

8722

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. CAHILL, GIANARIS, JOHN, DESTITO, DelMONTE, ROSEN-
THAL, HEVESI, GORDON, SWEENEY, BRENNAN, HYER-SPENCER -- Multi-Spon-
sored by -- M. of A. FARRELL, GLICK, GOTTFRIED, SCHIMEL -- read once
and referred to the Committee on Energy

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The public service law is amended by adding a new article
2 12 to read as follows:

3 ARTICLE 12

4 CITIZENS' UTILITY ADVOCACY BOARD

5 SECTION 300. SHORT TITLE.
6 301. LEGISLATIVE FINDINGS.
7 302. DEFINITIONS.
8 303. CREATION OF THE CORPORATION; PURPOSE; MEMBERSHIP.
9 304. DUTIES, RIGHTS AND POWERS OF THE CORPORATION.
10 305. NOTICE OF IMPENDING PROCEEDINGS.
11 306. JUDICIAL REVIEW OF AGENCY DECISIONS; ENFORCEMENT.
12 307. STATE ASSISTED INTERNET ACCESS TO THE CORPORATION.
13 308. PROHIBITED ACTS.
14 309. BOARD OF DIRECTORS.
15 310. DUTIES OF THE BOARD OF DIRECTORS.
16 311. APPOINTMENT OF INTERIM BOARD OF DIRECTORS.
17 312. ELECTION OF DIRECTORS.
18 313. QUALIFICATIONS OF CANDIDATES.
19 314. NOMINATION.
20 315. STATEMENT OF FINANCIAL INTERESTS.
21 316. STATEMENT OF PERSONAL BACKGROUND AND POSITIONS.
22 317. RESTRICTIONS ON AND REPORTING OF CAMPAIGN CONTRIBUTIONS AND
23 EXPENDITURES.

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

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- 1 318. ELECTION PROCEDURES.
- 2 319. INSTALLATION OF ELECTED CANDIDATES.
- 3 320. RECALL OF DIRECTORS.
- 4 321. VACANCIES.
- 5 322. OFFICERS.
- 6 323. EXECUTIVE DIRECTOR; QUALIFICATIONS; APPOINTMENTS; DUTIES.
- 7 324. ANNUAL MEMBERSHIP MEETING.
- 8 325. CONSTRUCTION WITH OTHER LAWS.
- 9 326. PROHIBITIONS AND CONFLICTS OF INTEREST.
- 10 327. PENALTIES.
- 11 328. SEVERABILITY.

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

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

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

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

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

27 (D) IN ORDER TO CREATE SUCH AN ENTITY, IT IS NECESSARY TO ESTABLISH A
28 DEMOCRATICALLY STRUCTURED ORGANIZATION AND TO PROVIDE FOR THE DISSEM-
29 INATION TO ALL CUSTOMERS OF INFORMATION AS TO THE FORMATION AND PURPOSES
30 OF SUCH ORGANIZATION AND TO PROVIDE AN EFFICIENT MEANS FOR JOINING AND
31 CONTRIBUTING TO SUCH ORGANIZATION.

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

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

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

48 2. "UTILITY SERVICES" MEANS ELECTRICITY, WATER, NATURAL GAS, STEAM,
49 TELECOMMUNICATIONS AND CABLE SERVICES SUPPLIED BY A PUBLIC UTILITY.

50 3. "RESIDENTIAL UTILITY CONSUMER" MEANS ANY PERSON IN THIS STATE WHOSE
51 RESIDENCE IS FURNISHED WITH A UTILITY SERVICE BY A PUBLIC UTILITY COMPA-
52 NY. "RESIDENTIAL UTILITY CONSUMER" FOR THE PURPOSES OF THIS ACT SHALL
53 INCLUDE A CUSTOMER OF A UTILITY, WHO RESIDES AT HIS OR HER "FARM OPERA-
54 TION," AS SUCH TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE
55 HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW AND SMALL BUSINESSES AS
56 DEFINED IN THIS SECTION.

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

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

6 (B) TO PLAN OR TO APPROVE, REJECT, OR MODIFY PLANS FOR THE
7 CONSTRUCTION OF FACILITIES FOR THE PRODUCTION OR PROVISION OF UTILITY
8 SERVICES WITHIN THIS STATE INCLUDING, BUT NOT LIMITED TO PIPELINES AND
9 MAJOR TRANSMISSION FACILITIES;

10 (C) TO FORMULATE OR REVIEW ENERGY POLICIES, PLANS OR PROGRAMS AFFECT-
11 ING THIS STATE; OR

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

16 5. "FORMAL PROCEEDING" MEANS ANY FORMAL MEETING OF A REGULATORY AGENCY
17 OR SUBDIVISION THEREOF, INCLUDING A MEETING CONDUCTED BY AN ADMINISTRA-
18 TIVE LAW JUDGE OR OTHER AGENT OF THE REGULATORY AGENCY, REGARDING:

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

21 (B) THE ESTABLISHMENT, ABROGATION, OR AMENDMENT OF RULES OR REGU-
22 LATIONS, OR THE INVESTIGATION OF OR INQUIRY INTO ACTIVITIES AND PROCE-
23 DURES OF UTILITY COMPANIES, CONCERNING RESIDENTIAL UTILITY CONSUMERS,
24 PUBLIC UTILITY COMPANIES, OR ENERGY POLICIES, PLANS OR PROGRAMS AFFECT-
25 ING THIS STATE OR CONCERNING THE CONDUCT OF REGULATORY AGENCY
26 PROCEEDINGS THEMSELVES; OR

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

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

32 (E) THE ESTABLISHMENT OR ISSUANCE OF ORDERS AFFECTING RESIDENTIAL
33 UTILITIES CUSTOMERS CHARGES ON UTILITY BILLS OR PAYMENTS TO A UTILITY,
34 INCLUDING BUT NOT LIMITED TO PUBLIC BENEFIT PROGRAMS.

