

180--A

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I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. DINOWITZ, PAULIN, BRENNAN, GOTTFRIED, ROSENTHAL, ZEBROWSKI, SKOUFIS, CRESPO, ROBINSON, MARKEY, WEPRIN, JAFFEE, GALEF, CAHILL, COLTON, LIFTON, ABINANTI, HEVESI, COOK, STIRPE, STECK, SKARTADOS, LUPARDO, MAYER, GUNTHER, MOSLEY, ORTIZ, BRINDISI, PERRY, SEPULVEDA, McDONALD, KEARNS, RAI, MONTESANO, SANTABARBARA, SIMOTAS, JEAN-PIERRE, MILLER, HOOPER, ARROYO, JOYNER, FAHY, OTIS, KAMINSKY, PEOPLES-STOKES, HUNTER -- Multi-Sponsored by -- M. of A. CLARK, ENGLEBRIGHT, GLICK, MURRAY, RIVERA, SCHIMEL, SIMANOWITZ, SIMON, THIELE -- read once and referred to the Committee on Consumer Affairs and Protection -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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.

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

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1 (D) "UTILITY COMPANY" MEANS ANY PERSON OR ENTITY OPERATING AN AGENCY  
2 FOR PUBLIC SERVICE, INCLUDING, BUT NOT LIMITED TO, THOSE PERSONS OR  
3 ENTITIES SUBJECT TO THE JURISDICTION, SUPERVISION AND REGULATIONS  
4 PRESCRIBED BY OR PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

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

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

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

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

1 PARTICIPATE IN THOSE PROCEEDINGS WHICH IN HIS OR HER JUDGMENT WARRANTS  
2 SUCH PARTICIPATION.

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

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

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

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

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

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

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

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