

4550--B

2013-2014 Regular Sessions

I N S E N A T E

April 10, 2013

Introduced by Sens. SAVINO, ADDABBO, AVELLA, CARLUCCI, ESPAILLAT, GIPSON, GRISANTI, HANNON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KLEIN, KRUEGER, LATIMER, MONTGOMERY, PARKER, SAMPSON, SQUADRON, TKACZYK, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

3 ARTICLE 1-A

4 THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE

5 SECTION 28-A. DEFINITIONS.

6 28-B. ESTABLISHMENT OF THE STATE OFFICE OF THE UTILITY CONSUMER
7 ADVOCATE.

8 28-C. POWERS OF THE STATE OFFICE OF THE UTILITY CONSUMER ADVO-
9 CATE.

10 28-D. REPORTS.

11 S 28-A. DEFINITIONS. WHEN USED IN THIS ARTICLE: (A) "DEPARTMENT"
12 MEANS THE DEPARTMENT OF PUBLIC SERVICE.

13 (B) "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION.

14 (C) "RESIDENTIAL UTILITY CUSTOMER" MEANS ANY PERSON WHO IS SOLD OR
15 OFFERED FOR SALE RESIDENTIAL UTILITY SERVICE BY A UTILITY COMPANY.

16 (D) "UTILITY COMPANY" MEANS ANY PERSON OR ENTITY OPERATING AN AGENCY
17 FOR PUBLIC SERVICE, INCLUDING, BUT NOT LIMITED TO, THOSE PERSONS OR

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

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1 ENTITIES SUBJECT TO THE JURISDICTION, SUPERVISION AND REGULATIONS
2 PRESCRIBED BY OR PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

3 S 28-B. ESTABLISHMENT OF THE STATE OFFICE OF THE UTILITY CONSUMER
4 ADVOCATE. THERE IS ESTABLISHED THE STATE OFFICE OF THE UTILITY CONSUMER
5 ADVOCATE TO REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS.
6 THE UTILITY CONSUMER ADVOCATE SHALL BE APPOINTED BY THE GOVERNOR TO A
7 TERM OF SIX YEARS, UPON THE ADVICE AND CONSENT OF THE SENATE. THE UTILI-
8 TY CONSUMER ADVOCATE SHALL POSSESS KNOWLEDGE AND EXPERIENCE IN MATTERS
9 AFFECTING RESIDENTIAL UTILITY CUSTOMERS AND SHALL BE RESPONSIBLE FOR THE
10 DIRECTION, CONTROL, AND OPERATION OF THE STATE OFFICE OF THE UTILITY
11 CONSUMER ADVOCATE, INCLUDING ITS HIRING OF STAFF AND RETENTION OF
12 EXPERTS FOR ANALYSIS AND TESTIMONY IN PROCEEDINGS. THE UTILITY CONSUMER
13 ADVOCATE SHALL NOT BE REMOVED FOR CAUSE, BUT MAY BE REMOVED ONLY AFTER
14 NOTICE AND OPPORTUNITY TO BE HEARD, AND ONLY FOR PERMANENT DISABILITY,
15 MALFEASANCE, A FELONY, OR CONDUCT INVOLVING MORAL TURPITUDE. EXERCISE OF
16 INDEPENDENT JUDGMENT IN ADVOCATING POSITIONS ON BEHALF OF RESIDENTIAL
17 UTILITY CUSTOMERS SHALL NOT CONSTITUTE CAUSE FOR REMOVAL OF THE UTILITY
18 CONSUMER ADVOCATE.

19 S 28-C. POWERS OF THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE.
20 THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE SHALL HAVE THE POWER
21 AND DUTY TO: (A) INITIATE, INTERVENE IN, OR PARTICIPATE ON BEHALF OF
22 RESIDENTIAL UTILITY CUSTOMERS IN ANY PROCEEDINGS BEFORE THE COMMISSION,
23 THE FEDERAL ENERGY REGULATORY COMMISSION, THE FEDERAL COMMUNICATIONS
24 COMMISSION, FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGEN-
25 CIES, AND STATE AND FEDERAL COURTS IN ANY MATTER OR PROCEEDING THAT MAY
26 SUBSTANTIALLY AFFECT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS,
27 INCLUDING, BUT NOT LIMITED TO, A PROPOSED CHANGE OF RATES, CHARGES,
28 TERMS AND CONDITIONS OF SERVICE, THE ADOPTION OF RULES, REGULATIONS,
29 GUIDELINES, ORDERS, STANDARDS OR FINAL POLICY DECISIONS WHERE THE UTILI-
30 TY CONSUMER ADVOCATE DEEMS SUCH INITIATION, INTERVENTION OR PARTIC-
31 IPATION TO BE NECESSARY OR APPROPRIATE;

