



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

State of New Jersey
DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
31 CLINTON STREET, 11TH FL
P. O. BOX 46005
NEWARK, NEW JERSEY 07101

STEFANIE A. BRAND
*Acting Public Advocate
Director – Rate Counsel*

**Remarks of Stefanie A. Brand,
Director of the N.J. Division of Rate Counsel
Regarding S466, Presented at the Senate Environment and Energy Committee
Meeting on June 14, 2010**

Good morning. My name is Stefanie Brand. I am the Director of the Division of Rate Counsel. I would like to thank Chairman Smith and Members of the Senate Environment and Energy Committee for the opportunity to testify today regarding Bill S466, that requires the Board of Public Utilities (BPU) to provide financial incentives to home heating oil customers that install energy efficient equipment that are similar to incentives provided to natural gas customers who install energy efficient equipment.

The Division of Rate Counsel represents and protects the interest of all utility consumers—residential customers, small business customers, small and large industrial customers, schools, libraries and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

I speak to you today to express the concerns of the Division of Rate Counsel, on behalf of New Jersey's ratepayers. For reasons that I will outline briefly for the

committee, this bill is both unworkable and inequitable and I strongly urge that you not pass this bill out of committee as currently written.

This bill is inequitable because it would force electric and gas customers to subsidize energy efficiency programs for home heating oil customers. The statutory provision that this bill amends, *N.J.S.A. 48:3-60*, establishes a “societal benefits charge” (SBC) that is a “non-bypassable charge imposed on all electric public utility customers and gas public utility customers....” The SBC is thus a supplemental per-kilowatt hour or per therm charge imposed on all electric and gas customers. Funds collected through the SBC are then used for programs that benefit electric and gas customers as a whole, such as the costs of decommissioning nuclear power plants, programs designed to promote energy efficiency and renewable energy, and a universal service fund to assist customers who cannot pay their electric and gas bills. S466 would, for the first time, require use of these funds for programs unrelated to the electric and gas customers who pay the charge. The bill includes no provision to add a societal benefits charge to home heating oil bills, but merely requires electric and gas customers to subsidize the cost of energy efficiency programs for home heating oil customers.

At a time when utility gas and electric customers are already struggling to pay their bills, and are already subject to the cost of an ever-increasing societal benefits charge, this is an added expense that electric and gas customers can not afford. To avoid the inequity posed by this legislation, the bill would either have to be amended to impose a charge on heating oil customers to pay their fair share, or provide some other source of funding. Giving home heating oil customers a free ride, and passing that

additional cost onto gas and electric customers is inequitable and is not the appropriate means of encouraging consumers to use more efficient home heating equipment.

The bill's provisions are also unworkable. The BPU does not regulate the home heating oil industry. If the BPU were to provide incentives to customers of the home heating oil industry, it would simply be handing out ratepayer money without being able to ensure that it is being spent appropriately or fairly. Current BPU programs have approval and reporting procedures in place to ensure that incentives are in fact used for their intended purpose. Without regulatory jurisdiction, the BPU would be powerless to require such approval and reporting procedures for the home heating oil incentives. Thus, to be workable, the bill would have to establish some regulatory jurisdiction for the Board, or some other state agency, over the heating oil industry and the incentive programs that the societal benefits charge would fund.

While Rate Counsel certainly supports the promotion of energy efficiency for home heating oil customers, this important policy goal cannot be achieved by adding to the burden of electric and gas customers. Indeed, to do so may delay or inhibit the promotion of ongoing energy efficiency initiatives for electric and gas, and could lead to increases in electric and gas rates that exceed what is just and reasonable and thus constitutionally justified. If the Legislature seeks to promote efficiency in the home heating oil industry it should do so in a manner that does not unfairly burden electric and gas ratepayers and that allows for monitoring and verification that the funds are being utilized appropriately.

I therefore urge this committee not to pass this bill. If the Legislature seeks to encourage energy efficiency for home heating oil customers, there are ways to do that,

but this bill creates an unworkable and inequitable means of fostering that goal. Thank you for the opportunity to testify. I am happy to answer any questions you may have.