S T A T E O F N E W Y O R K

2885

2009-2010 Regular Sessions

I N S E N A T E

March 5, 2009

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to establishing the citizens' utility advocacy board, inc.

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

CITIZENS' UTILITY ADVOCACY BOARD

SECTION 300. SHORT TITLE.
301. LEGISLATIVE FINDINGS.
302. DEFINITIONS.
303. CREATION OF THE CORPORATION; PURPOSE; MEMBERSHIP.
304. DUTIES, RIGHTS AND POWERS OF THE CORPORATION.
305. NOTICE OF IMPENDING PROCEEDINGS.
306. JUDICIAL REVIEW OF AGENCY DECISIONS; ENFORCEMENT.
307. STATE-ASSISTED FUNDRAISING BY THE CORPORATION.
308. PROHIBITED ACTS.
309. BOARD OF DIRECTORS.
310. DUTIES OF THE BOARD OF DIRECTORS.
311. APPOINTMENT OF INTERIM BOARD OF DIRECTORS.
312. ELECTION OF DIRECTORS.
313. QUALIFICATIONS OF CANDIDATES.
314. NOMINATION.
315. STATEMENT OF FINANCIAL INTERESTS.
316. STATEMENT OF PERSONAL BACKGROUND AND POSITIONS.
317. RESTRICTIONS ON AND REPORTING OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.
318. ELECTION PROCEDURES.

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

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319. INSTALLATION OF ELECTED CANDIDATES.
320. RECALL OF DIRECTORS.
321. VACANCIES.
322. OFFICERS.
323. EXECUTIVE DIRECTOR; QUALIFICATIONS; APPOINTMENTS; DUTIES.
324. ANNUAL MEMBERSHIP MEETING.
325. CONSTRUCTION WITH OTHER LAWS.
326. PROHIBITIONS AND CONFLICTS OF INTEREST.
327. PENALTIES.
328. SEVERABILITY.

S 300. SHORT TITLE. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE "CITIZENS' UTILITY ADVOCACY BOARD ACT".

S 301. LEGISLATIVE FINDINGS. 1. THE LEGISLATURE FINDS THAT:

(A) INDIVIDUAL ACTION BY RESIDENTIAL CONSUMERS FOR THE PURPOSES OF PARTICIPATING IN UTILITY MATTERS AND COMMUNICATING THEIR VIEWS IS RENDERED IMPRACTICABLE BY REASON OF THE DISPROPORTIONATE EXPENSE OF TAKING SUCH ACTION;

(B) SUCH PARTICIPATION AND REPRESENTATION CAN BE BEST SECURED BY THE CREATION OF A PERMANENT, NOT-FOR-PROFIT ORGANIZATION WHICH IS UNDER THE DEMOCRATIC CONTROL OF ITS MEMBERSHIP, SOLELY RESPONSIVE TO THAT MEMBERSHIP'S GOALS, AND WHICH IS FUNDED BY VOLUNTARY CONTRIBUTIONS;

(C) THE FORMATION OF SUCH AN ENTITY BY CONSUMERS ACTING VOLUNTARILY IS IMPEDED BECAUSE CONSUMERS HAVE NEITHER THE RESOURCES NOR AN EFFICIENT MECHANISM TO CONTACT ALL RESIDENTIAL UTILITY CUSTOMERS, RAISE INITIAL FUNDS AND JOIN SUCH AN ENTITY; AND

(D) IN ORDER TO CREATE SUCH AN ENTITY, IT IS NECESSARY TO ESTABLISH A DEMOCRATICALLY STRUCTURED ORGANIZATION AND TO PROVIDE FOR THE DISSEMINATION TO ALL CUSTOMERS OF INFORMATION AS TO THE FORMATION AND PURPOSES OF SUCH ORGANIZATION AND TO PROVIDE AN EFFICIENT MEANS FOR JOINING AND CONTRIBUTING TO SUCH ORGANIZATION.

2. FOR THESE REASONS THERE SHALL BE ESTABLISHED A NOT-FOR-PROFIT CORPORATION KNOWN AS THE CITIZENS' UTILITY ADVOCACY BOARD, INC. WITH THE RESPONSIBILITY TO PROMOTE ADEQUATE REPRESENTATION OF RESIDENTIAL UTILITY CONSUMERS; TO COLLECT OPERATING FUNDS; TO ASSIST IN THE REDRESS OF RESIDENTIAL UTILITY CONSUMER COMPLAINTS; AND TO PROVIDE FOR RESIDENTIAL UTILITY CONSUMER MEMBERSHIP IN SUCH CORPORATION AND RESIDENTIAL UTILITY CONSUMER DIRECTION OF THE ACTIONS OF SUCH CORPORATION.

S 302. DEFINITIONS. THE WORDS AND PHRASES USED IN THIS ARTICLE SHALL HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING CLEARLY APPEARS IN THE CONTEXT.

1. "UTILITY COMPANY", "PUBLIC UTILITY COMPANY", "UTILITY CORPORATION" AND "PUBLIC UTILITY CORPORATION" MEAN A CORPORATION OR OTHER ENTITY ENGAGED IN THE BUSINESS OF SUPPLYING UTILITY SERVICES TO PERSONS WITHIN THIS STATE IF RATES OR CHARGES FOR SUCH UTILITY SERVICES HAVE BEEN ESTABLISHED OR ARE SUBJECT TO APPROVAL BY A LOCAL, STATE OR FEDERAL AUTHORITY.

2. "UTILITY SERVICES" MEANS ELECTRICITY, WATER, NATURAL GAS, STEAM AND TELEPHONE SERVICES SUPPLIED BY A PUBLIC UTILITY.

3. "RESIDENTIAL UTILITY CONSUMER" MEANS ANY PERSON IN THIS STATE WHOSE RESIDENCE IS FURNISHED WITH A UTILITY SERVICE BY A PUBLIC UTILITY COMPANY.

4. "REGULATORY AGENCY" MEANS ANY LOCAL, STATE, OR FEDERAL DEPARTMENT, COMMISSION, OFFICE, AUTHORITY OR OTHER PUBLIC BODY WITH THE LEGAL AUTHORITY:

(A) TO ESTABLISH OR ALTER RATES OR CHARGES FOR THE PROVISION OR SALE OF UTILITY SERVICES WITHIN THIS STATE;

(B) TO PLAN OR TO APPROVE, REJECT, OR MODIFY PLANS FOR THE CONSTRUCTION OF FACILITIES FOR THE PRODUCTION OR PROVISION OF UTILITY SERVICES WITHIN THIS STATE;

(C) TO FORMULATE OR REVIEW ENERGY POLICIES AFFECTING THIS STATE; OR

(D) OTHERWISE TO REGULATE THE ACTIVITIES OF UTILITY COMPANIES DOING BUSINESS WITHIN THIS STATE; PROVIDED THAT LOCAL, STATE AND FEDERAL COURTS AND LEGISLATIVE BODIES SHALL NOT BE DEEMED TO BE "REGULATORY AGENCIES" FOR THE PURPOSES OF THIS ARTICLE.

