

# STATE OF NEW YORK

3923--A

2017-2018 Regular Sessions

## IN SENATE

January 30, 2017

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 -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- 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:

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

### ARTICLE 1-A

#### THE STATE OFFICE OF THE UTILITY CONSUMER ADVOCATE

##### Section 28-a. Definitions.

28-b. Establishment of the state office of the utility consumer advocate.

28-c. Powers of the state office of the utility consumer advocate.

28-d. Reports.

§ 28-a. Definitions. When used in this article: (a) "Department" means the department of public service.

(b) "Commission" means the public service commission.

(c) "Residential utility customer" means any person who is sold or offered for sale residential utility service by a utility company.

(d) "Utility company" means any person or entity operating an agency for public service, including, but not limited to, those persons or entities subject to the jurisdiction, supervision and regulations prescribed by or pursuant to the provisions of this chapter.

§ 28-b. Establishment of the state office of the utility consumer advocate. There is established the state office of the utility consumer

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

LBD03223-03-8

1 advocate to represent the interests of residential utility customers.  
2 The utility consumer advocate shall be appointed by the governor to a  
3 term of six years, upon the advice and consent of the senate. The utili-  
4 ty consumer advocate shall possess knowledge and experience in matters  
5 affecting residential utility customers and shall be responsible for the  
6 direction, control, and operation of the state office of the utility  
7 consumer advocate, including its hiring of staff and retention of  
8 experts for analysis and testimony in proceedings. The utility consumer  
9 advocate shall not be removed for cause, but may be removed only after  
10 notice and opportunity to be heard, and only for permanent disability,  
11 malfeasance, a felony, or conduct involving moral turpitude. Exercise of  
12 independent judgment in advocating positions on behalf of residential  
13 utility customers shall not constitute cause for removal of the utility  
14 consumer advocate.

15 § 28-c. Powers of the state office of the utility consumer advocate.  
16 The state office of the utility consumer advocate shall have the power  
17 and duty to: (a) initiate, intervene in, or participate on behalf of  
18 residential utility customers in any proceedings before the commission,  
19 the federal energy regulatory commission, the federal communications  
20 commission, federal, state and local administrative and regulatory agen-  
21 cies, and state and federal courts in any matter or proceeding that may  
22 substantially affect the interests of residential utility customers,  
23 including, but not limited to, a proposed change of rates, charges,  
24 terms and conditions of service, the adoption of rules, regulations,  
25 guidelines, orders, standards or final policy decisions where the utili-  
26 ty consumer advocate deems such initiation, intervention or partic-  
27 ipation to be necessary or appropriate;

28 (b) represent the interests of residential utility customers of the  
29 state before federal, state and local administrative and regulatory  
30 agencies engaged in the regulation of energy, telecommunications, water,  
31 and other utility services, and before state and federal courts in  
32 actions and proceedings to review the actions of utilities or orders of  
33 utility regulatory agencies. Any action or proceeding brought by the  
34 utility consumer advocate before a court or an agency shall be brought  
35 in the name of the state office of the utility consumer advocate. The  
36 utility consumer advocate may join with a residential utility customer  
37 or group of residential utility customers in bringing an action;

38 (c) (i) in addition to any other authority conferred upon the utility  
39 consumer advocate, he or she is authorized, and it shall be his or her  
40 duty to represent the interests of residential utility customers as a  
41 party, or otherwise participate for the purpose of representing the  
42 interests of such customers before any agencies or courts. He or she may  
43 initiate proceedings if in his or her judgment doing so may be necessary  
44 in connection with any matter involving the actions or regulation of  
45 public utility companies whether on appeal or otherwise initiated. The  
46 utility consumer advocate may monitor all cases before regulatory agen-  
47 cies in the United States, including the federal communications commis-  
48 sion and the federal energy regulatory commission that affect the inter-  
49 ests of residential utility customers of the state and may formally  
50 participate in those proceedings which in his or her judgment warrants  
51 such participation.

52 (ii) the utility consumer advocate shall exercise his or her independ-  
53 ent discretion in determining the interests of residential utility  
54 customers that will be advocated in any proceeding, and determining  
55 whether to participate in or initiate any proceeding and, in so deter-  
56 mining, shall consider the public interest, the resources available, and

1 the substantiality of the effect of the proceeding on the interest of  
2 residential utility customers;

3 (d) request and receive from any state or local authority, agency,  
4 department or division of the state or political subdivision such  
5 assistance, personnel, information, books, records, other documentation  
6 and cooperation necessary to perform its duties; and

7 (e) enter into cooperative agreements with other government offices to  
8 efficiently carry out its work.

9 § 28-d. Reports. On July first, two thousand nineteen and annually  
10 thereafter, the state office of the utility consumer advocate shall  
11 issue a report to the governor and the legislature, and make such report  
12 available to the public free of charge on a publicly available website,  
13 containing, but not limited to, the following information:

14 (a) all proceedings that the state office of the utility consumer  
15 advocate participated in and the outcome of such proceedings, to the  
16 extent of such outcome and if not confidential;

17 (b) estimated savings to residential utility consumers that resulted  
18 from intervention by the state office of the utility consumer advocate;  
19 and

20 (c) policy recommendations and suggested statutory amendments that the  
21 state office of the utility consumer advocate deems necessary.

22 § 2. This act shall take effect on the first of April next succeeding  
23 the date on which it shall have become a law.