35 6. "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION,
36 DIVISION, OFFICE, COUNCIL, COMMITTEE, OFFICER, PUBLIC BENEFIT CORPO-
37 RATION OR AUTHORITY, INSTITUTION OR ENTITY OF THE EXECUTIVE BRANCH OF
38 STATE GOVERNMENT.

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

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

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

45 10. "UTILITY DISTRICT" OR "DISTRICT" MEANS AN AREA COMPRISED OF TWO
46 CONTIGUOUS CONGRESSIONAL DISTRICTS AS SUCH CONGRESSIONAL DISTRICTS ARE
47 DESCRIBED IN STATE LAW. THE BOARD OF DIRECTORS SHALL CERTIFY THE BOUNDA-
48 RIES OF EACH UTILITY DISTRICT NO LESS THAN SIXTY DAYS PRIOR TO THE
49 CORPORATION'S FIRST GENERAL ELECTION. IN THE EVENT THAT AN ODD NUMBER OF
50 CONGRESSIONAL DISTRICTS ARE CREATED WITHIN THE STATE, THE BOARD OF
51 DIRECTORS SHALL HAVE THE AUTHORITY TO DETERMINE HOW THE ADDITIONAL
52 CONGRESSIONAL DISTRICT SHALL BE REPRESENTED. IN THE EVENT THAT THE BOUN-
53 DARIES OR NUMBER OF CONGRESSIONAL DISTRICTS ARE ADJUSTED, THE BOARD OF
54 DIRECTORS SHALL RECERTIFY THE BOUNDARIES OF EACH UTILITY DISTRICT NO
55 LESS THAN FOUR MONTHS AFTER SUCH ADJUSTMENT. THE BOARD MEMBER, REPRESENTING ANY UTILITY DISTRICT WHOSE BOUNDARIES ARE CHANGED IN SUCH RECER-

1 TIFICATION, SHALL RESIGN WITHIN THIRTY DAYS OF SUCH RECERTIFICATION AND
2 THE VACANCY SHALL BE FILLED PURSUANT TO SECTION THREE HUNDRED TWENTY-ONE
3 OF THIS ARTICLE.

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

8 12. "CAMPAIGN CONTRIBUTION" MEANS MONEY, GOODS, SERVICES, OR OTHER
9 BENEFITS PAID, MADE, LOANED, GIVEN, CONFERRED OR PROMISED, INCLUDING BUT
10 NOT LIMITED TO, USE OF OFFICE SPACE, TELEPHONES, EQUIPMENT, STAFF
11 SERVICES AND PROVISIONS OF MEALS, DRINKS, ENTERTAINMENT, SERVICES OR
12 TRANSPORTATION MADE FOR THE PURPOSE OF ELECTING A CANDIDATE TO THE BOARD
13 OF DIRECTORS.

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

16 14. "SMALL BUSINESS" MEANS A BUSINESS WHICH IS RESIDENT IN THIS STATE,
17 INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD AND EMPLOYS
18 ONE HUNDRED OR LESS PERSONS.

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

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

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

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

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

43 S 304. DUTIES, RIGHTS AND POWERS OF THE CORPORATION. 1. THE CORPO-
44 RATION SHALL:

45 (A) REPRESENT AND PROMOTE THE INTERESTS OF THE RESIDENTIAL UTILITY
46 CONSUMERS OF THIS STATE. ALL ACTIONS BY THE CORPORATION UNDER THIS ARTI-
47 CLE SHALL BE DIRECTED TOWARD SUCH DUTY.

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

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

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

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

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

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

13 (C) TO CONDUCT, SUPPORT, AND ASSIST RESEARCH, SURVEYS, INVESTIGATIONS,
14 PLANNING ACTIVITIES, CONFERENCES, DEMONSTRATION PROJECTS AND PUBLIC
15 INFORMATION ACTIVITIES CONCERNING THE INTERESTS OF RESIDENTIAL UTILITY
16 CONSUMERS. THE CORPORATION MAY ACCEPT GRANTS, CONTRIBUTIONS AND LEGISLA-
17 TIVE APPROPRIATIONS FOR SUCH ACTIVITIES.

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

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

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

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

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

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

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

47 S 306. JUDICIAL REVIEW OF AGENCY DECISIONS; ENFORCEMENT. THE CORPO-
48 RATION SHALL BE DEEMED TO HAVE AN INTEREST SUFFICIENT TO MAINTAIN,
49 INTERVENE AS OF RIGHT IN, OR OTHERWISE PARTICIPATE IN ANY CIVIL ACTION,
50 PROCEEDING OR APPEAL FOR THE REVIEW OF ENFORCEMENT OF ANY REGULATORY
51 AGENCY DECISION OR ACTION, OR REFUSAL TO ACT, WHICH THE CORPORATION
52 DETERMINES MAY SUBSTANTIALLY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY
53 CONSUMERS PROVIDED THAT THE CORPORATION PARTICIPATED AT THE REGULATORY
54 AGENCY DECISION LEVEL. IF THE CORPORATION DID NOT PARTICIPATE IN THE
55 REGULATORY AGENCY DECISION OR ACTION AT THE AGENCY LEVEL, THE COURT MAY
56 GRANT THE CORPORATION THE RIGHT TO PARTICIPATE IN ANY CIVIL ACTION,

1 PROCEEDING OR APPEAL IF THE INTEREST OF THE RESIDENTIAL UTILITY CONSUM-
2 ERS IS SIGNIFICANTLY AFFECTED.

3 S 307. STATE ASSISTED INTERNET ACCESS TO THE CORPORATION. 1. INTERNET
4 ACCESS TO THE CORPORATION SHALL BE POSTED AND/OR A LINK BE MAINTAINED ON
5 ALL STATE AGENCY WEBSITES AND PROVIDED AT NO COST TO THE CORPORATION.