5. "FORMAL PROCEEDING" MEANS ANY FORMAL MEETING OF A REGULATORY AGENCY OR SUBDIVISION THEREOF, INCLUDING A MEETING CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE OR OTHER AGENT OF THE REGULATORY AGENCY, REGARDING:

(A) THE ESTABLISHMENT OR ALTERATION OF RATES OR CHARGES FOR THE PROVISION OR SALE OF UTILITY SERVICES WITHIN THIS STATE;

(B) THE ESTABLISHMENT, ABROGATION, OR AMENDMENT OF RULES OR REGULATIONS, OR THE INVESTIGATION OF OR INQUIRY INTO ACTIVITIES AND PROCEDURES OF UTILITY COMPANIES, CONCERNING RESIDENTIAL UTILITY CONSUMERS, PUBLIC UTILITY COMPANIES, OR ENERGY POLICIES AFFECTING THIS STATE OR CONCERNING THE CONDUCT OF REGULATORY AGENCY PROCEEDINGS THEMSELVES; OR

(C) ADJUDICATION OF THE CLAIMS OR PETITIONS OF RESIDENTIAL UTILITY CONSUMERS, PUBLIC UTILITY COMPANIES OR OTHER PERSONS OR GROUPS OF PERSONS; OR

(D) CERTIFICATION OF THE CONSTRUCTION OR OPERATION OF UTILITY PLANTS, INCLUDING PIPELINES AND TRANSMISSION LINES.

6. "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, OFFICE, COUNCIL, COMMITTEE, OFFICER, PUBLIC BENEFIT CORPORATION OR AUTHORITY, INSTITUTION OR ENTITY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

7. "CORPORATION" MEANS THE CITIZENS' UTILITY ADVOCACY BOARD, INC.

8. "MEMBER" MEANS ANY PERSON WHO MEETS THE REQUIREMENTS FOR MEMBERSHIP IN THE CORPORATION SET FORTH IN SECTION THREE HUNDRED THREE OF THIS ARTICLE.

9. "DIRECTOR" MEANS ANY MEMBER OF THE CORPORATION DULY ELECTED OR APPOINTED TO THE BOARD OF DIRECTORS OF THE CORPORATION.

10. "UTILITY DISTRICT" OR "DISTRICT" MEANS AN AREA COMPRISED OF TWO CONTIGUOUS CONGRESSIONAL DISTRICTS AS SUCH CONGRESSIONAL DISTRICTS ARE DESCRIBED IN STATE LAW. THE BOARD OF DIRECTORS SHALL CERTIFY THE BOUNDARIES OF EACH UTILITY DISTRICT NO LESS THAN SIXTY DAYS PRIOR TO THE CORPORATION'S FIRST GENERAL ELECTION. IN THE EVENT THAT AN ODD NUMBER OF CONGRESSIONAL DISTRICTS ARE CREATED WITHIN THE STATE, THE BOARD OF DIRECTORS SHALL HAVE THE AUTHORITY TO DETERMINE HOW THE ADDITIONAL CONGRESSIONAL DISTRICT SHALL BE REPRESENTED. IN THE EVENT THAT THE BOUNDARIES OR NUMBER OF CONGRESSIONAL DISTRICTS ARE ADJUSTED, THE BOARD OF DIRECTORS SHALL RECERTIFY THE BOUNDARIES OF EACH UTILITY DISTRICT NO LESS THAN FOUR MONTHS AFTER SUCH ADJUSTMENT. THE BOARD MEMBER, REPRESENTING ANY UTILITY DISTRICT WHOSE BOUNDARIES ARE CHANGED IN SUCH RECERTIFICATION, SHALL RESIGN WITHIN THIRTY DAYS OF SUCH RECERTIFICATION AND THE VACANCY SHALL BE FILLED PURSUANT TO SECTION THREE HUNDRED TWENTY-ONE OF THIS ARTICLE.

11. "CAMPAIGN EXPENDITURE" MEANS A PURCHASE, PAYMENT, DISTRIBUTION, LOAN, ADVANCE, DEPOSIT OR GIFT OF MONEY OR ANYTHING OF VALUE, MADE FOR THE PURPOSE OF ELECTING A CANDIDATE TO THE BOARD OF DIRECTORS, OR A CONTRACT, PROMISE, OR AGREEMENT THEREFOR.

12. "CAMPAIGN CONTRIBUTION" MEANS MONEY, GOODS, SERVICES, OR OTHER BENEFITS PAID, MADE, LOANED, GIVEN, CONFERRED OR PROMISED, INCLUDING BUT NOT LIMITED TO, USE OF OFFICE SPACE, TELEPHONES, EQUIPMENT, STAFF SERVICES AND PROVISIONS OF MEALS, DRINKS, ENTERTAINMENT, SERVICES OR

TRANSPORTATION MADE FOR THE PURPOSE OF ELECTING A CANDIDATE TO THE BOARD OF DIRECTORS.

13. THE "IMMEDIATE FAMILY" OF A PERSON MEANS THE PERSON AND HIS OR HER SPOUSE AND THEIR DEPENDENTS.

14. "ENCLOSURE" MEANS A CARD, LEAFLET, ENVELOPE OR COMBINATION THEREOF FURNISHED BY THE CORPORATION UNDER THIS SECTION.

15. "MAILING" MEANS ANY COMMUNICATION BY A STATE AGENCY THAT IS SENT THROUGH THE UNITED STATES POSTAL SERVICE TO MORE THAN FIFTY THOUSAND PERSONS WITHIN A TWELVE-MONTH PERIOD.

S 303. CREATION OF THE CORPORATION; PURPOSE; MEMBERSHIP. 1. THERE IS HEREBY CREATED A NOT-FOR-PROFIT MEMBERSHIP CORPORATION TO BE KNOWN AS THE "CITIZENS' UTILITY ADVOCACY BOARD, INC." HEREIN REFERRED TO AS THE CORPORATION. THE PURPOSE OF SUCH CORPORATION SHALL BE: (A) TO ASSIST IN ESTABLISHING ADEQUATE AND AFFORDABLE UTILITY SERVICE TO ALL RESIDENTIAL CUSTOMERS IN ORDER TO PRESERVE THE HEALTH AND GENERAL WELFARE OF THE CITIZENS OF THIS STATE;

(B) TO FOSTER AND ENCOURAGE ACTIVE CITIZEN PARTICIPATION IN UTILITY MATTERS AND TO FACILITATE EFFECTIVE REPRESENTATION AND ADVOCACY OF THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS BEFORE REGULATORY AGENCIES, THE LEGISLATURE, THE COURTS AND OTHER BODIES; AND FOR THESE PURPOSES TO CREATE A PERMANENT NOT-FOR-PROFIT ORGANIZATION;

(C) TO CREATE AN EFFICIENT FUNDING MECHANISM FOR THE ORGANIZATION, INVOLVING NO COMPULSORY BURDEN WHATSOEVER ON THE TAXPAYERS OF THIS STATE, WHEREBY RESIDENTIAL UTILITY CONSUMERS AND OTHERS MAY VOLUNTARILY CONTRIBUTE TO THE ORGANIZATION; AND

(D) TO ENSURE THAT PUBLIC POLICIES AFFECTING THE PROVISION, QUALITY AND COST OF UTILITY SERVICES FAIRLY REFLECT THE NEEDS AND CONCERNS OF THOSE CONSUMERS.

2. THE MEMBERSHIP OF THE CORPORATION SHALL CONSIST OF ALL RESIDENTIAL UTILITY CONSUMERS SIXTEEN YEARS OF AGE OR OLDER WHO HAVE CONTRIBUTED TO THE CORPORATION AN ANNUAL MEMBERSHIP FEE AT SUCH TIMES AS SHALL BE SET BY THE BOARD OF DIRECTORS; PROVIDED, HOWEVER, THAT ANY PERSON MAY RESIGN FROM MEMBERSHIP.

S 304. DUTIES, RIGHTS AND POWERS OF THE CORPORATION. 1. THE CORPORATION SHALL:

(A) REPRESENT AND PROMOTE THE INTERESTS OF THE RESIDENTIAL UTILITY CONSUMERS OF THIS STATE. ALL ACTIONS BY THE CORPORATION UNDER THIS ARTICLE SHALL BE DIRECTED TOWARD SUCH DUTY.

