

Senate Energy and Natural Resources Committee

Max Taylor 271-1403

SB 108-FN, relative to the department of energy.

Hearing Date: February 4, 2025

Time Opened: 9:01 a.m.

Time Closed: 9:38 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Bill Analysis: This bill transfers specific regulatory and adjudicative responsibilities from the public utilities commission to the department of energy, including prohibiting unauthorized telecommunications service provision, protecting ratepayer communication preferences, and refining net energy metering, assessment, complaint, investigation, and aggregation procedures.

Sponsors:

Sen. Pearl

Sen. Avard

Sen. Lang

Sen. Murphy

Sen. Sullivan

Sen. Gannon

Sen. McGough

Sen. Rosenwald

Sen. Watters

Sen. Perkins Kwoka

Rep. Spillane

Rep. Cambrils

Rep. Moffett

Rep. See

Who supports the bill: Sen. Howard Pearl (Prime Sponsor), Don Kreis (Office of the Consumer Advocate), David Shulock, Sam Evans-Brown (Clean Energy NH)

Who opposes the bill: Maura Weston (NECTA), Deana Dennis (Community Power Coalition of NH)

Who is neutral on the bill: Alex Speidel & Benjamin Martin-McDonough (NH Public Utilities Commission)

Summary of testimony presented in support:

Senator Howard Pearl

Senate District 17

- Senator Pearl introduced SB 108-FN, which transfers certain regulatory and adjudicative powers from the Public Utilities Commission to the New Hampshire Department of Energy.
- The bill addresses telecommunications service regulations, ratepayer communication protections, and net energy metering procedures.

- This bill was requested by the New Hampshire Department of Energy.

David Shulock,

General Counsel, New Hampshire Department of Energy (DOE)

- The DOE is requesting revisions to SB 108-FN.
- The original bill transferred enforcement of “slamming” (unauthorized provider changes) from the Public Utilities Commission to the Department of Energy. After a review, the DOE now requests that Page 1, Lines 1-8 be deleted, keeping slamming enforcement with the PUC.
- Mr. Shulock explained Section 2 of the bill maintains consumer protection rules for competitive energy suppliers under the DOE, ensuring consistency with existing regulations. No changes were requested for this section.
- Mr. Shulock requested the removal of Page 2, Lines 19-28, from the bill. He explained that the 50-megawatt net metering cap is outdated since the state now encourages expanded net metering. Additionally, he noted the removed language pertains to the disclosure of terms and power aggregation, which DOE believes should remain under the jurisdiction of the PUC.
- Mr. Shulock indicated Section 4 clarifies that utilities leaving the state mid-year remain responsible for their full annual regulatory assessment. At the request of stakeholders, he requested that Page 3, Lines 6-7 be amended from “*flat fee or all four quarterly payments as applicable*” to read “*amount assessed for that fiscal year.*”
- Mr. Shulock emphasized concerns raised regarding complaint procedures. Currently, complaints are first handled by the DOE before ratepayers must file a separate petition with the PUC. This process has proven burdensome. The proposed change would transfer formal complaint filings directly to the PUC, eliminating the need for ratepayers to file a second petition.
 - Page 3, Line 37 through Page 4, Line 1 would be amended from “*of law, franchise, or order*” to read “*the violation charged in the complaint.*”
- Mr. Shulock highlighted the bill mistakenly references RSA 362-A:9, VIII but should reference RSA 362-A:9, XVIII.
- Mr. Shulock stated the proposed changes align with the DOE’s original intent and do not conflict with other provisions in the bill.

Donald Kreis

Office of the Consumer Advocate

- Mr. Kreis expressed support for SB 108-FN, emphasizing that clarifying the roles of the PUC and the DOE is beneficial to consumers.
- Mr. Kreis noted the creation of the DOE nearly five years ago left some jurisdictional ambiguities, and this bill helps address those issues.
- Specifically, he raised concerns about the complexity of the proposed three-step complaint process outlined in Sections 5 through 9 of the bill.
- Mr. Kreis described the process as a “triple gauntlet” for residential ratepayers.
 - Consumers must first contact the Consumer Services Division at the PUC.