6 2. SUCH LINKS SHALL BE PROMINENTLY DISPLAYED AND INCLUDE A BRIEF
7 EXPLANATION OF THE CORPORATION ON THE WEBSITES, INCLUDING, BUT NOT
8 LIMITED TO THE FOLLOWING INFORMATION:

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

11 (B) THAT THE CORPORATION IS OPEN TO MEMBERSHIP BY RESIDENTIAL CONSUM-
12 ERS;

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

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

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

19 (F) THE YEARLY MEMBERSHIP FEE INFORMATION.

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

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

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

36 S 309. BOARD OF DIRECTORS. 1. THE AFFAIRS OF THE CORPORATION SHALL BE
37 MANAGED BY A BOARD OF DIRECTORS CONSISTING OF ONE MEMBER FROM EACH UTIL-
38 ITY DISTRICT.

39 2. THE DIRECTORS SHALL SERVE WITHOUT SALARY, BUT EACH DIRECTOR MAY BE
40 ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES. ALLOWANCES
41 FOR MILEAGE, BOARD AND MEALS AND THE PURPOSES FOR WHICH SUCH ALLOWANCES
42 MAY BE MADE, SHALL BE THE SAME AS RATES AUTHORIZED FOR EMPLOYEES OF
43 STATE AGENCIES WHILE AWAY FROM THEIR HOMES OR REGULAR PLACES OF BUSINESS
44 IN THE PERFORMANCE OF SERVICE TO THE BOARD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 2. THE METHOD OF APPOINTMENT OF INTERIM DIRECTORS SHALL BE AS FOLLOWS:
54 THREE SHALL BE APPOINTED BY THE GOVERNOR, THREE SHALL BE APPOINTED BY
55 THE GOVERNOR FROM A LIST CONTAINING NO LESS THAN FIVE NAMES SUBMITTED BY
56 THE TEMPORARY PRESIDENT OF THE SENATE; THREE SHALL BE APPOINTED BY THE

1 GOVERNOR FROM A LIST CONTAINING NO LESS THAN FIVE NAMES SUBMITTED BY THE
2 SPEAKER OF THE ASSEMBLY; ONE SHALL BE APPOINTED BY THE GOVERNOR FROM A
3 LIST OF NOT LESS THAN FIVE NAMES SUBMITTED BY THE MINORITY LEADER OF THE
4 SENATE; ONE SHALL BE APPOINTED BY THE GOVERNOR FROM A LIST OF NOT LESS
5 THAN FIVE NAMES SUBMITTED BY THE MINORITY LEADER OF THE ASSEMBLY. INDI-
6 VIDUALS CONSIDERED FOR APPOINTMENT TO THE INTERIM BOARD SHALL HAVE THE
7 SAME QUALIFICATIONS AS CANDIDATES FOR THE BOARD OF DIRECTORS PURSUANT TO
8 SECTION THREE HUNDRED THIRTEEN OF THIS ARTICLE, AND SHALL, TO THE EXTENT
9 POSSIBLE, REPRESENT EACH REGION OF THE STATE.

10 3. THE INTERIM BOARD OF DIRECTORS SHALL:

11 (A) AS SOON AS POSSIBLE AFTER APPOINTMENT, ORGANIZE FOR THE TRANS-
12 ACTION OF BUSINESS.

13 (B) INFORM THE RESIDENTIAL UTILITY CONSUMERS OF THIS STATE OF THE
14 EXISTENCE, NATURE AND PURPOSE OF THE CORPORATION, AND ENCOURAGE RESIDEN-
15 TIAL UTILITY CONSUMERS TO JOIN THE CORPORATION, TO PARTICIPATE IN THE
16 CORPORATION'S ACTIVITIES AND TO CONTRIBUTE TO THE CORPORATION.

17 (C) ELECT OFFICERS.

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

20 (E) MAKE ALL NECESSARY PREPARATIONS FOR THE FIRST ELECTION OF DIREC-
21 TORS, OVERSEE THE ELECTION CAMPAIGN AND TALLY THE VOTES.

22 (F) SOLICIT FUNDS FOR THE CORPORATION.

23 (G) DESIGNATE BY A RANDOM METHOD THE LENGTH OF THE TERM OF OFFICE OF
24 EACH DIRECTOR POSITION TO BE FILLED AFTER THE FIRST ELECTION OF DIREC-
25 TORS.

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

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

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

40 S 313. QUALIFICATIONS OF CANDIDATES. 1. NO PRESENT EMPLOYEE, DIRECTOR,
41 CONSULTANT, ATTORNEY, ACCOUNTANT, REAL ESTATE AGENT, SHAREHOLDER, BOND-
42 HOLDER OF ANY PUBLIC UTILITY DOING BUSINESS IN THIS STATE AND NO EMPLOY-
43 EE OF THE COMMISSION OR THE DEPARTMENT SHALL BE ELIGIBLE TO BE A DIREC-
44 TOR. NO DIRECTOR OR ANY CANDIDATE FOR THE BOARD OF DIRECTORS MAY HOLD AN
45 ELECTIVE PUBLIC OFFICE OR BE A CANDIDATE FOR AN ELECTIVE PUBLIC OFFICE
46 OR BE APPOINTED TO HOLD STATE OFFICE. THESE QUALIFICATIONS SHALL ALSO
47 APPLY TO IMMEDIATE FAMILY MEMBERS OF PERSONS ENUMERATED ABOVE.

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

50 (A) MEET THE QUALIFICATIONS FOR CANDIDATES;

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

53 (C) SUBMIT A PETITION FOR NOMINATION;

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

1 (E) AFFIRM, UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED
2 IN THE STATEMENT OF FINANCIAL INTEREST AND PERSONAL BACKGROUND AND POSI-
3 TION IS TRUE AND COMPLETE.

