

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:

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 FUNDRAISING BY 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.

24 318. ELECTION PROCEDURES.

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

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

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

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

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

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

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

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

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

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

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

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

49 3. "RESIDENTIAL UTILITY CONSUMER" MEANS ANY PERSON IN THIS STATE WHOSE
50 RESIDENCE IS FURNISHED WITH A UTILITY SERVICE BY A PUBLIC UTILITY COMPA-
51 NY.

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

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

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

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

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

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

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

14 (B) THE ESTABLISHMENT, ABROGATION, OR AMENDMENT OF RULES OR REGU-
15 LATIONS, OR THE INVESTIGATION OF OR INQUIRY INTO ACTIVITIES AND PROCE-
16 DURES OF UTILITY COMPANIES, CONCERNING RESIDENTIAL UTILITY CONSUMERS,
17 PUBLIC UTILITY COMPANIES, OR ENERGY POLICIES AFFECTING THIS STATE OR
18 CONCERNING THE CONDUCT OF REGULATORY AGENCY PROCEEDINGS THEMSELVES; OR

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

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

24 6. "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION,
25 DIVISION, OFFICE, COUNCIL, COMMITTEE, OFFICER, PUBLIC BENEFIT CORPO-
26 RATION OR AUTHORITY, INSTITUTION OR ENTITY OF THE EXECUTIVE BRANCH OF
27 STATE GOVERNMENT.

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

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

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

34 10. "UTILITY DISTRICT" OR "DISTRICT" MEANS AN AREA COMPRISED OF TWO
35 CONTIGUOUS CONGRESSIONAL DISTRICTS AS SUCH CONGRESSIONAL DISTRICTS ARE
36 DESCRIBED IN STATE LAW. THE BOARD OF DIRECTORS SHALL CERTIFY THE BOUNDA-
37 RIES OF EACH UTILITY DISTRICT NO LESS THAN SIXTY DAYS PRIOR TO THE
38 CORPORATION'S FIRST GENERAL ELECTION. IN THE EVENT THAT AN ODD NUMBER OF
39 CONGRESSIONAL DISTRICTS ARE CREATED WITHIN THE STATE, THE BOARD OF
40 DIRECTORS SHALL HAVE THE AUTHORITY TO DETERMINE HOW THE ADDITIONAL
41 CONGRESSIONAL DISTRICT SHALL BE REPRESENTED. IN THE EVENT THAT THE BOUN-
42 DARIES OR NUMBER OF CONGRESSIONAL DISTRICTS ARE ADJUSTED, THE BOARD OF
43 DIRECTORS SHALL RECERTIFY THE BOUNDARIES OF EACH UTILITY DISTRICT NO
44 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (C) TO CONDUCT, SUPPORT, AND ASSIST RESEARCH, SURVEYS, INVESTIGATIONS,
3 PLANNING ACTIVITIES, CONFERENCES, DEMONSTRATION PROJECTS AND PUBLIC
4 INFORMATION ACTIVITIES CONCERNING THE INTERESTS OF RESIDENTIAL UTILITY
5 CONSUMERS. THE CORPORATION MAY ACCEPT GRANTS, CONTRIBUTIONS AND LEGISLA-
6 TIVE APPROPRIATIONS FOR SUCH ACTIVITIES.