(B) INFORM, INSOFAR AS POSSIBLE, ALL RESIDENTIAL UTILITY CONSUMERS ABOUT THE CORPORATION, INCLUDING THE PROCEDURE FOR OBTAINING MEMBERSHIP IN THE CORPORATION.

(C) ESTABLISH ANNUAL MEMBERSHIP FEE WHICH SHALL BE SET AT A LEVEL THAT PROVIDES SUFFICIENT FUNDING FOR THE CORPORATION TO EFFECTIVELY PERFORM ITS POWERS AND DUTIES, AND IS AFFORDABLE FOR AS MANY UTILITY CONSUMERS AS IS POSSIBLE, BUT NEVERTHELESS NOT LESS THAN FIVE DOLLARS.

(D) HAVE ALL RIGHTS AND POWERS ACCORDED GENERALLY TO, AND BE SUBJECT TO ALL DUTIES IMPOSED GENERALLY UPON, NOT-FOR-PROFIT MEMBERSHIP CORPORATIONS UNDER THE LAWS OF THIS STATE.

2. IN ADDITION, THE CORPORATION SHALL HAVE THE FOLLOWING RIGHTS AND POWERS:

(A) TO SOLICIT AND ACCEPT GIFTS, LOANS, GRANTS OR OTHER AID IN ORDER TO SUPPORT ACTIVITIES CONCERNING THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS, EXCEPT THAT THE CORPORATION MAY NOT ACCEPT GIFTS, LOANS OR OTHER AID FROM ANY PUBLIC UTILITY OR FROM ANY DIRECTOR, EMPLOYEE OR AGENT OR MEMBER OF THE IMMEDIATE FAMILY OF A DIRECTOR, EMPLOYEE OR AGENT OF ANY PUBLIC UTILITY.

(B) TO SEEK TAX-EXEMPT STATUS UNDER STATE AND FEDERAL LAW.

(C) TO CONDUCT, SUPPORT, AND ASSIST RESEARCH, SURVEYS, INVESTIGATIONS, PLANNING ACTIVITIES, CONFERENCES, DEMONSTRATION PROJECTS AND PUBLIC INFORMATION ACTIVITIES CONCERNING THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS. THE CORPORATION MAY ACCEPT GRANTS, CONTRIBUTIONS AND LEGISLATIVE APPROPRIATIONS FOR SUCH ACTIVITIES.

(D) TO CONTRACT FOR SERVICES WHICH CANNOT REASONABLY BE PERFORMED BY ITS EMPLOYEES.

(E) TO REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS BEFORE REGULATORY AGENCIES, LEGISLATIVE BODIES AND OTHER PUBLIC BODIES.

(F) TO INITIATE, TO INTERVENE AS A PARTY, TO MAINTAIN OR TO OTHERWISE PARTICIPATE ON BEHALF OF RESIDENTIAL UTILITY CONSUMERS IN ANY PROCEEDING WHICH MAY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS.

(G) TO SUPPORT OR OPPOSE BALLOT PROPOSITIONS CONCERNING MATTERS WHICH IT DETERMINES MAY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS.

3. THE CORPORATION SHALL HAVE, IN ADDITION TO THE RIGHTS AND POWERS ENUMERATED IN THIS ARTICLE, SUCH OTHER INCIDENTAL RIGHTS AND POWERS AS ARE REASONABLY NECESSARY FOR THE EFFECTIVE REPRESENTATION AND PROTECTION OF THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS.

4. THE CORPORATION SHALL NOT SPONSOR, ENDORSE, OR OTHERWISE SUPPORT, NOR SHALL IT OPPOSE, ANY POLITICAL PARTY OR THE CANDIDACY OF ANY PERSON FOR PUBLIC OFFICE.

S 305. NOTICE OF IMPENDING PROCEEDINGS. EACH REGULATORY AGENCY OF THIS STATE AS DEFINED IN SUBDIVISION FOUR OF SECTION THREE HUNDRED TWO OF THIS ARTICLE SHALL NOTIFY OR CAUSE NOTICE TO BE GIVEN IN THE STATE REGISTER, IN ADVANCE OF THE TIME, PLACE, AND SUBJECT OF EACH FORMAL PROCEEDING OF THE REGULATORY AGENCY, IN WHICH THE CORPORATION MAY BE ELIGIBLE TO PARTICIPATE. THE AGENCY SHALL SO NOTIFY OR CAUSE NOTICE TO BE GIVEN TO THE CORPORATION AT LEAST THIRTY DAYS BEFORE THE SCHEDULED DATE OF SUCH PROCEEDING OR WITHIN FIVE DAYS AFTER THE DATE AND CALENDAR FOR SUCH PROCEEDING IS FIXED, WHICHEVER IS LATER. IN ADDITION, THE AGENCY SHALL GIVE NOTICE OR CAUSE NOTICE TO BE GIVEN WITHIN FIVE DAYS TO THE CORPORATION OF ANY FILED STATEMENT PROPOSING TO MODIFY OR INCREASE RATES, SERVICES, SCHEDULE OF RATES OR ANY OTHER RATING RULE OR TO ADOPT OR AMEND ANY RATE OR SERVICE RULE OR REGULATIONS.

S 306. JUDICIAL REVIEW OF AGENCY DECISIONS; ENFORCEMENT. THE CORPORATION SHALL BE DEEMED TO HAVE AN INTEREST SUFFICIENT TO MAINTAIN, INTERVENE AS OF RIGHT IN, OR OTHERWISE PARTICIPATE IN ANY CIVIL ACTION, PROCEEDING OR APPEAL FOR THE REVIEW OF ENFORCEMENT OF ANY REGULATORY AGENCY DECISION OR ACTION, OR REFUSAL TO ACT, WHICH THE CORPORATION DETERMINES MAY SUBSTANTIALLY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY CONSUMERS PROVIDED THAT THE CORPORATION PARTICIPATED AT THE REGULATORY AGENCY DECISION LEVEL. IF THE CORPORATION DID NOT PARTICIPATE IN THE REGULATORY AGENCY DECISION OR ACTION AT THE AGENCY LEVEL, THE COURT MAY GRANT THE CORPORATION THE RIGHT TO PARTICIPATE IN ANY CIVIL ACTION, PROCEEDING OR APPEAL IF THE INTEREST OF THE RESIDENTIAL UTILITY CONSUMERS IS SIGNIFICANTLY AFFECTED.

S 307. STATE-ASSISTED FUNDRAISING BY THE CORPORATION. 1. THE CORPORATION SHALL HAVE THE AUTHORITY TO PREPARE AND FURNISH TO ANY STATE AGENCY AN ENCLOSURE WHICH THE STATE AGENCY SHALL INCLUDE WITHIN ANY MAILING DESIGNATED BY THE CORPORATION. THE CORPORATION SHALL PROVIDE THE AGENCY WITH ANY SUCH ENCLOSURE AT A TIME REASONABLY IN ADVANCE OF THE MAILING. THE CORPORATION MAY NOT REQUIRE ANY STATE AGENCY TO MAIL AN ENCLOSURE MORE THAN FOUR TIMES IN ANY CALENDAR YEAR.

