

4550

2013-2014 Regular Sessions

I N   S E N A T E

April 10, 2013

---

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the public service law, in relation to creating the state office of the utility consumer advocate

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 2 of section 94-a of the executive law is  
2 amended by adding a new paragraph (d) to read as follows:  
3     (D) THE SECRETARY, UPON ADVICE OF THE STATE OFFICE OF THE UTILITY  
4 CONSUMER ADVOCATE, SHALL PROVIDE TO THE DEPARTMENT OF PUBLIC SERVICE AN  
5 ESTIMATE PRIOR TO THE START OF EACH FISCAL YEAR OF THE TOTAL COSTS AND  
6 EXPENSES, EXCEPT ANY FUNDS APPROPRIATED FOR THE UTILITY INTERVENTION  
7 UNIT, INCLUDING THE COMPENSATION AND EXPENSES OF THE STATE OFFICE OF THE  
8 UTILITY CONSUMER ADVOCATE, ITS OFFICERS, AGENTS AND EMPLOYEES, AND  
9 INCLUDING THE COST OF RETIREMENT CONTRIBUTIONS, SOCIAL SECURITY, HEALTH  
10 AND DENTAL INSURANCE, SURVIVOR'S BENEFITS, WORKERS' COMPENSATION, UNEM-  
11 PLOYMENT INSURANCE AND OTHER FRINGE BENEFITS REQUIRED TO BE PAID BY THE  
12 STATE FOR THE PERSONNEL OF THE STATE OFFICE OF THE UTILITY CONSUMER  
13 ADVOCATE, AND INCLUDING ALL OTHER ITEMS OF MAINTENANCE AND OPERATION  
14 EXPENSES, AND ALL OTHER DIRECT AND INDIRECT COSTS.  
15     S 2. Paragraph (a) of subdivision 4 of section 94-a of the executive  
16 law, as added by section 21 of part A of chapter 62 of the laws of 2011,  
17 is amended to read as follows:  
18     (a) There is established within the division a state utility inter-  
19 vention unit AND THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE TO  
20 REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS. THE UTILITY  
21 CONSUMER ADVOCATE, WHO SHALL HEAD THE STATE OFFICE OF THE UTILITY  
22 CONSUMER ADVOCATE, SHALL BE APPOINTED BY THE GOVERNOR TO A TERM OF SIX  
23 YEARS, SUBJECT TO SENATE CONFIRMATION. THE UTILITY CONSUMER ADVOCATE  
24 SHALL POSSESS KNOWLEDGE AND EXPERIENCE IN MATTERS AFFECTING RESIDENTIAL  
25 UTILITY CUSTOMERS, SHALL BE RESPONSIBLE FOR THE DIRECTION, CONTROL, AND

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD09713-02-3

1 OPERATION OF THE UTILITY INTERVENTION UNIT, INCLUDING ITS HIRING OF  
2 STAFF AND RETENTION OF EXPERTS FOR ANALYSIS AND TESTIMONY IN  
3 PROCEEDINGS. THE UTILITY CONSUMER ADVOCATE SHALL NOT BE REMOVED EXCEPT  
4 FOR CAUSE. EXERCISE OF INDEPENDENT JUDGMENT IN ADVOCATING POSITIONS ON  
5 BEHALF OF RESIDENTIAL UTILITY CUSTOMERS SHALL NOT CONSTITUTE CAUSE FOR  
6 REMOVAL OF THE UTILITY CONSUMER ADVOCATE.

7 S 3. Subparagraphs (i) and (ii) of paragraph (b) of subdivision 4 of  
8 section 94-a of the executive law, as amended by chapter 8 of the laws  
9 of 2012, are amended to read as follows:

10 (i) [on behalf of the secretary,] initiate, intervene in, or partic-  
11 ipate ON BEHALF OF RESIDENTIAL UTILITY CUSTOMERS in any proceedings  
12 before the public service commission, [to the extent authorized by  
13 sections twenty-four-a, seventy-one, eighty-four or ninety-six of the  
14 public service law or any other applicable provision of law,] THE FEDER-  
15 AL ENERGY REGULATORY COMMISSION, THE FEDERAL COMMUNICATIONS COMMISSION,  
16 FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGENCIES, AND  
17 STATE AND FEDERAL COURTS IN ANY MATTER OR PROCEEDING THAT MAY SUBSTAN-  
18 Tially AFFECT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS, INCLUDING,  
19 BUT NOT LIMITED TO, A PROPOSED CHANGE OF RATES, CHARGES, TERMS AND  
20 CONDITIONS OF SERVICE, THE ADOPTION OF RULES, REGULATIONS, GUIDELINES,  
21 ORDERS, STANDARDS OR FINAL POLICY DECISIONS where [he or she] THE UTILI-  
22 TY CONSUMER ADVOCATE deems such initiation, intervention or partic-  
23 ipation to be necessary or appropriate;