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

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

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

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

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

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

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

36 S 306. JUDICIAL REVIEW OF AGENCY DECISIONS; ENFORCEMENT. THE CORPO-
37 RATION SHALL BE DEEMED TO HAVE AN INTEREST SUFFICIENT TO MAINTAIN,
38 INTERVENE AS OF RIGHT IN, OR OTHERWISE PARTICIPATE IN ANY CIVIL ACTION,
39 PROCEEDING OR APPEAL FOR THE REVIEW OF ENFORCEMENT OF ANY REGULATORY
40 AGENCY DECISION OR ACTION, OR REFUSAL TO ACT, WHICH THE CORPORATION
41 DETERMINES MAY SUBSTANTIALLY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY
42 CONSUMERS PROVIDED THAT THE CORPORATION PARTICIPATED AT THE REGULATORY
43 AGENCY DECISION LEVEL. IF THE CORPORATION DID NOT PARTICIPATE IN THE
44 REGULATORY AGENCY DECISION OR ACTION AT THE AGENCY LEVEL, THE COURT MAY
45 GRANT THE CORPORATION THE RIGHT TO PARTICIPATE IN ANY CIVIL ACTION,
46 PROCEEDING OR APPEAL IF THE INTEREST OF THE RESIDENTIAL UTILITY CONSUM-
47 ERS IS SIGNIFICANTLY AFFECTED.

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

1 2. ENCLOSURES FURNISHED BY THE CORPORATION UNDER THIS SECTION SHALL BE
2 LIMITED TO SOLICITING INFORMATION AND MONEY FROM CONSUMERS AND EXPLAIN-
3 ING:

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

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

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

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

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

14 (F) THE YEARLY MEMBERSHIP FEE.

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

22 4. THE CORPORATION SHALL REIMBURSE EACH STATE AGENCY FOR ALL REASON-
23 ABLE INCREMENTAL COSTS INCURRED BY THE STATE AGENCY IN COMPLYING WITH
24 THIS SECTION ABOVE THE AGENCY'S NORMAL MAILING AND HANDLING COSTS,
25 PROVIDED THAT:

26 (A) THE STATE AGENCY SHALL FIRST FURNISH THE CORPORATION WITH AN ITEM-
27 IZED ACCOUNTING OF SUCH ADDITIONAL COSTS; AND

28 (B) THE CORPORATION SHALL NOT BE REQUIRED TO REIMBURSE THE STATE AGEN-
29 CY FOR POSTAGE COSTS IF THE WEIGHT OF THE CORPORATION'S ENCLOSURE DOES
30 NOT INCREASE THE COST OF THE STATE AGENCY MAILING. IF THE CORPORATION'S
31 ENCLOSURE INCREASES THE COST OF THE STATE AGENCY MAILING, THEN IT WILL
32 BE REQUIRED TO REIMBURSE THE STATE AGENCY FOR POSTAGE COST OVER AND
33 ABOVE WHAT THE AGENCY'S POSTAGE COST WOULD HAVE BEEN WITHOUT THE CORPO-
34 RATION'S ENCLOSURE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 2. THE METHOD OF APPOINTMENT OF INTERIM DIRECTORS SHALL BE AS FOLLOWS:
13 THREE SHALL BE APPOINTED BY THE GOVERNOR, THREE SHALL BE APPOINTED BY
14 THE GOVERNOR FROM A LIST CONTAINING NO LESS THAN FIVE NAMES SUBMITTED BY
15 THE TEMPORARY PRESIDENT OF THE SENATE; THREE SHALL BE APPOINTED BY THE
16 GOVERNOR FROM A LIST CONTAINING NO LESS THAN FIVE NAMES SUBMITTED BY THE
17 SPEAKER OF THE ASSEMBLY; ONE SHALL BE APPOINTED BY THE GOVERNOR FROM A
18 LIST OF NOT LESS THAN FIVE NAMES SUBMITTED BY THE MINORITY LEADER OF THE
19 SENATE; ONE SHALL BE APPOINTED BY THE GOVERNOR FROM A LIST OF NOT LESS
20 THAN FIVE NAMES SUBMITTED BY THE MINORITY LEADER OF THE ASSEMBLY. INDI-
21 VIDUALS CONSIDERED FOR APPOINTMENT TO THE INTERIM BOARD SHALL HAVE THE
22 SAME QUALIFICATIONS AS CANDIDATES FOR THE BOARD OF DIRECTORS PURSUANT TO
23 SECTION THREE HUNDRED THIRTEEN OF THIS ARTICLE, AND SHALL, TO THE EXTENT
24 POSSIBLE, REPRESENT EACH REGION OF THE STATE.