2. ENCLOSURES FURNISHED BY THE CORPORATION UNDER THIS SECTION SHALL BE LIMITED TO SOLICITING INFORMATION AND MONEY FROM CONSUMERS AND EXPLAINING:

(A) THE PURPOSE, HISTORY, NATURE, ACTIVITIES AND ACHIEVEMENTS OF THE CORPORATION;

(B) THAT THE CORPORATION IS OPEN TO MEMBERSHIP BY RESIDENTIAL CONSUMERS;

(C) THAT THE CORPORATION IS NOT CONNECTED TO ANY UTILITY COMPANY OR GOVERNMENTAL AGENCY;

(D) THAT THE CORPORATION IS A NOT-FOR-PROFIT CORPORATION DIRECTED BY ITS CONSUMER MEMBERS;

(E) THE PROCEDURE FOR CONTRIBUTING TO OR BECOMING A MEMBER OF THE CORPORATION; AND

(F) THE YEARLY MEMBERSHIP FEE.

3. PRIOR TO FURNISHING AN ENCLOSURE TO A STATE AGENCY FOR MAILING, THE CORPORATION SHALL SEEK AND OBTAIN THE APPROVAL OF THE COMMISSION OF THE CONTENT OF THE ENCLOSURE. THE COMMISSION SHALL APPROVE THE ENCLOSURE IF IT DETERMINES THAT THE ENCLOSURE: (A) IS NOT FALSE OR MISLEADING; AND (B) CONTAINS AND IS LIMITED TO THE INFORMATION PERMITTED BY THIS SECTION. THE COMMISSION SHALL BE DEEMED TO HAVE APPROVED THE ENCLOSURE UNLESS IT DISAPPROVES THE ENCLOSURE WITHIN FOURTEEN DAYS OF RECEIPT.

4. THE CORPORATION SHALL REIMBURSE EACH STATE AGENCY FOR ALL REASONABLE INCREMENTAL COSTS INCURRED BY THE STATE AGENCY IN COMPLYING WITH THIS SECTION ABOVE THE AGENCY'S NORMAL MAILING AND HANDLING COSTS, PROVIDED THAT:

(A) THE STATE AGENCY SHALL FIRST FURNISH THE CORPORATION WITH AN ITEMIZED ACCOUNTING OF SUCH ADDITIONAL COSTS; AND

(B) THE CORPORATION SHALL NOT BE REQUIRED TO REIMBURSE THE STATE AGENCY FOR POSTAGE COSTS IF THE WEIGHT OF THE CORPORATION'S ENCLOSURE DOES NOT INCREASE THE COST OF THE STATE AGENCY MAILING. IF THE CORPORATION'S ENCLOSURE INCREASES THE COST OF THE STATE AGENCY MAILING, THEN IT WILL BE REQUIRED TO REIMBURSE THE STATE AGENCY FOR POSTAGE COST OVER AND ABOVE WHAT THE AGENCY'S POSTAGE COST WOULD HAVE BEEN WITHOUT THE CORPORATION'S ENCLOSURE.

S 308. PROHIBITED ACTS. 1. NO PUBLIC UTILITY COMPANY OR OFFICER, EMPLOYEE OR AGENT OF THE PUBLIC UTILITY COMPANY MAY INTERFERE OR THREATEN TO INTERFERE WITH OR CAUSE ANY INTERFERENCE WITH THE UTILITY SERVICE OF, OR PENALIZE OR THREATEN TO PENALIZE OR CAUSE TO BE PENALIZED, ANY PERSON WHO CONTRIBUTES TO THE CORPORATION OR PARTICIPATES IN ANY OF ITS ACTIVITIES, IN RETRIBUTION FOR SUCH CONTRIBUTION OR PARTICIPATION.

2. NO PERSON MAY ACT WITH INTENT TO PREVENT, INTERFERE WITH OR HINDER THE ACTIVITIES PERMITTED UNDER THIS ARTICLE.

3. NO PERSON SHALL USE ANY LIST OF CONTRIBUTORS TO THE CORPORATION, NOR ANY PART OF SUCH LIST, FOR PURPOSES OTHER THAN THE CONDUCT OF BUSINESS OF THE CORPORATION AS PRESCRIBED IN THIS ARTICLE. NO PERSON SHALL DISCLOSE ANY SUCH LIST OR PART THEREOF TO ANY OTHER PERSON UNLESS THERE IS SUBSTANTIAL REASON TO BELIEVE THAT SUCH LIST OR PART THEREOF IS INTENDED TO BE USED FOR THE LAWFUL PURPOSES DESCRIBED IN THIS ARTICLE. ANY PERSON WHO VIOLATES THIS SUBDIVISION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS.

S 309. BOARD OF DIRECTORS. 1. THE AFFAIRS OF THE CORPORATION SHALL BE MANAGED BY A BOARD OF DIRECTORS CONSISTING OF ONE MEMBER FROM EACH UTILITY DISTRICT.

2. THE DIRECTORS SHALL SERVE WITHOUT SALARY, BUT EACH DIRECTOR MAY BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES. ALLOWANCES FOR MILEAGE, BOARD AND MEALS AND THE PURPOSES FOR WHICH SUCH ALLOWANCES

MAY BE MADE, SHALL BE THE SAME AS RATES AUTHORIZED FOR EMPLOYEES OF STATE AGENCIES WHILE AWAY FROM THEIR HOMES OR REGULAR PLACES OF BUSINESS IN THE PERFORMANCE OF SERVICE TO THE BOARD.

3. THE TERM OF OFFICE FOR MEMBERS OF THE BOARD OF DIRECTORS SHALL BE THREE YEARS AND NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. ONE THIRD OF THE DIRECTORS FIRST ELECTED SHALL SERVE FOR A ONE-YEAR TERM; ONE-THIRD OF SUCH DIRECTORS SHALL SERVE A TWO-YEAR TERM; AND ONE-THIRD OF SUCH DIRECTORS SHALL SERVE A FULL THREE-YEAR TERM.

4. NO DIRECTOR OR MEMBERS OF HIS OR HER IMMEDIATE FAMILY SHALL, EITHER DIRECTLY OR INDIRECTLY, BE EMPLOYED FOR COMPENSATION AS A STAFF MEMBER OR CONSULTANT OF THE CORPORATION.

5. ANY DIRECTOR WHO SHALL HANDLE, DISBURSE, OR RECEIVE MONEY ON BEHALF OF THE CORPORATION SHALL BE BONDED. SUCH BOND SHALL BE A COST TO THE CORPORATION.

S 310. DUTIES OF THE BOARD OF DIRECTORS. THE BOARD OF DIRECTORS SHALL HAVE THE FOLLOWING DUTIES:

1. TO ESTABLISH THE POLICIES OF THE CORPORATION REGARDING APPEARANCES BEFORE THE COMMISSION, OTHER REGULATORY AGENCIES, THE COURTS, AND OTHER PUBLIC BODIES, AND REGARDING OTHER ACTIVITIES WHICH THE CORPORATION HAS THE AUTHORITY TO PERFORM UNDER THIS ARTICLE;

2. TO MAINTAIN UP-TO-DATE MEMBERSHIP ROLLS, AND TO KEEP THEM IN CONFIDENCE TO THE EXTENT REQUIRED BY THE PROVISIONS OF SECTION THREE HUNDRED EIGHT OF THIS ARTICLE;

3. TO KEEP MINUTES, BOOKS AND RECORDS WHICH SHALL REFLECT ALL THE ACTS AND TRANSACTIONS OF THE BOARD OF DIRECTORS WHICH SHALL BE OPEN TO EXAMINATION BY ANY MEMBER DURING REGULAR BUSINESS HOURS;

4. TO MAKE ALL REPORTS, STUDIES AND OTHER INFORMATION COMPILED BY THE CORPORATION PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION THREE HUNDRED FOUR OF THIS ARTICLE, AND ALL DATA PERTAINING TO THE FINANCES OF THE CORPORATION, AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS;

