's clean energy act, P.L.2018, c.17 (C.48:3-87.8 et seq.), and the State's electric vehicles act, P.L.2019, c.362 (C.48:25-1 et seq.); and any other similar standards or requirements, related to carbon emissions or the use of renewable energy resources by carbon emitters, which are now or hereinafter enacted into law.

"Environmental or public health stressors" means the same as that term is defined in section 2 of P.L.2020, c.92 (C.13:1D-158).

"Overburdened community" means the same as that term is defined in section 2 of P.L.2020, c.92 (C.13:1D-158).

"Proposed rate or service measure" means a measure proposed by the Division of Rate Counsel, pursuant to this subsection, which would result in the discontinuance of, or a change in, a required service provided by, or a rate, toll, fare, or charge imposed by, a business, industry, or utility.

"Social cost of carbon" means the metric, calculated by the U.S. Interagency Working Group on the Social Cost of Carbon, that is used to quantify and monetize climate damages resulting from each ton of carbon dioxide released into the atmosphere.

b. Insurance; limited jurisdiction. The Division of Rate Counsel shall represent and protect the public interest with respect to insurance matters in significant proceedings that pertain solely to prior approval rate increases for personal lines property casualty

coverages or Medicare supplemental coverages. The Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in **[**(1)**]**: expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to section 34 of P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409 (C.17:36-5.35)**[**, or (2)**]**; prior approval rate filings of seven percent or less**[**,**]**; or **[**(3)**]** rule or form filings for any other form of insurance.

[In**]** The Director of the Division of Rate Counsel, in determining, in **[**his**]** the director's discretion, whether a proceeding is significant, **[**the Director of the Division of Rate Counsel**]** shall consider the following factors:

(1) the overall dollar impact of the requested increase, considering the filer's market share and the magnitude of the requested rate change;

(2) whether the increase, if granted, will increase the filer's rates significantly above market norms;

(3) whether the filer is advancing a significantly different alternate ratemaking methodology to the standard methodology established pursuant to section 8 of P.L.1988, c.119 (C.17:29A-36.2); and

(4) whether the insurer is experiencing financial difficulties at its present rate level, as evidenced by the filing of rehabilitation proceedings, recent downgrading by insurance rating services, or significant losses reported on the filer's public financial statement.

The Director of the Division of Rate Counsel shall, in addition to the powers set forth in this act, have the express authority to intervene in public hearings pursuant to section 66 of P.L.1998, c.21 (C.17:29A-46.8).

(cf: P.L.2010, c.34, s.33)

2. This act shall take effect immediately.

STATEMENT

This bill would require the Director of the Division of Rate Counsel to consider certain factors, related to climate and the environment, when representing the public interest in case proceedings before, or appeals from, a State department, commission, authority, council, agency, or board that is charged with regulating or controlling any business, industry, or utility with respect to the provision of a required service or the fixing of rates, tolls, fares, or charges thereby. Current law authorizes the division to initiate a case proceeding or appeal when the director determines that a discontinuance of, or a change in, a required service or rate, toll, fare, or charge is in the public interest. The bill would clarify

that, in making a determination as to what is in the public interest, and in evaluating how the public interest can best be served in any proceeding or appeal initiated pursuant to this provision of law, the director will be required to consider both:

(1) the affordability and equitability of the proposed rate or service measure (i.e., the proposed rate or service change or discontinuance), in comparison to the status quo and other viable alternatives; and

(2) the actual and potential effects of the proposed rate or service measure on the climate and environment, including, but not limited to: (a) the social cost of carbon, in comparison to the status quo and other viable alternatives, that will result from the proposed measure; (b) whether, and the extent to which, the proposed measure, in comparison to the status quo and other viable alternatives, will aid or hinder the State's ability to timely fulfill its de-carbonization goals; and (c) whether, and the extent to which, the proposed measure, in comparison to the status quo and other viable alternatives, will cause or contribute to cumulative environmental or public health stressors that are higher in an overburdened community than in other communities.

The bill would further require the division, when representing the public interest for these purposes, to prioritize those cases that are determined, by the director, to have the most potential to either negatively or positively impact: the social cost of carbon; the ability of the State to timely fulfill its de-carbonization goals; or the number, type, or extent of environmental or health stressors that are present in an overburdened community.