24 (ii) represent the interests of [consumers] RESIDENTIAL UTILITY  
25 CUSTOMERS of the state before federal, state and local administrative  
26 and regulatory agencies engaged in the regulation of energy, TELECOMMU-  
27 NICATIONS, WATER AND OTHER UTILITY services, AND BEFORE STATE AND FEDER-  
28 AL COURTS IN ACTIONS AND PROCEEDINGS TO REVIEW THE ACTIONS OF UTILITIES  
29 OR ORDERS OF UTILITY REGULATORY AGENCIES. ANY ACTION OR PROCEEDING  
30 BROUGHT BY THE UTILITY CONSUMER ADVOCATE BEFORE A COURT OR AN AGENCY  
31 SHALL BE BROUGHT IN THE NAME OF THE STATE OFFICE OF THE UTILITY CONSUMER  
32 ADVOCATE. THE UTILITY CONSUMER ADVOCATE MAY JOIN WITH A RESIDENTIAL  
33 UTILITY CUSTOMER OR GROUP OF RESIDENTIAL UTILITY CUSTOMERS IN BRINGING  
34 AN ACTION; and

35 S 4. Subdivision 4 of section 94-a of the executive law is amended by  
36 adding a new paragraph (c) to read as follows:

37 (C) (I) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED UPON THE UTILITY  
38 CONSUMER ADVOCATE, HE OR SHE IS AUTHORIZED, AND IT SHALL BE HIS OR HER  
39 DUTY TO REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS AS A  
40 PARTY, OR OTHERWISE PARTICIPATE FOR THE PURPOSE OF REPRESENTING THE  
41 INTERESTS OF SUCH CUSTOMERS BEFORE ANY AGENCIES OR COURTS. HE OR SHE MAY  
42 INITIATE PROCEEDINGS IF IN HIS OR HER JUDGMENT DOING SO MAY BE NECESSARY  
43 IN CONNECTION WITH ANY MATTER INVOLVING THE ACTIONS OR REGULATION OF  
44 PUBLIC UTILITY COMPANIES WHETHER ON APPEAL OR OTHERWISE INITIATED. THE  
45 UTILITY CONSUMER ADVOCATE MAY MONITOR ALL CASES BEFORE REGULATORY AGEN-  
46 CIES IN THE UNITED STATES, INCLUDING THE FEDERAL COMMUNICATIONS COMMIS-  
47 SION AND THE FEDERAL ENERGY REGULATORY COMMISSION THAT AFFECT THE INTER-  
48 ESTS OF RESIDENTIAL UTILITY CUSTOMERS OF THE STATE AND MAY FORMALLY  
49 PARTICIPATE IN THOSE PROCEEDINGS WHICH IN HIS OR HER JUDGMENT WARRANTS  
50 SUCH PARTICIPATION.

51 (II) THE UTILITY CONSUMER ADVOCATE SHALL EXERCISE HIS OR HER INDEPEND-  
52 ENT DISCRETION IN DETERMINING THE INTERESTS OF RESIDENTIAL UTILITY  
53 CUSTOMERS THAT WILL BE ADVOCATED IN ANY PROCEEDING AND DETERMINE WHETHER  
54 TO PARTICIPATE IN OR INITIATE ANY PROCEEDING AND, IN SO DETERMINING,  
55 SHALL CONSIDER THE PUBLIC INTEREST, THE RESOURCES AVAILABLE, AND THE

1 SUBSTANTIALITY OF THE EFFECT OF THE PROCEEDING ON THE INTEREST OF RESI-  
2 DENTIAL UTILITY CUSTOMERS.

3 S 5. Paragraph (a) of subdivision 2 of section 18-a of the public  
4 service law, as amended by section 2 of part NN of chapter 59 of the  
5 laws of 2009, is amended to read as follows:

6 (a) The chairman of the department shall estimate prior to the start  
7 of each state fiscal year the total costs and expenses, including the  
8 compensation and expenses of the commission and the department, their  
9 officers, agents and employees, and including the cost of retirement  
10 contributions, social security, health and dental insurance, survivor's  
11 benefits, workers' compensation, unemployment insurance and other fringe  
12 benefits required to be paid by the state for the personnel of the  
13 commission and the department, and including all other items of mainte-  
14 nance and operation expenses, and all other direct and indirect costs.  
15 Based on such estimates, the chairman shall determine the amount to be  
16 paid by each assessed public utility company and a bill shall be  
17 rendered to each such public utility company. BASED ON THE ESTIMATE  
18 PROVIDED PURSUANT TO PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION NINE-  
19 TY-FOUR-A OF THE EXECUTIVE LAW, THE CHAIRMAN SHALL DETERMINE THE AMOUNT  
20 TO BE PAID BY EACH ASSESSED PUBLIC UTILITY COMPANY AND A BILL SHALL BE  
21 RENDERED TO EACH SUCH PUBLIC UTILITY COMPANY.

22 S 6. This act shall take effect on the first of April next succeeding  
23 the date on which it shall have become a law.