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

7 2. A CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS SHALL CIRCULATE
8 A PETITION FOR NOMINATION NO SOONER THAN ONE HUNDRED TWENTY DAYS PRECED-
9 ING THE ELECTION AND SHALL FILE THE PETITION WITH THE CORPORATION NO
10 LATER THAN SIXTY DAYS PRIOR TO THE ELECTION. THE PETITION FOR NOMINATION
11 SHALL BE SIGNED BY AT LEAST ONE HUNDRED OF THE CORPORATION'S CURRENT
12 MEMBERS RESIDING IN THE CANDIDATE'S DISTRICT. UPON RECEIPT OF A MEMBER'S
13 NOMINATING PETITION AND CONFIRMATION OF THE CURRENT MEMBERSHIP OF THE
14 CANDIDATE AND CONFIRMATION OF THE CURRENT MEMBERSHIP OF THE INDIVIDUALS
15 WHO SIGNED SUCH PETITION, THE BOARD OF DIRECTORS SHALL CERTIFY THAT SUCH
16 MEMBER IS A NOMINATED CANDIDATE FOR THE BOARD OF DIRECTORS.

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

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

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

28 3. SUCH OTHER INFORMATION AS THE BOARD OF DIRECTORS SHALL REQUIRE
29 CANDIDATES TO DISCLOSE, WHICH DISCLOSURE REQUIRED OF OTHER PUBLIC OFFI-
30 CIALS AT THE TIME AND SHALL BE IN THE JUDGMENT OF THE BOARD OF DIRECTORS
31 IN THE BEST INTERESTS OF THE CORPORATION.

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

34 S 316. STATEMENT OF PERSONAL BACKGROUND AND POSITIONS. A CANDIDATE FOR
35 ELECTION TO THE BOARD OF DIRECTORS SHALL SUBMIT TO THE BOARD OF DIREC-
36 TORS, NOT LATER THAN SIXTY DAYS PRIOR TO THE ELECTION, ON A FORM TO BE
37 PROVIDED BY THE BOARD OF DIRECTORS, A STATEMENT CONCERNING HIS OR HER
38 PERSONAL BACKGROUND AND POSITIONS ON ISSUES RELATING TO REGULATED PUBLIC
39 UTILITIES OR THE OPERATIONS OF THE CORPORATION. THE STATEMENT SHALL
40 CONTAIN AN AFFIRMATION, SUBJECT TO PENALTY OF PERJURY, THAT THE INFORMA-
41 TION CONTAINED IN THE STATEMENT OF PERSONAL BACKGROUND IS TRUE AND
42 COMPLETE AND THAT THE CANDIDATE MEETS THE QUALIFICATIONS PRESCRIBED FOR
43 DIRECTORS.

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

49 2. NO CANDIDATE MAY ACCEPT MORE THAN TWO HUNDRED FIFTY DOLLARS IN
50 CAMPAIGN CONTRIBUTIONS FROM ANY ONE CONTRIBUTOR DURING THE YEAR PRECED-
51 ING THE DATE OF THE ELECTION.

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

55 4. EACH CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS SHALL KEEP
56 COMPLETE RECORDS OF ALL CONTRIBUTIONS TO HIS OR HER CAMPAIGN OF FIFTY

1 DOLLARS OR MORE MADE DURING THE YEAR PRECEDING THE DATE OF THE ELECTION.
2 SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY THE PUBLIC.

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

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

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

23 (A) AN OFFICIAL BALLOT LISTING ALL CANDIDATES FOR THE BOARD OF DIREC-
24 TORS FROM THEIR DISTRICT WHO HAVE COMPLIED WITH THE REQUIREMENTS OF THIS
25 ARTICLE;

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

27 (C) EACH SUCH CANDIDATE'S STATEMENT OF PERSONAL BACKGROUND AND POSI-
28 TION.

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

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

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

42 S 320. RECALL OF DIRECTORS. UPON RECEIPT BY THE PRESIDENT OF THE BOARD
43 OF DIRECTORS OF A PETITION TO RECALL ANY DIRECTOR, WITH THE VALID SIGNA-
44 TURES OF AT LEAST FORTY PERCENT OF THE MEMBERS OF THE UTILITY DISTRICT
45 THE DIRECTOR REPRESENTS, THE BOARD OF DIRECTORS SHALL CALL A SPECIAL
46 ELECTION TO BE HELD NOT FEWER THAN FOUR MONTHS AND NOT MORE THAN SIX
47 MONTHS AFTER RECEIPT OF THE PETITION, FOR THE PURPOSE OF ELECTING A
48 DIRECTOR TO SERVE OUT THE TERM OF THE RECALLED DIRECTOR; PROVIDED THAT
49 NO DIRECTOR MAY BE RECALLED WITHIN SIX MONTHS OF HIS OR HER ELECTION. A
50 DIRECTOR MAY BECOME A CANDIDATE IN AN ELECTION FOLLOWING HIS OR HER OWN
51 RECALL. A DIRECTOR RECALLED SHALL CONTINUE TO SERVE UNTIL THE INSTALLA-
52 TION IN OFFICE OF HIS OR HER SUCCESSOR.