5. TO MAINTAIN FOR INSPECTION BY THE MEMBERSHIP QUARTERLY STATEMENTS OF THE FINANCIAL AND SUBSTANTIVE OPERATIONS OF THE CORPORATION, AS PREPARED IN ACCORDANCE WITH PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION THREE HUNDRED TWENTY-THREE OF THIS ARTICLE;

6. TO CAUSE THE CORPORATION'S BOOKS TO BE AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT AT LEAST ONCE EACH FISCAL YEAR, AND TO MAKE THE AUDIT AVAILABLE TO THE GENERAL PUBLIC;

7. TO PREPARE, AS SOON AS PRACTICABLE AFTER THE CLOSE OF THE CORPORATION'S FISCAL YEAR, AN ANNUAL REPORT OF THE CORPORATION'S FINANCIAL AND SUBSTANTIVE OPERATIONS TO BE MADE AVAILABLE FOR PUBLIC INSPECTION;

8. TO REPORT TO THE MEMBERSHIP AT THE ANNUAL MEMBERSHIP MEETING ON THE PAST AND PROJECTED ACTIVITIES AND POLICIES OF THE CORPORATION. IN ADDITION, THE CORPORATION SHALL SPONSOR ON BEHALF OF EACH DIRECTOR AT LEAST ONE MEETING PER YEAR IN SUCH DIRECTOR'S UTILITY DISTRICT;

9. TO EMPLOY AN EXECUTIVE DIRECTOR AND TO DIRECT AND SUPERVISE HIS OR HER ACTIVITIES;

10. TO HOLD REGULAR MEETINGS, INCLUDING MEETINGS BY TELEPHONE CONFERENCE, AT LEAST ONCE EVERY THREE MONTHS ON SUCH DATES AND AT SUCH PLACES AS SUCH BOARD MAY DETERMINE. SPECIAL MEETINGS MAY BE CALLED BY THE CHAIRPERSON OF THE BOARD OR BY AT LEAST ONE-QUARTER OF THE DIRECTORS UPON AT LEAST FIVE DAYS' NOTICE. ONE-HALF OF THE DIRECTORS PLUS ONE SHALL CONSTITUTE A QUORUM. ALL MEETINGS OF THE BOARD OF DIRECTORS AND OF ITS COMMITTEES AND SUBCOMMITTEES SHALL BE OPEN TO THE PUBLIC. COMPLETE MINUTES OF THE MEETINGS SHALL BE KEPT; AND

11. TO CARRY OUT ALL OTHER DUTIES AND RESPONSIBILITIES IMPOSED UPON THE CORPORATION AND THE BOARD OF DIRECTORS BY THIS ARTICLE.

S 311. APPOINTMENT OF INTERIM BOARD OF DIRECTORS. 1. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, AN INTERIM BOARD OF DIRECTORS SHALL BE APPOINTED BY THE GOVERNOR, TO SERVE UNTIL A BOARD OF DIRECTORS IS FIRST ELECTED. IF THE NUMBER OF MEMBERS OF THE CORPORATION FAILS TO REACH THE LEVEL REQUIRED BY SECTION THREE HUNDRED TWELVE OF THIS ARTICLE WITHIN TWO YEARS OF THE APPOINTMENT OF THE COMPLETE INTERIM BOARD OF DIRECTORS, THE CORPORATION SHALL BE DISSOLVED AFTER HAVING SATISFIED ITS DEBTS, LIABILITIES AND OBLIGATIONS TO THE EXTENT POSSIBLE FROM FUNDS MADE AVAILABLE TO THE CORPORATION.

2. THE METHOD OF APPOINTMENT OF INTERIM DIRECTORS SHALL BE AS FOLLOWS: THREE SHALL BE APPOINTED BY THE GOVERNOR, THREE SHALL BE APPOINTED BY THE GOVERNOR FROM A LIST CONTAINING NO LESS THAN FIVE NAMES SUBMITTED BY THE TEMPORARY PRESIDENT OF THE SENATE; THREE SHALL BE APPOINTED BY THE GOVERNOR FROM A LIST CONTAINING NO LESS THAN FIVE NAMES SUBMITTED BY THE SPEAKER OF THE ASSEMBLY; ONE SHALL BE APPOINTED BY THE GOVERNOR FROM A LIST OF NOT LESS THAN FIVE NAMES SUBMITTED BY THE MINORITY LEADER OF THE SENATE; ONE SHALL BE APPOINTED BY THE GOVERNOR FROM A LIST OF NOT LESS THAN FIVE NAMES SUBMITTED BY THE MINORITY LEADER OF THE ASSEMBLY. INDIVIDUALS CONSIDERED FOR APPOINTMENT TO THE INTERIM BOARD SHALL HAVE THE SAME QUALIFICATIONS AS CANDIDATES FOR THE BOARD OF DIRECTORS PURSUANT TO SECTION THREE HUNDRED THIRTEEN OF THIS ARTICLE, AND SHALL, TO THE EXTENT POSSIBLE, REPRESENT EACH REGION OF THE STATE.

3. THE INTERIM BOARD OF DIRECTORS SHALL:

(A) AS SOON AS POSSIBLE AFTER APPOINTMENT, ORGANIZE FOR THE TRANSACTION OF BUSINESS.

(B) INFORM THE RESIDENTIAL UTILITY CONSUMERS OF THIS STATE OF THE EXISTENCE, NATURE AND PURPOSE OF THE CORPORATION, AND ENCOURAGE RESIDENTIAL UTILITY CONSUMERS TO JOIN THE CORPORATION, TO PARTICIPATE IN THE CORPORATION'S ACTIVITIES AND TO CONTRIBUTE TO THE CORPORATION.

(C) ELECT OFFICERS.

(D) EMPLOY SUCH STAFF AS THE DIRECTORS DEEM NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(E) MAKE ALL NECESSARY PREPARATIONS FOR THE FIRST ELECTION OF DIRECTORS, OVERSEE THE ELECTION CAMPAIGN AND TALLY THE VOTES.

(F) SOLICIT FUNDS FOR THE CORPORATION.

(G) DESIGNATE BY A RANDOM METHOD THE LENGTH OF THE TERM OF OFFICE OF EACH DIRECTOR POSITION TO BE FILLED AFTER THE FIRST ELECTION OF DIRECTORS.

(H) CARRY OUT ALL OTHER DUTIES AND EXERCISE ALL OTHER POWER ACCORDED TO THE BOARD OF DIRECTORS UNDER THIS ARTICLE.

S 312. ELECTION OF DIRECTORS. 1. NOT MORE THAN SIXTY DAYS AFTER THE MEMBERSHIP OF THE CORPORATION REACHES TWENTY-FIVE THOUSAND PERSONS WITH AT LEAST ONE HUNDRED MEMBERS IN EACH DISTRICT, THE INTERIM BOARD OF DIRECTORS SHALL SET A DATE FOR THE FIRST GENERAL ELECTION OF DIRECTORS AND SHALL SO NOTIFY EVERY MEMBER. THE DATE SET FOR ELECTIONS SHALL BE NOT LESS THAN FOUR MONTHS NOR MORE THAN EIGHT MONTHS AFTER SUCH NOTIFICATION.

2. EACH GENERAL ELECTION OF DIRECTORS OTHER THAN THE FIRST ELECTION OF DIRECTORS SHALL BE HELD NOT LESS THAN ELEVEN MONTHS AND NOT MORE THAN THIRTEEN MONTHS AFTER THE LAST PRECEDING GENERAL ELECTION. THE DATE OF SUCH ELECTIONS SHALL BE FIXED BY THE BOARD OF DIRECTORS AT LEAST FOUR MONTHS IN ADVANCE OF THE DATE CHOSEN FOR THE ELECTION.