32 (B) REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS OF THE
33 STATE BEFORE FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY
34 AGENCIES ENGAGED IN THE REGULATION OF ENERGY, TELECOMMUNICATIONS, WATER,
35 AND OTHER UTILITY SERVICES, AND BEFORE STATE AND FEDERAL COURTS IN
36 ACTIONS AND PROCEEDINGS TO REVIEW THE ACTIONS OF UTILITIES OR ORDERS OF
37 UTILITY REGULATORY AGENCIES. ANY ACTION OR PROCEEDING BROUGHT BY THE
38 UTILITY CONSUMER ADVOCATE BEFORE A COURT OR AN AGENCY SHALL BE BROUGHT
39 IN THE NAME OF THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE. THE
40 UTILITY CONSUMER ADVOCATE MAY JOIN WITH A RESIDENTIAL UTILITY CUSTOMER
41 OR GROUP OF RESIDENTIAL UTILITY CUSTOMERS IN BRINGING AN ACTION;

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

1 (II) THE UTILITY CONSUMER ADVOCATE SHALL EXERCISE HIS OR HER INDEPEND-
2 ENT DISCRETION IN DETERMINING THE INTERESTS OF RESIDENTIAL UTILITY
3 CUSTOMERS THAT WILL BE ADVOCATED IN ANY PROCEEDING, AND DETERMINING
4 WHETHER TO PARTICIPATE IN OR INITIATE ANY PROCEEDING AND, IN SO DETER-
5 MINING, SHALL CONSIDER THE PUBLIC INTEREST, THE RESOURCES AVAILABLE, AND
6 THE SUBSTANTIALITY OF THE EFFECT OF THE PROCEEDING ON THE INTEREST OF
7 RESIDENTIAL UTILITY CUSTOMERS;

8 (D) REQUEST AND RECEIVE FROM ANY STATE OR LOCAL AUTHORITY, AGENCY,
9 DEPARTMENT OR DIVISION OF THE STATE OR POLITICAL SUBDIVISION SUCH
10 ASSISTANCE, PERSONNEL, INFORMATION, BOOKS, RECORDS, OTHER DOCUMENTATION
11 AND COOPERATION NECESSARY TO PERFORM ITS DUTIES; AND

12 (E) ENTER INTO COOPERATIVE AGREEMENTS WITH OTHER GOVERNMENT OFFICES TO
13 EFFICIENTLY CARRY OUT ITS WORK.

14 S 28-D. REPORTS. ON JULY FIRST, TWO THOUSAND FIFTEEN AND ANNUALLY
15 THEREAFTER, THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE SHALL
16 ISSUE A REPORT TO THE GOVERNOR AND THE LEGISLATURE, AND MAKE SUCH REPORT
17 AVAILABLE TO THE PUBLIC FREE OF CHARGE ON A PUBLICLY AVAILABLE WEBSITE,
18 CONTAINING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION:

19 (A) ALL PROCEEDINGS THAT THE STATE OFFICE OF THE UTILITY CONSUMER
20 ADVOCATE PARTICIPATED IN AND THE OUTCOME OF SUCH PROCEEDINGS, TO THE
21 EXTENT OF SUCH OUTCOME AND IF NOT CONFIDENTIAL;

22 (B) ESTIMATED SAVINGS TO RESIDENTIAL UTILITY CONSUMERS THAT RESULTED
23 FROM INTERVENTION BY THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE;
24 AND

25 (C) POLICY RECOMMENDATIONS AND SUGGESTED STATUTORY AMENDMENTS THAT THE
26 STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE DEEMS NECESSARY.

27 S 2. This act shall take effect on the first of April next succeeding
28 the date on which it shall have become a law.