53 S 321. VACANCIES. WHEN A DIRECTOR DIES, RESIGNS, IS DISQUALIFIED, OR
54 OTHERWISE VACATES HIS OR HER OFFICE, EXCEPT AS PROVIDED IN SECTION THREE
55 HUNDRED TWENTY OF THIS ARTICLE, THE BOARD OF DIRECTORS SHALL SELECT,
56 WITHIN THREE MONTHS, A SUCCESSOR FROM THE SAME DISTRICT AS SUCH DIRECTOR

1 FOR THE REMAINDER OF THE DIRECTOR'S TERM OF OFFICE. ANY DIRECTOR MAY
2 NOMINATE ANY QUALIFIED PERSON AS SUCCESSOR. THE BOARD OF DIRECTORS SHALL
3 SELECT THE SUCCESSOR FROM AMONG THOSE NOMINATED, BY A TWO-THIRDS MAJORI-
4 TY OF THE REMAINING DIRECTORS PRESENT AND VOTING. THE SUCCESSOR SHALL BE
5 INSTALLED IN OFFICE BY THE PRESIDENT OF THE BOARD OF DIRECTORS.

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

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

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

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

27 S 323. EXECUTIVE DIRECTOR; QUALIFICATIONS; APPOINTMENTS; DUTIES. 1.
28 THE EXECUTIVE DIRECTOR HIRED BY THE BOARD OF DIRECTORS SHALL HAVE THE
29 SAME QUALIFICATIONS AS A CANDIDATE. THE EXECUTIVE DIRECTOR MAY NOT BE A
30 CANDIDATE FOR THE BOARD OF DIRECTORS WHILE SERVING AS EXECUTIVE DIREC-
31 TOR. THE BY-LAWS OF THE CORPORATION SHALL PROVIDE A METHOD FOR DISCHARG-
32 ING THE EXECUTIVE DIRECTOR, BUT IN NO EVENT SHALL SUCH DISCHARGE OCCUR
33 UNLESS ONE-HALF OF THE DIRECTORS PLUS ONE SHALL HAVE CONSENTED TO SUCH
34 DISCHARGE.

35 2. THE BOARD OF DIRECTORS SHALL REQUIRE ALL APPLICANTS FOR THE POSI-
36 TION OF EXECUTIVE DIRECTOR OF THE CORPORATION TO FILE A FINANCIAL STATE-
37 MENT. THE BOARD OF DIRECTORS SHALL REQUIRE THE EXECUTIVE DIRECTOR TO
38 FILE A FINANCIAL STATEMENT ANNUALLY.

39 3. THE EXECUTIVE DIRECTOR SHALL HAVE THE FOLLOWING DUTIES:

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

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

42 (C) TO SUPERVISE THE OFFICES, FACILITIES AND WORK OF THE EMPLOYEES OF
43 THE CORPORATION;

44 (D) TO HAVE CUSTODY OF AND MAINTAIN THE BOOKS, RECORDS AND MEMBERSHIP
45 ROLLS OF THE CORPORATION;

46 (E) TO PREPARE AND SUBMIT TO THE BOARD OF DIRECTORS ANNUAL AND QUAR-
47 TERLY STATEMENTS OF THE FINANCIAL AND SUBSTANTIVE OPERATIONS OF THE
48 CORPORATION, AND FINANCIAL ESTIMATES FOR THE OPERATIONS OF THE CORPO-
49 RATION;

50 (F) TO ATTEND AND PARTICIPATE IN MEETINGS OF THE BOARD OF DIRECTORS AS
51 A NON-VOTING DIRECTOR; AND

52 (G) TO EXERCISE SUCH OTHER POWERS AND PERFORM SUCH OTHER DUTIES AS THE
53 BOARD OF DIRECTORS DELEGATES.

54 S 324. ANNUAL MEMBERSHIP MEETING. AN ANNUAL MEETING OF THE MEMBERSHIP
55 SHALL BE HELD ON A DATE AND AT A PLACE WITHIN THE STATE TO BE DETERMINED
56 BY THE BOARD OF DIRECTORS. ALL MEMBERS SHALL BE ELIGIBLE TO ATTEND,

1 PARTICIPATE IN AND VOTE AT THE ANNUAL MEMBERSHIP MEETING. THE MEETING
2 SHALL BE OPEN TO THE PUBLIC.

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

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

20 3. THE INTERVENTION OR PARTICIPATION OF THE CORPORATION IN A PROCEED-
21 ING OR ACTIVITY SHALL NOT AFFECT THE OBLIGATION OF ANY REGULATORY AGENCY
22 OR OTHER PUBLIC BODY TO OPERATE IN THE PUBLIC INTEREST.

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

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

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

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

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

40 S 327. PENALTIES. A VIOLATION OF ANY PROVISION OF THIS ARTICLE
41 PERTAINING TO CONDUCT BY A UTILITY OR OFFICERS OR EMPLOYEES THEREOF
42 SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND
43 DOLLARS FOR EACH VIOLATION.

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

51 S 2. The public service law is amended by adding a new section 24-c to
52 read as follows:

53 S 24-C. UTILITY INTERVENOR REIMBURSEMENT. 1. THE PURPOSE OF THIS
54 SECTION IS TO ESTABLISH PROCEDURAL AND SUBSTANTIVE CRITERIA FOR REIM-
55 BURSING AN INTERVENOR FOR ITS REASONABLE COSTS TO PUBLIC UTILITY CUSTOM-
56 ERS OF PARTICIPATION OR INTERVENTION IN ANY PROCEEDING OF THE COMMIS-

1 SION, INCLUDING BUT NOT LIMITED TO REASONABLE INTERVENOR FEES,
2 REASONABLE EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS DEEMED APPRO-
3 PRIATE BY THE COMMISSION.

4 2. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOW-
5 ING MEANINGS:

6 (A) "COMPENSATION" MEANS PAYMENT FOR ALL OR PART, AS DETERMINED BY THE
7 COMMISSION, OF REASONABLE ADVOCATE'S FEES, REASONABLE EXPERT WITNESS
8 FEES, AND OTHER REASONABLE COSTS OF PREPARATION FOR AND PARTICIPATION IN
9 A PROCEEDING, AND INCLUDES THE FEES AND COSTS OF OBTAINING AN AWARD
10 UNDER THIS ARTICLE.

