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Rep. Heffernan & Rep. Phillips & Rep. Griffith &  
Rep. Burns & Sen. Townsend & Sen. Hoffner &  
Rep. K. Williams  
Sens. Hocker, Lockman, Pettyjohn, Pinkney, Seigfried;  
Reps. Bush, Carson, Gorman, Harris, Lambert, Morrison,  
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DELAWARE STATE SENATE  
153rd GENERAL ASSEMBLY

SENATE BILL NO. 60  
AS AMENDED BY  
SENATE AMENDMENT NO. 2  
AND  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES AND UTILITY RATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter III, Chapter 1, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 316. Cost recovery prohibitions.

(a) The Commission shall ensure that all regulated utilities do not use customer funds to subsidize nonregulated activities.

(b) A public utility shall not recover the following costs from its customers, whether as part of proposed base rate costs, a rider, or other charges:

(1) Expenses for lobbying or other activities meant to influence the outcome of any local, state, or federal legislation, ordinance, resolution, or ballot measure.

(2) Organizational or membership dues, or other contributions, to any organization, association, institution, corporation, or other entity to the extent that the dues or contributions are used for lobbying or other similar activities intended to influence the outcome of any local, state, or federal legislation, ordinance, resolution, rule, ballot measure, or regulatory decision.

(3) Contributions to political candidates, campaign committees, issue committees, or independent expenditure committees or similar political expenses.

(4) Charitable giving expenses, including contributions to organizations qualified under section 501 (c)(3) or 501 (c)(4) of the federal "Internal Revenue Code of 1986", 26 U.S.C. Sec. 501, as amended.

(5) Advertising and public relations expenses that do not directly relate to a purpose or program that is required or authorized under statute or commission rule or order.

a. Advertising and public relations expenses for which cost recovery is prohibited include:

1. Communications to promote or improve the utility's brand.
2. Expenses for the purpose of influencing public opinion about the utility.
3. Expenses intended to create good will toward the utility from the general public.

b. For purposes of this section, "advertising" means the act of publishing, disseminating, soliciting, or circulating written, online, video, or audio communication intended to induce a person to patronize a product, service, business, or industry; promote a business's brand; otherwise emphasize desirable qualities about a product, service, business, or industry; or influence public opinion with respect to legislative, administrative, or electoral matters.

c. "Advertising" does not include:

1. Advertising required or authorized by law, regulation, or order.
2. Advertising directly related to a purpose or program regarding income-based service, special rates, pilot programs, energy conservation, energy efficiency, beneficial electrification, renewable energy, transportation electrification, or other consumer education information.
3. Advertising regarding service interruptions, safety measures, or emergency conditions.
4. Advertising concerning employment opportunities with the utility.

Section 3. This Act is severable. If a provision of this Act or the application of this Act to a person or circumstance is held invalid, the invalidity does not affect the provisions or applications of this Act that can be given effect without the invalid provision or application.