25 3. THE INTERIM BOARD OF DIRECTORS SHALL:

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

28 (B) INFORM THE RESIDENTIAL UTILITY CONSUMERS OF THIS STATE OF THE
29 EXISTENCE, NATURE AND PURPOSE OF THE CORPORATION, AND ENCOURAGE RESIDEN-
30 TIAL UTILITY CONSUMERS TO JOIN THE CORPORATION, TO PARTICIPATE IN THE
31 CORPORATION'S ACTIVITIES AND TO CONTRIBUTE TO THE CORPORATION.

32 (C) ELECT OFFICERS.

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

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

37 (F) SOLICIT FUNDS FOR THE CORPORATION.

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

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

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

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

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

1 HOLDER OF ANY PUBLIC UTILITY DOING BUSINESS IN THIS STATE AND NO EMPLOY-
2 EE OF THE COMMISSION OR THE DEPARTMENT SHALL BE ELIGIBLE TO BE A DIREC-
3 TOR. NO DIRECTOR OR ANY CANDIDATE FOR THE BOARD OF DIRECTORS MAY HOLD AN
4 ELECTIVE PUBLIC OFFICE OR BE A CANDIDATE FOR AN ELECTIVE PUBLIC OFFICE
5 OR BE APPOINTED TO HOLD STATE OFFICE. THESE QUALIFICATIONS SHALL ALSO
6 APPLY TO IMMEDIATE FAMILY MEMBERS OF PERSONS ENUMERATED ABOVE.

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

- 9 (A) MEET THE QUALIFICATIONS FOR CANDIDATES;
10 (B) BE A MEMBER OF THE CORPORATION AND A RESIDENT OF THE DISTRICT
11 WHICH HE OR SHE SEEKS TO REPRESENT;
12 (C) SUBMIT A PETITION FOR NOMINATION;
13 (D) SUBMIT A STATEMENT OF FINANCIAL INTEREST AND A STATEMENT OF
14 PERSONAL BACKGROUND AND POSITION; AND
15 (E) AFFIRM, UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED
16 IN THE STATEMENT OF FINANCIAL INTEREST AND PERSONAL BACKGROUND AND POSI-
17 TION IS TRUE AND COMPLETE.

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

21 2. A CANDIDATE FOR ELECTION TO THE BOARD OF DIRECTORS SHALL CIRCULATE
22 A PETITION FOR NOMINATION NO SOONER THAN ONE HUNDRED TWENTY DAYS PRECED-
23 ING THE ELECTION AND SHALL FILE THE PETITION WITH THE CORPORATION NO
24 LATER THAN SIXTY DAYS PRIOR TO THE ELECTION. THE PETITION FOR NOMINATION
25 SHALL BE SIGNED BY AT LEAST ONE HUNDRED OF THE CORPORATION'S CURRENT
26 MEMBERS RESIDING IN THE CANDIDATE'S DISTRICT. UPON RECEIPT OF A MEMBER'S
27 NOMINATING PETITION AND CONFIRMATION OF THE CURRENT MEMBERSHIP OF THE
28 CANDIDATE AND CONFIRMATION OF THE CURRENT MEMBERSHIP OF THE INDIVIDUALS
29 WHO SIGNED SUCH PETITION, THE BOARD OF DIRECTORS SHALL CERTIFY THAT SUCH
30 MEMBER IS A NOMINATED CANDIDATE FOR THE BOARD OF DIRECTORS.