11 (B) "CUSTOMER" MEANS ANY OF THE FOLLOWING:

12 (I) A PARTICIPANT THAT IS, OR WHICH REPRESENTS, CONSUMERS, CUSTOMERS,
13 OR SUBSCRIBERS OF ANY UTILITY THAT IS SUBJECT TO THE JURISDICTION OF THE
14 COMMISSION; (II) A REPRESENTATIVE OF A GROUP OR ORGANIZATION AUTHORIZED
15 PURSUANT TO ITS ARTICLES OF INCORPORATION OR BYLAWS TO REPRESENT THE
16 INTERESTS OF RESIDENTIAL CUSTOMERS. "CUSTOMER" DOES NOT INCLUDE ANY
17 STATE, FEDERAL, OR LOCAL GOVERNMENT AGENCY, ANY PUBLICLY OWNED PUBLIC
18 UTILITY, OR ANY ENTITY THAT, IN THE COMMISSION'S OPINION, WAS ESTAB-
19 LISHED OR FORMED BY A LOCAL GOVERNMENT ENTITY FOR THE PURPOSE OF PARTIC-
20 IPATING IN A COMMISSION PROCEEDING.

21 (C) "COMMISSION" MEANS THE NEW YORK STATE PUBLIC SERVICE COMMISSION.

22 (D) "EXPERT WITNESS FEES" MEANS RECORDED OR BILLED COSTS INCURRED BY A
23 CUSTOMER FOR AN EXPERT WITNESS.

24 (E) "OTHER REASONABLE COSTS" MEANS REASONABLE OUT-OF-POCKET EXPENSES
25 DIRECTLY INCURRED BY A CUSTOMER THAT ARE DIRECTLY RELATED TO THE
26 CONTENTIONS OR RECOMMENDATIONS MADE BY THE CUSTOMER THAT RESULTED IN A
27 SUBSTANTIAL CONTRIBUTION.

28 (F) "PARTY" MEANS ANY INTERESTED PARTY, RESPONDENT PUBLIC UTILITY, OR
29 COMMISSION STAFF IN A HEARING OR PROCEEDING.

30 (G) "PROCEEDING" MEANS AN APPLICATION, COMPLAINT, OR INVESTIGATION,
31 RULEMAKING, OR OTHER FORMAL PROCEEDING BEFORE THE COMMISSION, OR ALTER-
32 NATIVE DISPUTE RESOLUTION PROCEDURES IN LIEU OF FORMAL PROCEEDINGS AS
33 MAY BE SPONSORED OR ENDORSED BY THE COMMISSION.

34 (H) "SIGNIFICANT FINANCIAL HARDSHIP" MEANS EITHER THAT THE CUSTOMER
35 CANNOT AFFORD, WITHOUT UNDUE HARDSHIP, TO PAY THE COSTS OF EFFECTIVE
36 PARTICIPATION, INCLUDING ADVOCATE'S FEES, EXPERT WITNESS FEES, AND OTHER
37 REASONABLE COSTS OF PARTICIPATION, OR THAT, IN THE CASE OF A GROUP OR
38 ORGANIZATION, THE ECONOMIC INTEREST OF THE INDIVIDUAL MEMBERS OF THE
39 GROUP OR ORGANIZATION IS SMALL IN COMPARISON TO THE COSTS OF EFFECTIVE
40 PARTICIPATION IN THE PROCEEDING.

41 (I) "SUBSTANTIAL CONTRIBUTION" MEANS THAT, IN THE JUDGMENT OF THE
42 COMMISSION, THE CUSTOMER'S PRESENTATION HAS SUBSTANTIALLY ASSISTED THE
43 COMMISSION IN THE MAKING OF ITS ORDER OR DECISION BECAUSE THE ORDER OR
44 DECISION HAS ADOPTED IN WHOLE OR IN PART ONE OR MORE FACTUAL
45 CONTENTIONS, LEGAL CONTENTIONS, OR SPECIFIC POLICY OR PROCEDURAL RECOM-
46 MENDATIONS PRESENTED BY THE CUSTOMER. WHERE THE CUSTOMER'S PARTICIPATION
47 HAS RESULTED IN A SUBSTANTIAL CONTRIBUTION, EVEN IF THE DECISION ADOPTS
48 THAT CUSTOMER'S CONTENTION OR RECOMMENDATIONS ONLY IN PART, THE COMMIS-
49 SION MAY AWARD THE CUSTOMER COMPENSATION FOR ALL REASONABLE ADVOCATE'S
50 FEES, REASONABLE EXPERT FEES, AND OTHER REASONABLE COSTS INCURRED BY THE
51 CUSTOMER IN PREPARING OR PRESENTING THAT CONTENTION OR RECOMMENDATION.

52 3. A CUSTOMER IS ELIGIBLE FOR INTERVENOR FUNDING IF PARTICIPATION
53 MATERIALLY SUPPLEMENTS, COMPLEMENTS, OR CONTRIBUTES TO THE PRESENTATION
54 OF ANOTHER PARTY, INCLUDING THE COMMISSION STAFF, MAY BE FULLY ELIGIBLE
55 FOR COMPENSATION IF THE PARTICIPATION MAKES A SUBSTANTIAL CONTRIBUTION
56 TO A COMMISSION ORDER OR DECISION.

1 4. THE COMMISSION SHALL AWARD REASONABLE INTERVENOR FEES, REASONABLE
2 EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS OF PREPARATION FOR AND
3 PARTICIPATION IN A HEARING OR PROCEEDING TO ANY CUSTOMER WHO COMPLIES
4 WITH SUBDIVISION FIVE OF THIS SECTION AND SATISFIES BOTH OF THE FOLLOW-
5 ING REQUIREMENTS:

6 (A) THE CUSTOMER'S PRESENTATION WOULD MAKE A SUBSTANTIAL CONTRIBUTION
7 TO THE ADOPTION, IN WHOLE OR IN PART, OF THE COMMISSION'S ORDER OR DECI-
8 SION.