- If unsatisfied, consumers must escalate the issue to a quasi-formal adjudicative process at the DOE.
- If still unsatisfied, the complaint can finally be taken to the PUC for a formal proceeding.
- Mr. Kreis emphasized that this process is particularly complex for residential ratepayers without legal representation.
- Senator Rosenwald asked Mr. Kreis to estimate how much time it would take for a residential ratepayer to go through all three steps.
 - Mr. Kreis stated the length of the process depends largely on how quickly the DOE handles their part of the process.
 - He noted the bill does not impose strict timelines. However, this is appropriate because some complaints are more complex than others.
 - Mr. Kreis estimated that resolving a complaint could take anywhere from weeks to up to a year.
 - Additionally, he proposed a potential fourth step where dissatisfied consumers can appeal to the New Hampshire Supreme Court or petition the legislature for policy changes.

Sam Evans-Brown

Clean Energy New Hampshire

- Mr. Evans-Brown stated his support for the bill, particularly its goal to modernize the net metering statute he believes is outdated.
- Mr. Evans-Brown expressed his concern about removing Section 3, Lines 19-21, which ensures net metering tariffs remain consistent in terms of rates and structure.
- He acknowledged that while the PUC is unlikely to change rates for customers already grandfathered into older net metering programs, removing this language could allow future changes.
- He explained that net metering and group metering are governed by the 900 Rules, which were originally created by the PUC but later transferred to the DOE.
- Additionally, he noted that these rules are currently being written, meaning it is crucial to ensure that state law aligns with updated regulations.
- Mr. Evans-Brown emphasized that excessive changes aren't necessary, but he believes clarifying the statute would benefit stakeholders.
- Senator Watters asked if adding specific dates to clarify when certain orders or rules take effect would help with the transition from standard tariffs to alternative tariffs.
 - Mr. Evans-Brown indicated it could be a useful solution but emphasized that stakeholders, including the PUC and DOE, should collaborate to refine the language together.
 - Additionally, he stressed the goal is to clarify the current system while ensuring a smooth transition for future energy policies.

Summary of testimony presented in opposition:

Maura Weston

New England Connectivity and Telecommunications Association (NECTA)

- NECTA initially opposed the bill as drafted but has since been in discussion with the DOE to clarify certain provisions.
- NECTA's primary concerns involve which entities are assessed by the DOE and ensuring that certain consumer complaints remain under the jurisdiction of the Department of Justice under the Communication Consumer Protection Act.
- NECTA requests an amendment to clarify that only entities already subject to assessment statutes will remain subject. Ms. Weston expressed concern that without this clarification, companies not regulated by the DOE or PUC, such as home security businesses affiliated with NECTA members, could unintentionally become subject to assessments.
- NECTA wants to confirm that the expansion to complaint authority outlined in Section 5 only applies to existing regulatory authority.
- NECTA members already follow regulations for water crossings, pole attachments, and Dig Safe laws, which should stay under the jurisdiction of the DOE and PUC. However, consumer complaints related to telecommunications issues should remain under the Department of Justice consumer protection statutes.

Dina Dennis

Community Power Coalition of New Hampshire (CPCNH)

- Ms. Dennis explained CPCNH is a nonprofit power supply agency run by and for local communities, with 70 municipal members across New Hampshire.
- CPCNH has been providing competitive energy supply options since 2023, resulting in over \$20 million in savings for consumers.
- CPCNH originally had concerns about Section 11, which as written would repeal RSA 362-A9, VIII. However, recognizing that original reference was a typographical error, CPCNH has no further objections to the bill.

Neutral Information Presented:

Alexander Speidel & Benjamin Martin-McDonough

New Hampshire Public Utilities Commission (PUC)

- The PUC remains neutral on the bill.
- Mr. Speidel stated the Commission is open to reassessing the consumer complaint process and will monitor developments closely.
- The PUC is particularly interested in clarifying whether the bill shifts oversight responsibilities for net metering tariffs and charges.
- Mr. Speidel noted that the legislative intent regarding rate-setting authority is unclear, and the Commission seeks further clarification.
- Senator Watters asked Mr. Speidel to point out specific sections of the bill where the question of regulatory responsibility arises.

- Mr. Speidel identified Section 3 as the key area of concern. Specifically, language on Line 19 which states that net energy metering tariffs must comply with rules adopted by the DOE and orders issued by the PUC. Additionally, the PUC is unclear whether this language implies a shift in authority over net metering pricing structures from the PUC to the DOE.
- Senator Watters asked if the PUC could work with the DOE to come up with language that clarifies if the DOE's policies will reflect the PUC's orders.
 - Mr. Speidel acknowledged the uncertainty in the bill's language. He will bring the issue back to the PUC to explore possible clarifying language in collaboration with the DOE.

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Date Hearing Report completed: February 7, 2025