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

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

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

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

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

48 S 316. STATEMENT OF PERSONAL BACKGROUND AND POSITIONS. A CANDIDATE FOR
49 ELECTION TO THE BOARD OF DIRECTORS SHALL SUBMIT TO THE BOARD OF DIREC-
50 TORS, NOT LATER THAN SIXTY DAYS PRIOR TO THE ELECTION, ON A FORM TO BE
51 PROVIDED BY THE BOARD OF DIRECTORS, A STATEMENT CONCERNING HIS OR HER
52 PERSONAL BACKGROUND AND POSITIONS ON ISSUES RELATING TO REGULATED PUBLIC
53 UTILITIES OR THE OPERATIONS OF THE CORPORATION. THE STATEMENT SHALL
54 CONTAIN AN AFFIRMATION, SUBJECT TO PENALTY OF PERJURY, THAT THE INFORMA-
55 TION CONTAINED IN THE STATEMENT OF PERSONAL BACKGROUND IS TRUE AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 S 320. RECALL OF DIRECTORS. UPON RECEIPT BY THE PRESIDENT OF THE BOARD
2 OF DIRECTORS OF A PETITION TO RECALL ANY DIRECTOR, WITH THE VALID SIGNA-
3 TURES OF AT LEAST FORTY PERCENT OF THE MEMBERS OF THE UTILITY DISTRICT
4 THE DIRECTOR REPRESENTS, THE BOARD OF DIRECTORS SHALL CALL A SPECIAL
5 ELECTION TO BE HELD NOT FEWER THAN FOUR MONTHS AND NOT MORE THAN SIX
6 MONTHS AFTER RECEIPT OF THE PETITION, FOR THE PURPOSE OF ELECTING A
7 DIRECTOR TO SERVE OUT THE TERM OF THE RECALLED DIRECTOR; PROVIDED THAT
8 NO DIRECTOR MAY BE RECALLED WITHIN SIX MONTHS OF HIS OR HER ELECTION. A
9 DIRECTOR MAY BECOME A CANDIDATE IN AN ELECTION FOLLOWING HIS OR HER OWN
10 RECALL. A DIRECTOR RECALLED SHALL CONTINUE TO SERVE UNTIL THE INSTALLA-
11 TION IN OFFICE OF HIS OR HER SUCCESSOR.

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

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

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

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

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

42 S 323. EXECUTIVE DIRECTOR; QUALIFICATIONS; APPOINTMENTS; DUTIES. 1.
43 THE EXECUTIVE DIRECTOR HIRED BY THE BOARD OF DIRECTORS SHALL HAVE THE
44 SAME QUALIFICATIONS AS A CANDIDATE. THE EXECUTIVE DIRECTOR MAY NOT BE A
45 CANDIDATE FOR THE BOARD OF DIRECTORS WHILE SERVING AS EXECUTIVE DIREC-
46 TOR. THE BY-LAWS OF THE CORPORATION SHALL PROVIDE A METHOD FOR DISCHARG-
47 ING THE EXECUTIVE DIRECTOR, BUT IN NO EVENT SHALL SUCH DISCHARGE OCCUR
48 UNLESS ONE-HALF OF THE DIRECTORS PLUS ONE SHALL HAVE CONSENTED TO SUCH
49 DISCHARGE.

50 2. THE BOARD OF DIRECTORS SHALL REQUIRE ALL APPLICANTS FOR THE POSI-
51 TION OF EXECUTIVE DIRECTOR OF THE CORPORATION TO FILE A FINANCIAL STATE-
52 MENT. THE BOARD OF DIRECTORS SHALL REQUIRE THE EXECUTIVE DIRECTOR TO
53 FILE A FINANCIAL STATEMENT ANNUALLY.

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

- 55 (A) TO IMPLEMENT THE POLICIES ESTABLISHED BY THE BOARD OF DIRECTORS;
56 (B) TO EMPLOY AND DISCHARGE EMPLOYEES OF THE CORPORATION;

1 (C) TO SUPERVISE THE OFFICES, FACILITIES AND WORK OF THE EMPLOYEES OF
2 THE CORPORATION;

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

5 (E) TO PREPARE AND SUBMIT TO THE BOARD OF DIRECTORS ANNUAL AND QUAR-
6 TERLY STATEMENTS OF THE FINANCIAL AND SUBSTANTIVE OPERATIONS OF THE
7 CORPORATION, AND FINANCIAL ESTIMATES FOR THE OPERATIONS OF THE CORPO-
8 RATION;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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