9 (B) PARTICIPATION OR INTERVENTION WOULD IMPOSE A SIGNIFICANT FINANCIAL
10 HARDSHIP.

11 5. (A)(I) A CUSTOMER WHO INTENDS TO SEEK AN AWARD UNDER THIS SECTION
12 SHALL, WITHIN THIRTY DAYS AFTER THE PREHEARING CONFERENCE IS HELD, FILE
13 AND SERVE ON ALL PARTIES TO THE PROCEEDING A NOTICE OF INTENT TO CLAIM
14 COMPENSATION. IN CASES WHERE NO PREHEARING CONFERENCE IS SCHEDULED OR
15 WHERE THE COMMISSION ANTICIPATES THAT THE PROCEEDING WILL TAKE LESS THAN
16 THIRTY DAYS, THE COMMISSION MAY DETERMINE THE PROCEDURE TO BE USED IN
17 FILING THESE REQUESTS. IN CASES WHERE THE SCHEDULE WOULD NOT REASONABLY
18 ALLOW PARTIES TO IDENTIFY ISSUES WITHIN THE TIMEFRAME SET FORTH ABOVE,
19 OR WHERE NEW ISSUES EMERGE SUBSEQUENT TO THE TIME SET FOR FILING, THE
20 COMMISSION MAY DETERMINE AN APPROPRIATE PROCEDURE FOR ACCEPTING NEW OR
21 REVISED NOTICES OF INTENT.

22 (II) THE NOTICE OF INTENT TO CLAIM COMPENSATION SHALL INCLUDE BOTH OF
23 THE FOLLOWING:

24 (A) A STATEMENT OF THE NATURE AND EXTENT OF THE CUSTOMER'S PLANNED
25 PARTICIPATION IN THE PROCEEDING AS FAR AS IT IS POSSIBLE TO SET IT OUT
26 WHEN THE NOTICE OF INTENT IS FILED.

27 (B) AN ITEMIZED ESTIMATE OF THE COMPENSATION THAT THE CUSTOMER EXPECTS
28 TO REQUEST, GIVEN THE LIKELY DURATION OF THE PROCEEDING AS IT APPEARS AT
29 THE TIME.

30 (III) THE NOTICE OF INTENT MAY ALSO INCLUDE A SHOWING BY THE CUSTOMER
31 THAT PARTICIPATION IN THE HEARING OR PROCEEDING WOULD POSE A SIGNIFICANT
32 FINANCIAL HARDSHIP. ALTERNATIVELY, SUCH A SHOWING SHALL BE INCLUDED IN
33 THE REQUEST SUBMITTED PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH.

34 (IV) WITHIN 15 DAYS AFTER SERVICE OF THE NOTICE OF INTENT TO CLAIM
35 COMPENSATION, THE ADMINISTRATIVE LAW JUDGE MAY DIRECT THE STAFF, AND MAY
36 PERMIT ANY OTHER INTERESTED PARTY, TO FILE A STATEMENT RESPONDING TO THE
37 NOTICE.

38 (B)(I) IF THE CUSTOMER'S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP WAS
39 INCLUDED IN THE NOTICE FILED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVI-
40 SION, THE ADMINISTRATIVE LAW JUDGE, IN CONSULTATION WITH THE ASSIGNED
41 COMMISSIONER, SHALL ISSUE WITHIN THIRTY DAYS THEREAFTER A PRELIMINARY
42 RULING ADDRESSING WHETHER THE CUSTOMER WILL BE ELIGIBLE FOR AN AWARD OF
43 COMPENSATION. THE RULING SHALL ADDRESS WHETHER A SHOWING OF SIGNIFICANT
44 FINANCIAL HARDSHIP HAS BEEN MADE. A FINDING OF SIGNIFICANT FINANCIAL
45 HARDSHIP SHALL CREATE A REBUTTABLE PRESUMPTION OF ELIGIBILITY FOR
46 COMPENSATION IN OTHER COMMISSION PROCEEDINGS COMMENCING WITHIN ONE YEAR
47 OF THE DATE OF THAT FINDING.

48 (II) THE ADMINISTRATIVE LAW JUDGE MAY, IN ANY EVENT, ISSUE A RULING
49 ADDRESSING ISSUES RAISED BY THE NOTICE OF INTENT TO CLAIM COMPENSATION.
50 THE RULING MAY POINT OUT SIMILAR POSITIONS, AREAS OF POTENTIAL DUPLI-
51 CATION IN SHOWINGS, UNREALISTIC EXPECTATION FOR COMPENSATION, AND ANY
52 OTHER MATTER THAT MAY AFFECT THE CUSTOMER'S ULTIMATE CLAIM FOR COMPEN-
53 SATION. FAILURE OF THE RULING TO POINT OUT SIMILAR POSITIONS OR POTEN-
54 TIAL DUPLICATION OR ANY OTHER POTENTIAL IMPACT ON THE ULTIMATE CLAIM FOR
55 COMPENSATION SHALL NOT IMPLY APPROVAL OF ANY CLAIM FOR COMPENSATION. A
56 FINDING OF SIGNIFICANT FINANCIAL HARDSHIP IN NO WAY ENSURES COMPEN-

1 SATION. SIMILARLY, THE FAILURE OF THE CUSTOMER TO IDENTIFY A SPECIFIC
2 ISSUE IN THE NOTICE OF INTENT OR TO PRECISELY ESTIMATE POTENTIAL COMPEN-
3 SATION SHALL NOT PRECLUDE AN AWARD OF REASONABLE COMPENSATION IF A
4 SUBSTANTIAL CONTRIBUTION IS MADE.