S 313. QUALIFICATIONS OF CANDIDATES. 1. NO PRESENT EMPLOYEE, DIRECTOR, CONSULTANT, ATTORNEY, ACCOUNTANT, REAL ESTATE AGENT, SHAREHOLDER, BOND-

HOLDER OF ANY PUBLIC UTILITY DOING BUSINESS IN THIS STATE AND NO EMPLOYEE OF THE COMMISSION OR THE DEPARTMENT SHALL BE ELIGIBLE TO BE A DIRECTOR. NO DIRECTOR OR ANY CANDIDATE FOR THE BOARD OF DIRECTORS MAY HOLD AN ELECTIVE PUBLIC OFFICE OR BE A CANDIDATE FOR AN ELECTIVE PUBLIC OFFICE OR BE APPOINTED TO HOLD STATE OFFICE. THESE QUALIFICATIONS SHALL ALSO APPLY TO IMMEDIATE FAMILY MEMBERS OF PERSONS ENUMERATED ABOVE.

2. TO BE ELIGIBLE FOR ELECTION TO THE BOARD OF DIRECTORS A CANDIDATE MUST:

(A) MEET THE QUALIFICATIONS FOR CANDIDATES;

(B) BE A MEMBER OF THE CORPORATION AND A RESIDENT OF THE DISTRICT WHICH HE OR SHE SEEKS TO REPRESENT;

(C) SUBMIT A PETITION FOR NOMINATION;

(D) SUBMIT A STATEMENT OF FINANCIAL INTEREST AND A STATEMENT OF PERSONAL BACKGROUND AND POSITION; AND

(E) AFFIRM, UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IN THE STATEMENT OF FINANCIAL INTEREST AND PERSONAL BACKGROUND AND POSITION IS TRUE AND COMPLETE.

S 314. NOMINATION. 1. THE INTERIM BOARD OF DIRECTORS AND EVERY SUBSEQUENT BOARD SHALL MAKE AVAILABLE FOR INSPECTION BY ANY MEMBER, UPON REQUEST, A LIST OF THE CURRENT MEMBERS IN THAT MEMBER'S DISTRICT.

2. A CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS SHALL CIRCULATE A PETITION FOR NOMINATION NO SOONER THAN ONE HUNDRED TWENTY DAYS PRECEDING THE ELECTION AND SHALL FILE THE PETITION WITH THE CORPORATION NO LATER THAN SIXTY DAYS PRIOR TO THE ELECTION. THE PETITION FOR NOMINATION SHALL BE SIGNED BY AT LEAST ONE HUNDRED OF THE CORPORATION'S CURRENT MEMBERS RESIDING IN THE CANDIDATE'S DISTRICT. UPON RECEIPT OF A MEMBER'S NOMINATING PETITION AND CONFIRMATION OF THE CURRENT MEMBERSHIP OF THE CANDIDATE AND CONFIRMATION OF THE CURRENT MEMBERSHIP OF THE INDIVIDUALS WHO SIGNED SUCH PETITION, THE BOARD OF DIRECTORS SHALL CERTIFY THAT SUCH MEMBER IS A NOMINATED CANDIDATE FOR THE BOARD OF DIRECTORS.

S 315. STATEMENT OF FINANCIAL INTERESTS. A CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS WHOSE NOMINATION IS CERTIFIED SHALL SUBMIT TO THE BOARD OF DIRECTORS, NOT LATER THAN SIXTY DAYS PRIOR TO THE ELECTION, A STATEMENT OF FINANCIAL INTERESTS UPON A FORM PROVIDED BY THE BOARD OF DIRECTORS. THE STATEMENT OF FINANCIAL INTERESTS, WHICH SHALL BE OPEN FOR PUBLIC INSPECTION, SHALL INCLUDE THE FOLLOWING INFORMATION:

1. THE OCCUPATION, EMPLOYER AND POSITION AT PLACE OF EMPLOYMENT OF THE CANDIDATE AND OF HIS OR HER IMMEDIATE FAMILY MEMBERS.

2. A LIST OF ALL CORPORATE AND ORGANIZATIONAL DIRECTORSHIPS OR OTHER OFFICES, AND OF FIDUCIARY RELATIONSHIPS, HELD IN THE PAST THREE YEARS BY THE CANDIDATE AND BY HIS OR HER IMMEDIATE FAMILY MEMBERS.

3. SUCH OTHER INFORMATION AS THE BOARD OF DIRECTORS SHALL REQUIRE CANDIDATES TO DISCLOSE, WHICH DISCLOSURE REQUIRED OF OTHER PUBLIC OFFICIALS AT THE TIME AND SHALL BE IN THE JUDGMENT OF THE BOARD OF DIRECTORS IN THE BEST INTERESTS OF THE CORPORATION.

4. AN AFFIRMATION, SUBJECT TO PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IN THE STATEMENT OF FINANCIAL INTERESTS IS TRUE AND COMPLETE.

S 316. STATEMENT OF PERSONAL BACKGROUND AND POSITIONS. A CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS SHALL SUBMIT TO THE BOARD OF DIRECTORS, NOT LATER THAN SIXTY DAYS PRIOR TO THE ELECTION, ON A FORM TO BE PROVIDED BY THE BOARD OF DIRECTORS, A STATEMENT CONCERNING HIS OR HER PERSONAL BACKGROUND AND POSITIONS ON ISSUES RELATING TO REGULATED PUBLIC UTILITIES OR THE OPERATIONS OF THE CORPORATION. THE STATEMENT SHALL CONTAIN AN AFFIRMATION, SUBJECT TO PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IN THE STATEMENT OF PERSONAL BACKGROUND IS TRUE AND

COMPLETE AND THAT THE CANDIDATE MEETS THE QUALIFICATIONS PRESCRIBED FOR DIRECTORS.

S 317. RESTRICTIONS ON AND REPORTING OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES. 1. NO CANDIDATE MAY INCUR MORE THAN TWO THOUSAND DOLLARS TO CAMPAIGN EXPENDITURES FROM THE TIME HE OR SHE COMMENCES CIRCULATION OF PETITIONS FOR NOMINATION OR FROM FOUR MONTHS PRIOR TO THE ELECTION WHICHEVER IS EARLIER, THROUGH THE DATE OF THE ELECTION.

2. NO CANDIDATE MAY ACCEPT MORE THAN TWO HUNDRED FIFTY DOLLARS IN CAMPAIGN CONTRIBUTIONS FROM ANY ONE CONTRIBUTOR DURING THE YEAR PRECEDING THE DATE OF THE ELECTION.

3. NO CANDIDATE SHALL ACCEPT CAMPAIGN CONTRIBUTIONS FROM A UTILITY COMPANY, PUBLIC UTILITY COMPANY, UTILITY CORPORATION, PUBLIC UTILITY CORPORATION OR ANY ORGANIZATION SUPPORTED WITH PUBLIC FUNDS.

4. EACH CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS SHALL KEEP COMPLETE RECORDS OF ALL CONTRIBUTIONS TO HIS OR HER CAMPAIGN OF FIFTY DOLLARS OR MORE MADE DURING THE YEAR PRECEDING THE DATE OF THE ELECTION. SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY THE PUBLIC.

