

# 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:

1 Section 1. The public service law is amended by adding a new section  
2 3-c to read as follows:

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

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

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

8 (c) "Residential Long Island utility customer" means any resident of  
9 Nassau or Suffolk county who is sold or offered for sale residential  
10 utility service by a utility company.

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

15 2. Establishment of the utility consumer advocate of the Long Island  
16 office of the department of public service. There is established the  
17 utility consumer advocate of the Long Island office of the department of  
18 public service to advocate and to represent the interests of residential  
19 Long Island utility customers. The consumer advocate shall be appointed  
20 by the governor to a term of six years, upon the recommendation of the  
21 county executives of Nassau and Suffolk counties and upon the advice and  
22 consent of the senate. The utility consumer advocate shall possess know-  
23 ledge and experience in matters affecting residential Long Island utili-  
24 ty 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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1 operation of the office of utility consumer advocate for the office,  
2 including its hiring of staff and retention of experts for analysis and  
3 testimony in proceedings. The utility consumer advocate shall not be  
4 removed for cause but may be removed only after notice and opportunity  
5 to be heard, and only for permanent disability, malfeasance, a felony or  
6 conduct involving moral turpitude. Exercise of independent judgment in  
7 advocating positions on behalf of residential Long Island utility  
8 customers shall not constitute cause for removal of the utility consumer  
9 advocate.

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

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

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

35 (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 Long Island utility  
38 customers as a party, or otherwise participate for the purpose of  
39 representing the interests of such customers before any agencies or  
40 courts. He or she may initiate proceedings if in his or her judgment  
41 doing so may be necessary in connection with any matter involving the  
42 actions or regulation of public utility companies whether on appeal or  
43 otherwise initiated. The utility consumer advocate may monitor all cases  
44 before regulatory agencies in the United States, including the federal  
45 communications commission and the federal energy regulatory commission  
46 that affect the interests of residential Long Island utility customers  
47 and may formally participate in those proceedings which in his or her  
48 judgment warrants such participation.

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

1 (c) 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 his or her duties;

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

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

10 (f) annually review the emergency response plan of the Long Island  
11 power authority and any related service provider and make recommenda-  
12 tions to the authority with respect to the performance of the service  
13 provider in restoring service or otherwise meeting the requirements of  
14 the emergency response plan during an emergency event, defined for  
15 purposes of this section as an event where widespread outages have  
16 occurred in the authority's service territory due to a storm or other  
17 causes beyond the control of the authority and the service provider,  
18 including making determinations with respect to whether the service  
19 provider is reasonably able to implement the emergency response plan,  
20 whether the length of any outages related to such emergency were mate-  
21 rially longer than they would otherwise have been because the service  
22 provider failed to reasonably implement the emergency response plan, the  
23 reasonableness of costs associated with such emergency response, the  
24 costs, if any, that were unreasonably and imprudently incurred by the  
25 service provider and whether the service provider would be liable for  
26 any such costs pursuant to the terms and conditions of the operations  
27 services agreement;

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

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

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

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

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

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

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