

STATE OF NEW YORK

7880--A

2023-2024 Regular Sessions

IN ASSEMBLY

July 19, 2023

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to prohibiting public utilities from using funds or being reimbursed by funds raised from ratepayers for certain activities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public service law is amended by adding a new article 12 to read as follows:

ARTICLE 12 GENERAL PROVISIONS

Section 240. Definitions.

241. Limitations on rates.

§ 240. Definitions. As used in this article, unless the context otherwise indicates, the following terms have the following meanings:

1. "Affiliated interest" means any person who owns directly, indirectly or through a chain of successive ownership, ten percent or more of the voting securities of a public utility.

2. "Consumer-owned transmission and distribution utility" means any transmission and distribution utility wholly owned by its consumers, including its consumers served in the state. "Consumer-owned transmission and distribution utility" includes but is not limited to:

(a) the transmission and distribution portion of a rural electrification cooperative;

(b) the transmission and distribution portion of an electrification cooperative organized on a cooperative plan under the laws of the state;

(c) a municipal or quasi-municipal transmission and distribution utility located in the state;

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

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1 (d) the transmission and distribution portion of a municipal or
2 quasi-municipal entity located in the state providing generation and
3 other services; and

4 (e) a transmission and distribution utility wholly owned by a munici-
5 pality located in the state.

6 3. "Consumer-owned water utility" means any water utility which is
7 wholly owned by its consumers, including its consumers served in the
8 state. "Consumer-owned water utility" includes but is not limited to:

9 (a) any municipal or quasi-municipal water district or corporation
10 located in the state;

11 (b) any municipal water department located in the state; or

12 (c) the water portion of any utility wholly owned by a municipality or
13 district located in the state.

14 4. (a) "Grassroots lobbying" means communication with members of the
15 general public to solicit them to communicate directly with any covered
16 official for the purpose of influencing legislative action, other than
17 legislation that is before the legislature as a result of a direct
18 initiative by a member of the legislature, when that solicitation is
19 made by:

20 (i) a broadcast, cable or satellite transmission;

21 (ii) a communication delivered by print media;

22 (iii) a letter or other written communication delivered by mail or by
23 comparable delivery service;

24 (iv) a communication delivered by e-mail, a website or any other
25 digital format;

26 (v) telephone; or

27 (vi) a method of communication similar to those listed in subpara-
28 graphs (i) through (v) of this paragraph.

29 (b) "Grassroots lobbying" does not include a person communicating with
30 the person's stockholders, employees, board members, officers or dues-
31 paying members.

32 5. "Lobbying" means to communicate directly with any official in the
33 legislative branch or any official in the executive branch or with a
34 constitutional officer for the purpose of influencing any legislative
35 action or with the governor or the governor's cabinet and staff for the
36 purpose of influencing the approval or veto of a legislative action when
37 reimbursement for expenditures or compensation is made for those activ-
38 ities. "Lobbying" includes the time spent to prepare and submit to the
39 governor, an official in the legislative branch, an official in the
40 executive branch, a constitutional officer or a legislative committee
41 oral and written proposals for, or testimony or analyses concerning, a
42 legislative action. "Lobbying" does not include time spent by any person
43 providing information to or participating in a subcommittee, stakeholder
44 group, task force or other work group regarding a legislative action by
45 the appointment or at the request of the governor, a legislator or
46 legislative committee, a constitutional officer, a state agency commis-
47 sioner or the chair of a state board or commission.

48 6. "Public charity" means an entity formed primarily for charitable
49 purposes, including but not limited to:

50 (a) a corporation formed under the business corporation law, the
51 limited liability company law or the not-for-profit corporation law
52 primarily for charitable purposes; and

53 (b) a charitable trust.

54 7. "Public utility" means a public utility company or a public utility
55 corporation subject to the provisions of this chapter.

1 8. "Trade association" means a business or industry trade association,
2 group or related entity incorporated under Section 501 of the Internal
3 Revenue Code of 1986.

