



Inside Energy

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RE: Why we don't trust you Senator

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If the cost of our proposed Renewable Portfolio Standard (RPS) mandate exceeds 3% on consumer electric bills “it will act as an absolute circuit breaker” to freeze the annual increase in RPS requirements. The promise was made by state Senator Harris McDowell in 2010 in support of his bill to require electric utilities to buy an ever increasing amount of renewable power each year until 2025 when the total requirement would be 25%.

CRI has provided evidence the actual cost hit about 9%, three times the cost cap, by 2012, with no freeze. The Public Service Commission (PSC) staff recently calculated the current cost as 19%, and the PSC has finally issued a freeze order eight years later. The RPS program is adding about \$150 a year to residential electric bills, but up to \$1 million for some businesses. The Energy & Climate Division shares responsibility with the PSC to declare a freeze, but managed to forestall a freeze for all those years, and is still withholding part of the cost that should go into the cost cap calculation.

The current year RPS requirements call for power companies to buy 19% of their power from renewable sources, such as wind and solar. The actual in-state generation is below 2%. The balance of the mandate is being met by sending Delaware dollars to out of state wind projects, and for Bloom Energy fuel cells fueled by conventional natural gas. The RPS program has been quite the failure, and with solar power available at competitive prices, mandates aren't even needed any longer.

You might think Senator McDowell would be apologizing to Delaware citizens for the way this has turned out. However, his reaction was to release draft legislation the same day the PSC issued its freeze order calling for the cost cap to be repealed! The legislation would also extend the RPS to 2035, and require utilities to buy 40% of their power from renewable sources by then. The third part of the draft legislation creates Community Sustainable Energy Authorities, supra government entities with no oversight, and the power of eminent domain, bond creation, and billing power, to create large solar projects.

How did we get here? Senator McDowell has been the co-chair of the powerful Joint Finance Committee for a decade. The committee decides who gets the money. He is a hard man to say no to, and he has been the fount of every “green” energy bill in the legislature. He has also been part of a decades old collaboration with University of Delaware Professor John Byrne, a leading promoter of “green” energy policies. Byrne is McDowell's brain trust, and the Senator has rewarded Byrne with an annual \$250,000 spending grant in the state budget to spend however he wants. In the entire state budget this is the only grant to a specific individual.

Byrne served on the first board of directors, and most likely inspired the design of the Sustainable Energy Utility (SEU) which is a private non-profit, established by state statute to encourage energy efficiency. Other states with energy efficiency mandates assigned implementation to their public utilities. The SEU is automatically fully funded every year with 65% of the funds raised in carbon dioxide emission allowances that electric generators must purchase to operate. The SEU has received \$89 million in funding from the state, and is holding about \$50 million of that in cash, and various assets including below market



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rate loans. The costs are passed onto electric customers as a hidden tax, a program also set up by McDowell that has resulted in shifting electric generation out of state raising electric rates here with no reduction in global emissions. No annual waiting in line for Grant-in-Aide legislative approval for the SEU. The only SEU oversight is a state appointed board chaired by, you guessed it, Senator McDowell. Lack of robust oversight is a trademark of Byrne who once wrote an article on ending western style capitalism.

Byrne likely inspired the current convoluted community solar legislation. The draft legislation establishes new SEU authority to create, and fund these independent electric grids that will not be overseen by the PSC, or the regional grid manager who both have responsibility for approving and managing electric generation. The plan most likely violates state and federal laws.

So what is the likelihood this odious legislation will pass? It was pretty good until the Covid-19 virus shut down the legislature. There is a good chance the only bills passed this year will be the spending bills; the 2020 Budget, the Bond Bill, and Grant-in-Aide Bill to charities.

McDowell announced his retirement last year effective when this year's legislative session ends in June. The "Delaware Way" includes a history of allowing especially powerful retiring legislators to pass legacy bills that would otherwise never pass in the legislature. There is often funding for a high paid, cushy job for the retiring legislator. The proposed legislation, which requires a two thirds majority vote to pass, creates a managerial position at the SEU to run the community solar program that might as well have McDowell's, or Byrne's name on it. Hopefully, this idea goes away when McDowell leaves the Senate.