5. NO EARLIER THAN THE NEXT DAY SUCCEEDING THE ELECTION AND NO LATER THAN THIRTY DAYS AFTER THE ELECTION, EACH CANDIDATE SHALL SUBMIT TO THE BOARD OF DIRECTORS, ON A FORM PROVIDED BY THE BOARD OF DIRECTORS, AN ACCURATE STATEMENT OF HIS OR HER CAMPAIGN CONTRIBUTIONS ACCEPTED AND CAMPAIGN EXPENSES INCURRED, AND SHALL AFFIRM TO THE BOARD OF DIRECTORS, SUBJECT TO PENALTY OF PERJURY, THAT HE OR SHE HAS FULLY COMPLIED WITH THE REQUIREMENTS OF THIS SUBDIVISION.

6. IF THE BOARD OF DIRECTORS DETERMINES THAT THE CANDIDATE'S CAMPAIGN EXPENSES HAVE EXCEEDED THE LIMITS CONTAINED IN THIS SECTION, THE CANDIDATE SHALL BE DISQUALIFIED AND MAY BE REQUIRED TO PAY THE EXPENSES INCURRED BY THE CORPORATION IN MAILING THAT CANDIDATE'S STATEMENT OF PERSONAL BACKGROUND AND POSITION. THE CORPORATION MAY PURSUE ALL CIVIL REMEDIES TO RECOVER THE COST OF MAILING THAT CANDIDATE'S STATEMENT OF PERSONAL BACKGROUND AND POSITION. IN THE EVENT OF DISQUALIFICATION, THE BOARD OF DIRECTORS SHALL CALL A SPECIAL ELECTION TO BE HELD NOT FEWER THAN FOUR MONTHS AND NOT MORE THAN SIX MONTHS AFTER THE CAMPAIGN CONTRIBUTION FOR ANY PURPOSE EXCEPT FOR CAMPAIGN EXPENDITURES.

S 318. ELECTION PROCEDURES. 1. THE BOARD OF DIRECTORS SHALL SEND OR HAVE SENT TO EACH MEMBER, TO BE POST-MARKED NO LATER THAN TWENTY DAYS BEFORE THE DATE FIXED FOR A SPECIAL OR GENERAL ELECTION, THE FOLLOWING:

(A) AN OFFICIAL BALLOT LISTING ALL CANDIDATES FOR THE BOARD OF DIRECTORS FROM THEIR DISTRICT WHO HAVE COMPLIED WITH THE REQUIREMENTS OF THIS ARTICLE;

(B) EACH SUCH CANDIDATE'S STATEMENT OF FINANCIAL INTERESTS; AND

(C) EACH SUCH CANDIDATE'S STATEMENT OF PERSONAL BACKGROUND AND POSITION.

2. EACH RESIDENTIAL UTILITY CONSUMER WHO IS A MEMBER OF THE CORPORATION ON THE THIRTIETH DAY PRECEDING A SPECIAL OR GENERAL ELECTION MAY CAST A VOTE IN SUCH ELECTION BY RETURNING HIS OR HER OFFICIAL BALLOT, PROPERTY MARKED, TO THE PRINCIPAL OFFICE OF THE CORPORATION BY NINE P.M. OF THE DATE FIXED FOR THE ELECTION. VOTING SHALL BE BY SECRET BALLOT. THE CANDIDATE RECEIVING THE GREATEST NUMBER OF VOTES IN EACH DISTRICT SHALL BE DECLARED ELECTED.

3. THE BOARD OF DIRECTORS MAY PRESCRIBE RULES FOR THE CONDUCT OF ELECTIONS AND ELECTION CAMPAIGNS NOT INCONSISTENT WITH THIS ARTICLE.

S 319. INSTALLATION OF ELECTED CANDIDATES. THE PRESIDENT OF THE BOARD OF DIRECTORS SHALL INSTALL IN OFFICE WITHIN THIRTY DAYS AFTER THE ELECTION ALL ELECTED CANDIDATES WHO MEET THE QUALIFICATIONS PRESCRIBED IN THIS ARTICLE.

S 320. RECALL OF DIRECTORS. UPON RECEIPT BY THE PRESIDENT OF THE BOARD OF DIRECTORS OF A PETITION TO RECALL ANY DIRECTOR, WITH THE VALID SIGNATURES OF AT LEAST FORTY PERCENT OF THE MEMBERS OF THE UTILITY DISTRICT THE DIRECTOR REPRESENTS, THE BOARD OF DIRECTORS SHALL CALL A SPECIAL ELECTION TO BE HELD NOT FEWER THAN FOUR MONTHS AND NOT MORE THAN SIX MONTHS AFTER RECEIPT OF THE PETITION, FOR THE PURPOSE OF ELECTING A DIRECTOR TO SERVE OUT THE TERM OF THE RECALLED DIRECTOR; PROVIDED THAT NO DIRECTOR MAY BE RECALLED WITHIN SIX MONTHS OF HIS OR HER ELECTION. A DIRECTOR MAY BECOME A CANDIDATE IN AN ELECTION FOLLOWING HIS OR HER OWN RECALL. A DIRECTOR RECALLED SHALL CONTINUE TO SERVE UNTIL THE INSTALLATION IN OFFICE OF HIS OR HER SUCCESSOR.

S 321. VACANCIES. WHEN A DIRECTOR DIES, RESIGNS, IS DISQUALIFIED, OR OTHERWISE VACATES HIS OR HER OFFICE, EXCEPT AS PROVIDED IN SECTION THREE HUNDRED TWENTY OF THIS ARTICLE, THE BOARD OF DIRECTORS SHALL SELECT, WITHIN THREE MONTHS, A SUCCESSOR FROM THE SAME DISTRICT AS SUCH DIRECTOR FOR THE REMAINDER OF THE DIRECTOR'S TERM OF OFFICE. ANY DIRECTOR MAY NOMINATE ANY QUALIFIED PERSON AS SUCCESSOR. THE BOARD OF DIRECTORS SHALL SELECT THE SUCCESSOR FROM AMONG THOSE NOMINATED, BY A TWO-THIRDS MAJORITY OF THE REMAINING DIRECTORS PRESENT AND VOTING. THE SUCCESSOR SHALL BE INSTALLED IN OFFICE BY THE PRESIDENT OF THE BOARD OF DIRECTORS.

S 322. OFFICERS. 1. AT THE FIRST REGULAR MEETING OF THE BOARD OF DIRECTORS AT WHICH A QUORUM IS PRESENT AND SUBSEQUENT TO THE INITIAL APPOINTMENTS OF DIRECTORS, AND AT THE FIRST REGULAR MEETING OF THE BOARD OF DIRECTORS AT WHICH A QUORUM IS PRESENT SUBSEQUENT TO THE INSTALLATION OF NEW DIRECTORS FOLLOWING EACH ANNUAL ELECTION, THE BOARD SHALL ELECT BY MAJORITY VOTE OF MEMBERS PRESENT AND VOTING FROM AMONG THE DIRECTORS A PRESIDENT, A VICE-PRESIDENT, A SECRETARY, AND A TREASURER. THE BOARD SHALL ALSO HAVE THE POWER TO ELECT A COMPTROLLER AND SUCH OTHER OFFICERS AS IT DEEMS NECESSARY.

2. OFFICERS SHALL BE INSTALLED BY THE PRESIDENT IMMEDIATELY UPON THEIR ELECTION. THE TERM OF OFFICE FOR OFFICERS SHALL BE ONE YEAR; PROVIDED THAT AN OFFICER MAY RESIGN, OR MAY BE REMOVED FROM OFFICE BY A TWO-THIRDS VOTE OF ALL THE DIRECTORS. AFTER AN OFFICER'S TERM OF OFFICE HAS EXPIRED, THE OFFICER SHALL CONTINUE TO SERVE UNTIL HIS OR HER SUCCESSOR IS INSTALLED.