4 § 241. Limitations on rates. 1. The following expenses, whether paid
5 directly or indirectly, through reimbursement or otherwise, incurred by
6 a public utility or an affiliated interest may not be included or incor-
7 porated in operating expenses to be recovered in rates:

8 (a) contributions or gifts to political candidates, political parties,
9 political or legislative committees or any committee or organization
10 working to influence referendum petitions or elections;

11 (b) contributions to a trade association, chamber of commerce or
12 public charity, including, but not limited to, a charity managed by the
13 public utility or affiliated interest; provided, however, that this
14 paragraph does not apply to a consumer-owned water utility;

15 (c) any direct or indirect cost associated with (i) travel, lodging or
16 food and beverage expenses for the public utility's board of directors
17 and officers or the board of directors and officers of such public util-
18 ity's parent company; (ii) entertainment or gifts; (iii) any owned,
19 leased or chartered aircraft for such public utility's board of direc-
20 tors and officers or the board of directors and officers of such public
21 utility's parent company; or (iv) investor relations;

22 (d) expenditures for lobbying or grassroots lobbying;

23 (e) educational expenditures, as defined by the commission by rule,
24 unless approved by the commission as serving a public interest. Educa-
25 tional expenditures include expenditures relating to information deliv-
26 ered to the public or to public utility's customers by radio, tele-
27 vision, the Internet, print and other media or through sponsorships,
28 paid endorsements and public relations campaigns. This paragraph does
29 not apply to a consumer-owned transmission and distribution utility or a
30 consumer-owned water utility; or

31 (f) any expenses associated with the preparation of the reports
32 described in subdivisions two and three of this section.

33 2. On or before January fifteenth, two thousand twenty-five, and annu-
34 ally thereafter, each public utility's with more than seventy-five thou-
35 sand customers shall submit to the commission a report, in a form
36 prescribed by the commission, containing a written, itemized description
37 of any expenses that may not be included or incorporated in the public
38 utility's operating expenses under subdivision one of this section. The
39 report must also include a written, itemized description of the expenses
40 that may not be included or incorporated in the public utility's operat-
41 ing expenses under subdivision one of this section that are relevant to
42 the business interests of the public utility paid by a membership organ-
43 ization of which the public utility is a member. For each expense, the
44 report must include the date, the payee, the amount and a description of
45 the purpose of the expense and any other information deemed relevant by
46 the commission.

47 3. In addition to the report required under subdivision two of this
48 section, if a public utility or an affiliated interest engages in major
49 political activities, as defined by the commission by rule, the public
50 utility shall file a quarterly report containing a written description
51 of those major political activities and the expenditures associated with
52 those activities. For each expenditure, the report must include the
53 date, the payee, the amount and a description of the purpose of the
54 expenditure.

55 4. The public utility shall make available for public inspection all
56 materials filed with the commission in accordance with subdivisions two

1 and three of this section. The commission shall make available the annu-
2 al reports filed by public utilities in accordance with this section on
3 its publicly accessible website with notice of the availability of the
4 reports prominently displayed on the website.

5 § 2. Section 5 of the public service law is amended by adding a new
6 subdivision 7 to read as follows:

7 7. The commission shall adopt and implement rules and regulations
8 necessary to implement the provisions of section two hundred forty-one
9 of this chapter, including, but not limited to, rules concerning promo-
10 tional advertising; promotional allowances, including, but not limited
11 to, the granting of promotional rebates or credits; advertising to
12 promote corporate image or goodwill; contributions to public charities;
13 educational expenditures; or political activities, including major poli-
14 tical activities, by a public utility or an affiliated interest as
15 defined in section two hundred forty of this chapter.

16 § 3. This act shall take effect on the ninetieth day after it shall
17 have become a law. Effective immediately, the addition, amendment and/or
18 repeal of any rule or regulation necessary for the implementation of
19 this act on its effective date are authorized to be made and completed
20 on or before such effective date.