5 (C) FOLLOWING ISSUANCE OF A FINAL ORDER OR DECISION BY THE COMMISSION
6 IN THE HEARING OR PROCEEDING, A CUSTOMER WHO HAS BEEN FOUND, PURSUANT TO
7 PARAGRAPH (B) OF THIS SUBDIVISION, TO BE ELIGIBLE FOR AN AWARD OF
8 COMPENSATION MAY FILE WITHIN SIXTY DAYS A REQUEST FOR AN AWARD. THE
9 REQUEST SHALL INCLUDE AT A MINIMUM A DETAILED DESCRIPTION OF SERVICES
10 AND EXPENDITURES AND A DESCRIPTION OF THE CUSTOMER'S SUBSTANTIAL
11 CONTRIBUTION TO THE HEARING OR PROCEEDING. WITHIN THIRTY DAYS AFTER
12 SERVICE OF THE REQUEST, THE COMMISSION STAFF MAY FILE, AND ANY OTHER
13 PARTY MAY FILE, A RESPONSE TO THE REQUEST.

14 (D) THE COMMISSION MAY AUDIT THE RECORDS AND BOOKS OF THE CUSTOMER TO
15 THE EXTENT NECESSARY TO VERIFY THE BASIS FOR THE AWARD. THE COMMISSION
16 SHALL PRESERVE THE CONFIDENTIALITY OF THE CUSTOMER'S RECORDS IN MAKING
17 ITS AUDIT. WITHIN TWENTY DAYS AFTER COMPLETION OF THE AUDIT, IF ANY, THE
18 COMMISSION SHALL DIRECT THAT AN AUDIT REPORT SHALL BE PREPARED AND
19 FILED. ANY OTHER PARTY MAY FILE A RESPONSE TO THE AUDIT REPORT WITHIN
20 TWENTY DAYS THEREAFTER.

21 (E) WITHIN SEVENTY-FIVE DAYS AFTER THE FILING OF A REQUEST FOR COMPEN-
22 SATION PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, OR WITHIN FIFTY
23 DAYS AFTER THE FILING OF AN AUDIT REPORT, WHICHEVER OCCURS LATER, THE
24 COMMISSION SHALL ISSUE A DECISION THAT DETERMINES WHETHER OR NOT THE
25 CUSTOMER HAS MADE A SUBSTANTIAL CONTRIBUTION TO THE FINAL ORDER OR DECI-
26 SION IN THE HEARING OR PROCEEDING. IF THE COMMISSION FINDS THAT THE
27 CUSTOMER REQUESTING COMPENSATION HAS MADE A SUBSTANTIAL CONTRIBUTION,
28 THE COMMISSION SHALL DESCRIBE THIS SUBSTANTIAL CONTRIBUTION AND SHALL
29 DETERMINE THE AMOUNT OF COMPENSATION TO BE PAID PURSUANT TO SUBDIVISION
30 SIX OF THIS SECTION.

31 6. THE COMPUTATION OF COMPENSATION AWARDED PURSUANT TO SUBDIVISION
32 FOUR OF THIS SECTION SHALL TAKE INTO CONSIDERATION THE MARKET RATES PAID
33 TO PERSONS OF COMPARABLE TRAINING AND EXPERIENCE WHO OFFER SIMILAR
34 SERVICES. THE COMPENSATION AWARDED MAY NOT, IN ANY CASE, EXCEED THE
35 COMPARABLE MARKET RATE FOR SERVICES PAID BY THE COMMISSION OR THE PUBLIC
36 UTILITY, WHICHEVER IS GREATER, TO PERSONS OF COMPARABLE TRAINING AND
37 EXPERIENCE WHO ARE OFFERING SIMILAR SERVICES.

38 7. ANY AWARD MADE UNDER THIS SECTION SHALL BE PAID BY A PUBLIC UTILI-
39 TY, UTILITIES OR OTHER ENTITIES SUBJECT TO THE PROCEEDINGS WHICH IS THE
40 SUBJECT OF THE HEARING, INVESTIGATION, OR PROCEEDING, AS DETERMINED BY
41 THE COMMISSION, WITHIN THIRTY DAYS. NOTWITHSTANDING ANY OTHER PROVISION
42 OF LAW, ANY AWARD PAID BY A PUBLIC UTILITY PURSUANT TO THIS SECTION
43 SHALL BE ALLOWED BY THE COMMISSION AS AN EXPENSE FOR THE PURPOSE OF
44 ESTABLISHING RATES OF THE PUBLIC UTILITY BY WAY OF A DOLLAR-FOR-DOLLAR
45 ADJUSTMENT TO RATES IMPOSED BY THE COMMISSION IMMEDIATELY ON THE DETER-
46 MINATION OF THE AMOUNT OF THE AWARD, SO THAT THE AMOUNT OF THE AWARD
47 SHALL BE FULLY RECOVERED WITHIN ONE YEAR FROM THE DATE OF THE AWARD.

48 8. THE COMMISSION SHALL DENY ANY AWARD TO ANY CUSTOMER WHO ATTEMPTS TO
49 DELAY OR OBSTRUCT THE ORDERLY AND TIMELY FULFILLMENT OF THE COMMISSION'S
50 RESPONSIBILITIES.

51 9. A GROUP OR ASSOCIATION THAT REPRESENTS THE INTERESTS OF SMALL AGRI-
52 CULTURAL CUSTOMERS IN A PROCEEDING SHALL NOT BE DEEMED INELIGIBLE SOLELY
53 BECAUSE THAT GROUP OR ORGANIZATION ALSO HAS MEMBERS WHO ARE LARGE AGRI-
54 CULTURAL CUSTOMERS.

55 S 3. This act shall take effect on the thirtieth day after it shall
56 have become a law.