3. WHEN AN OFFICER DIES, RESIGNS, IS REMOVED OR OTHERWISE VACATES HIS OR HER OFFICE, THE BOARD OF DIRECTORS SHALL ELECT A SUCCESSOR TO SERVE OUT SUCH OFFICER'S TERM OF OFFICE.

4. THE OFFICERS SHALL EXERCISE SUCH POWERS AND PERFORM SUCH DUTIES AS ARE PRESCRIBED BY THIS ARTICLE OR ARE DELEGATED TO THEM BY THE BOARD OF DIRECTORS.

S 323. EXECUTIVE DIRECTOR; QUALIFICATIONS; APPOINTMENTS; DUTIES. 1. THE EXECUTIVE DIRECTOR HIRED BY THE BOARD OF DIRECTORS SHALL HAVE THE SAME QUALIFICATIONS AS A CANDIDATE. THE EXECUTIVE DIRECTOR MAY NOT BE A CANDIDATE FOR THE BOARD OF DIRECTORS WHILE SERVING AS EXECUTIVE DIRECTOR. THE BY-LAWS OF THE CORPORATION SHALL PROVIDE A METHOD FOR DISCHARGING THE EXECUTIVE DIRECTOR, BUT IN NO EVENT SHALL SUCH DISCHARGE OCCUR UNLESS ONE-HALF OF THE DIRECTORS PLUS ONE SHALL HAVE CONSENTED TO SUCH DISCHARGE.

2. THE BOARD OF DIRECTORS SHALL REQUIRE ALL APPLICANTS FOR THE POSITION OF EXECUTIVE DIRECTOR OF THE CORPORATION TO FILE A FINANCIAL STATEMENT. THE BOARD OF DIRECTORS SHALL REQUIRE THE EXECUTIVE DIRECTOR TO FILE A FINANCIAL STATEMENT ANNUALLY.

3. THE EXECUTIVE DIRECTOR SHALL HAVE THE FOLLOWING DUTIES:

(A) TO IMPLEMENT THE POLICIES ESTABLISHED BY THE BOARD OF DIRECTORS;

(B) TO EMPLOY AND DISCHARGE EMPLOYEES OF THE CORPORATION;

(C) TO SUPERVISE THE OFFICES, FACILITIES AND WORK OF THE EMPLOYEES OF THE CORPORATION;
(D) TO HAVE CUSTODY OF AND MAINTAIN THE BOOKS, RECORDS AND MEMBERSHIP ROLLS OF THE CORPORATION;
(E) TO PREPARE AND SUBMIT TO THE BOARD OF DIRECTORS ANNUAL AND QUARTERLY STATEMENTS OF THE FINANCIAL AND SUBSTANTIVE OPERATIONS OF THE CORPORATION, AND FINANCIAL ESTIMATES FOR THE OPERATIONS OF THE CORPORATION;
(F) TO ATTEND AND PARTICIPATE IN MEETINGS OF THE BOARD OF DIRECTORS AS A NON-VOTING DIRECTOR; AND
(G) TO EXERCISE SUCH OTHER POWERS AND PERFORM SUCH OTHER DUTIES AS THE BOARD OF DIRECTORS DELEGATES.

S 324. ANNUAL MEMBERSHIP MEETING. AN ANNUAL MEETING OF THE MEMBERSHIP SHALL BE HELD ON A DATE AND AT A PLACE WITHIN THE STATE TO BE DETERMINED BY THE BOARD OF DIRECTORS. ALL MEMBERS SHALL BE ELIGIBLE TO ATTEND, PARTICIPATE IN AND VOTE AT THE ANNUAL MEMBERSHIP MEETING. THE MEETING SHALL BE OPEN TO THE PUBLIC.

S 325. CONSTRUCTION WITH OTHER LAWS. 1. THE NOT-FOR-PROFIT CORPORATION LAW APPLIES TO THE CORPORATION; PROVIDED THAT IF ANY PROVISION OF THE NOT-FOR-PROFIT CORPORATION LAW CONFLICTS WITH ANY PROVISION OF THIS ARTICLE, THE CONFLICTING PROVISION OF THE NOT-FOR-PROFIT CORPORATION LAW SHALL NOT APPLY IN SUCH CASE. IF ANY PROVISION OF THIS ARTICLE RELATES TO A MATTER EMBRACED IN THE NOT-FOR-PROFIT CORPORATION LAW BUT IS NOT IN CONFLICT WITH SUCH PROVISION, BOTH PROVISIONS SHALL APPLY.

2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT THE RIGHT OF ANY INDIVIDUAL OR GROUP OR CLASS OF INDIVIDUALS TO INITIATE, INTERVENE IN, OR OTHERWISE PARTICIPATE IN ANY PROCEEDING BEFORE ANY REGULATORY AGENCY OR COURT; NOR TO REQUIRE ANY PETITION OR NOTIFICATION TO THE CORPORATION AS A CONDITION PRECEDENT TO SUCH RIGHT, NOR TO RELIEVE ANY UTILITY AGENCY, COURT OR OTHER PUBLIC BODY OF ANY OBLIGATION, OR AFFECT ITS DISCRETION TO PERMIT INTERVENTION OR PARTICIPATION BY A CONSUMER OR GROUP OR CLASS OF CONSUMERS IN ANY PROCEEDING OR ACTIVITY, NOR TO LIMIT THE RIGHT OF ANY INDIVIDUAL OR INDIVIDUALS TO OBTAIN ADMINISTRATIVE OR JUDICIAL REVIEW.

3. THE INTERVENTION OR PARTICIPATION OF THE CORPORATION IN A PROCEEDING OR ACTIVITY SHALL NOT AFFECT THE OBLIGATION OF ANY REGULATORY AGENCY OR OTHER PUBLIC BODY TO OPERATE IN THE PUBLIC INTEREST.

4. THIS ARTICLE BEING NECESSARY FOR THE WELFARE OF THE STATE AND ITS INHABITANTS SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS PURPOSES.

S 326. PROHIBITIONS AND CONFLICTS OF INTEREST. 1. NO PERSON MAY OFFER OR GIVE ANYTHING OF MONETARY VALUE TO ANY DIRECTOR, EMPLOYEE OR AGENT OF THE CORPORATION IF THE OFFER OR GIFT INFLUENCES, OR IS INTENDED TO INFLUENCE, THE ACTION OR JUDGMENT OF THE DIRECTOR, EMPLOYEE OR AGENT OF THE CORPORATION IN HIS OR HER CAPACITY AS DIRECTOR, EMPLOYEE OR AGENT OF THE CORPORATION.

2. NO DIRECTOR, EMPLOYEE OR AGENT OF THE CORPORATION MAY SOLICIT OR ACCEPT ANYTHING OF MONETARY VALUE FROM ANY PERSON IF THEIR SOLICITATION OR ACCEPTANCE INFLUENCES, OR IS INTENDED TO INFLUENCE, THE OFFICIAL ACTION OR JUDGMENT OF THE DIRECTOR, EMPLOYEE OR AGENT IN HIS OR HER CAPACITY AS DIRECTOR, EMPLOYEE OR AGENT OF THE CORPORATION.

3. ANY PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS.

4. THE BOARD SHALL REMOVE FROM OFFICE ANY DIRECTOR, EMPLOYEE OR AGENT VIOLATING THE PROVISION OF THIS SECTION.

S 327. PENALTIES. A VIOLATION OF ANY PROVISION OF THIS ARTICLE PERTAINING TO CONDUCT BY A UTILITY OR OFFICERS OR EMPLOYEES THEREOF

SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS FOR EACH VIOLATION.

S 328. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH OR PART OF THIS ARTICLE OR THE APPLICATION THEREOF BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER, AND THE APPLICATION THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.