STATE OF NEW YORK

4389

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. RA -- read once and referred to the Committee on Consumer Affairs and Protection

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

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 section 3-c to read as follows:

§ 3-c. Utility consumer advocate of the Long Island office of the department of public service. 1. Definitions. When used in this section:

(a) "Office" means the Long Island office of the department of public service.

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

(c) "Residential Long Island utility customer" means any resident of Nassau or Suffolk county 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.

2. Establishment of the utility consumer advocate of the Long Island office of the department of public service. There is established the utility consumer advocate of the Long Island office of the department of public service to advocate and to represent the interests of residential Long Island utility customers. The consumer advocate shall be appointed by the governor to a term of six years, upon the recommendation of the county executives of Nassau and Suffolk counties and upon the advice and consent of the senate. The utility consumer advocate shall possess knowledge and experience in matters affecting residential Long Island utility customers and shall be responsible for the direction, control and

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

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operation of the office of utility consumer advocate for the office, including its hiring of staff and retention of experts for analysis and testimony in proceedings. The utility consumer advocate shall not be removed for cause but may be removed only after notice and opportunity to be heard, and only for permanent disability, malfeasance, a felony or conduct involving moral turpitude. Exercise of independent judgment in advocating positions on behalf of residential Long Island utility customers shall not constitute cause for removal of the utility consumer advocate.

3. Powers of the utility consumer advocate for the Long Island office of the department of public service. The utility consumer advocate for the office shall have the power and duty to:

(a) initiate, intervene in or participate on behalf of residential Long Island utility customers in any proceedings before the commission, the federal energy regulatory commission, the federal communications commission, federal, state and local administrative and regulatory agencies and state and federal courts in any matter or proceeding that may substantially affect the interests of residential Long Island utility customers, including, but not limited to, a proposed change of rates, charges, terms and conditions of service, and the adoption of rules, regulations, guidelines, orders, standards or final policy decisions where the utility consumer advocate deems such initiation, intervention or participation to be necessary or appropriate;

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

(i) in addition to any other authority conferred upon the utility consumer advocate, he or she is authorized, and it shall be his or her duty to represent the interests of residential Long Island utility customers as a party, or otherwise participate for the purpose of representing the interests of such customers before any agencies or courts. He or she may initiate proceedings if in his or her judgment doing so may be necessary in connection with any matter involving the actions or regulation of public utility companies whether on appeal or otherwise initiated. The utility consumer advocate may monitor all cases before regulatory agencies in the United States, including the federal communications commission and the federal energy regulatory commission that affect the interests of residential Long Island utility customers and may formally participate in those proceedings which in his or her judgment warrants such participation.

(ii) the utility consumer advocate shall exercise his or her independent discretion in determining the interests of residential Long Island utility customers that will be advocated in any proceeding, and determining whether to participate in or initiate any proceeding and, in so determining, shall consider the public interest, the resources available, and the substantiality of the effect of the proceeding on the interest of residential Long Island utility customers;

(c) request and receive from any state or local authority, agency, department or division of the state or political subdivision such assistance, personnel, information, books, records, other documentation and cooperation necessary to perform his or her duties;

(d) enter into cooperative agreements with other government offices to efficiently carry out his or her work;

(e) review and make recommendations to the office with respect to the rates and charges, including charges related to energy efficiency and renewable energy programs;

(f) annually review the emergency response plan of the Long Island power authority and any related service provider and make recommendations to the authority with respect to the performance of the service provider in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event, defined for purposes of this section as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and the service provider, including making determinations with respect to whether the service provider is reasonably able to implement the emergency response plan, whether the length of any outages related to such emergency were materially longer than they would otherwise have been because the service provider failed to reasonably implement the emergency response plan, the reasonableness of costs associated with such emergency response, the costs, if any, that were unreasonably and imprudently incurred by the service provider and whether the service provider would be liable for any such costs pursuant to the terms and conditions of the operations services agreement;

(g) review the annual capital expenditures proposed by the service provider and recommend such improvement in the manufacture, conveying, transportation, distribution or supply of electricity, or in the methods employed by the service provider as in the utility consumer advocate's judgment allows for safe and adequate service; and

(h) the purpose of the utility consumer advocate's oversight is to make recommendations designed to ensure that the Long Island power authority, the office and the service provider provide safe and adequate transmission and distribution service at rates set at the lowest level consistent with sound fiscal operating practices and ensure safe emergency response planning.

4. Reports. On December first, two thousand twenty-three and annually thereafter, the utility consumer advocate for the office shall issue a report to the governor and the legislature, and make such report available to the public free of charge on a publicly available website, containing, but not limited to, the following information:

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

(b) estimated savings to residential utility consumers that resulted from intervention by the utility consumer advocate for the office; and

(c) policy recommendations, including emergency response planning, and suggested statutory amendments that the utility consumer advocate for the office deems necessary.

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