

# STATE OF NEW YORK

8411

## IN SENATE

February 24, 2022

Introduced by Sen. SAVINO -- 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:

### ARTICLE 1-A

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

##### 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.

##### 28-d. Reports.

11 § 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 § 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-  
25 ty consumer advocate shall possess knowledge and experience in matters  
26 affecting residential utility customers and shall be responsible for the  
27 direction, control, and operation of the state office of the utility

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

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

9 § 28-c. Powers of the state office of the utility consumer advocate.  
10 The state office of the utility consumer advocate shall have the power  
11 and duty to: (a) initiate, intervene in, or participate on behalf of  
12 residential utility customers in any proceedings before the commission,  
13 the federal energy regulatory commission, the federal communications  
14 commission, federal, state and local administrative and regulatory agen-  
15 cies, and state and federal courts in any matter or proceeding that may  
16 substantially affect the interests of residential utility customers,  
17 including, but not limited to, a proposed change of rates, charges,  
18 terms and conditions of service, the adoption of rules, regulations,  
19 guidelines, orders, standards or final policy decisions where the utili-  
20 ty consumer advocate deems such initiation, intervention or partic-  
21 ipation to be necessary or appropriate;

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

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

46 (ii) the utility consumer advocate shall exercise his or her independ-  
47 ent discretion in determining the interests of residential utility  
48 customers that will be advocated in any proceeding, and determining  
49 whether to participate in or initiate any proceeding and, in so deter-  
50 mining, shall consider the public interest, the resources available, and  
51 the substantiality of the effect of the proceeding on the interests of  
52 residential utility customers;

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

1 (e) enter into cooperative agreements with other government offices to  
2 efficiently carry out his or her work.

3 § 28-d. Reports. On July first, two thousand twenty-three and annually  
4 thereafter, the state office of the utility consumer advocate shall  
5 issue a report to the governor and the legislature, and make such report  
6 available to the public free of charge on a publicly available website,  
7 containing, but not limited to, the following information:

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

11 (b) estimated savings to residential utility consumers that resulted  
12 from intervention by the state office of the utility consumer advocate;  
13 and

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

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