

3356

2015-2016 Regular Sessions

I N   S E N A T E

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Introduced by Sens. SAVINO, KLEIN, VALESKY, AVELLA, CARLUCCI -- 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 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  
18 ENTITIES SUBJECT TO THE JURISDICTION, SUPERVISION AND REGULATIONS  
19 PRESCRIBED BY OR PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

20     S 28-B. ESTABLISHMENT OF THE STATE OFFICE OF THE UTILITY CONSUMER  
21 ADVOCATE. THERE IS ESTABLISHED THE STATE OFFICE OF THE UTILITY CONSUMER  
22 ADVOCATE TO REPRESENT THE INTERESTS OF RESIDENTIAL UTILITY CUSTOMERS.  
23 THE UTILITY CONSUMER ADVOCATE SHALL BE APPOINTED BY THE GOVERNOR TO A  
24 TERM OF SIX YEARS, UPON THE ADVICE AND CONSENT OF THE SENATE. THE UTILI-

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

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1 TY CONSUMER ADVOCATE SHALL POSSESS KNOWLEDGE AND EXPERIENCE IN MATTERS  
2 AFFECTING RESIDENTIAL UTILITY CUSTOMERS AND SHALL BE RESPONSIBLE FOR THE  
3 DIRECTION, CONTROL, AND OPERATION OF THE STATE OFFICE OF THE UTILITY  
4 CONSUMER ADVOCATE, INCLUDING ITS HIRING OF STAFF AND RETENTION OF  
5 EXPERTS FOR ANALYSIS AND TESTIMONY IN PROCEEDINGS. THE UTILITY CONSUMER  
6 ADVOCATE SHALL NOT BE REMOVED FOR CAUSE, BUT MAY BE REMOVED ONLY AFTER  
7 NOTICE AND OPPORTUNITY TO BE HEARD, AND ONLY FOR PERMANENT DISABILITY,  
8 MALFEASANCE, A FELONY, OR CONDUCT INVOLVING MORAL TURPITUDE. EXERCISE OF  
9 INDEPENDENT JUDGMENT IN ADVOCATING POSITIONS ON BEHALF OF RESIDENTIAL  
10 UTILITY CUSTOMERS SHALL NOT CONSTITUTE CAUSE FOR REMOVAL OF THE UTILITY  
11 CONSUMER ADVOCATE.

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

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

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

49 (II) THE UTILITY CONSUMER ADVOCATE SHALL EXERCISE HIS OR HER INDEPEND-  
50 ENT DISCRETION IN DETERMINING THE INTERESTS OF RESIDENTIAL UTILITY  
51 CUSTOMERS THAT WILL BE ADVOCATED IN ANY PROCEEDING, AND DETERMINING  
52 WHETHER TO PARTICIPATE IN OR INITIATE ANY PROCEEDING AND, IN SO DETER-  
53 MINING, SHALL CONSIDER THE PUBLIC INTEREST, THE RESOURCES AVAILABLE, AND  
54 THE SUBSTANTIALITY OF THE EFFECT OF THE PROCEEDING ON THE INTEREST OF  
55 RESIDENTIAL UTILITY CUSTOMERS;

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

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

7 S 28-D. REPORTS. ON JULY FIRST, TWO THOUSAND SIXTEEN AND ANNUALLY  
8 THEREAFTER, THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE SHALL  
9 ISSUE A REPORT TO THE GOVERNOR AND THE LEGISLATURE, AND MAKE SUCH REPORT  
10 AVAILABLE TO THE PUBLIC FREE OF CHARGE ON A PUBLICLY AVAILABLE WEBSITE,  
11 CONTAINING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION:

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

15 (B) ESTIMATED SAVINGS TO RESIDENTIAL UTILITY CONSUMERS THAT RESULTED  
16 FROM INTERVENTION BY THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE;  
17 AND

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

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