STATE OF NEW YORK

7637

2023-2024 Regular Sessions

IN SENATE

August 18, 2023

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law, in relation to prohibiting public utilities from using funds or being reimbursed by funds raised from ratepayers for certain activities

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 12 to read as follows:

ARTICLE 12
GENERAL PROVISIONS

Section 240. Definitions.
241. Limitations on rates.

§ 240. Definitions. As used in this article, unless the context otherwise indicates, the following terms have the following meanings:

1. "Affiliated interest" means any person who owns directly, indirectly or through a chain of successive ownership, ten percent or more of the voting securities of a public utility.

2. "Consumer-owned transmission and distribution utility" means any transmission and distribution utility wholly owned by its consumers, including its consumers served in the state. "Consumer-owned transmission and distribution utility" includes but is not limited to:

(a) the transmission and distribution portion of a rural electrification cooperative;

(b) the transmission and distribution portion of an electrification cooperative organized on a cooperative plan under the laws of the state;

(c) a municipal or quasi-municipal transmission and distribution utility located in the state;

(d) the transmission and distribution portion of a municipal or quasi-municipal entity located in the state providing generation and other services; and

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

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(e) a transmission and distribution utility wholly owned by a municipality located in the state.

3. "Consumer-owned water utility" means any water utility which is wholly owned by its consumers, including its consumers served in the state. "Consumer-owned water utility" includes but is not limited to:

(a) any municipal or quasi-municipal water district or corporation located in the state;

(b) any municipal water department located in the state; or

(c) the water portion of any utility wholly owned by a municipality or district located in the state.

4. (a) "Grassroots lobbying" means communication with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the legislature as a result of a direct initiative by a member of the legislature, when that solicitation is made by:

(i) a broadcast, cable or satellite transmission;

(ii) a communication delivered by print media;

(iii) a letter or other written communication delivered by mail or by comparable delivery service;

(iv) a communication delivered by e-mail, a website or any other digital format;

(v) telephone; or

(vi) a method of communication similar to those listed in subparagraphs (i) through (v) of this paragraph.

(b) "Grassroots lobbying" does not include a person communicating with the person's stockholders, employees, board members, officers or dues-paying members.

5. "Lobbying" means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the governor or the governor's cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. "Lobbying" includes the time spent to prepare and submit to the governor, an official in the legislative branch, an official in the executive branch, a constitutional officer or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. "Lobbying" does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the governor, a legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

6. "Public charity" means an entity formed primarily for charitable purposes, including but not limited to:

(a) a corporation formed under the business corporation law, the limited liability company law or the not-for-profit corporation law primarily for charitable purposes; and

(b) a charitable trust.

7. "Public utility" means a public utility company or a public utility corporation subject to the provisions of this chapter.

8. "Trade association" means a business or industry trade association, group or related entity incorporated under Section 501 of the Internal Revenue Code of 1986.

§ 241. Limitations on rates. 1. The following expenses, whether paid directly or indirectly, through reimbursement or otherwise, incurred by a public utility or an affiliated interest may not be included or incorporated in operating expenses to be recovered in rates:

(a) contributions or gifts to political candidates, political parties, political or legislative committees or any committee or organization working to influence referendum petitions or elections;

(b) contributions to a trade association, chamber of commerce or public charity, including, but not limited to, a charity managed by the public utility or affiliated interest; provided, however, that this paragraph does not apply to a consumer-owned water utility;

(c) any direct or indirect cost associated with (i) travel, lodging or food and beverage expenses for the public utility's board of directors and officers or the board of directors and officers of such public utility's parent company; (ii) entertainment or gifts; (iii) any owned, leased or chartered aircraft for such public utility's board of directors and officers or the board of directors and officers of such public utility's parent company; or (iv) investor relations;

(d) expenditures for lobbying or grassroots lobbying;

(e) educational expenditures, as defined by the commission by rule, unless approved by the commission as serving a public interest. Educational expenditures include expenditures relating to information delivered to the public or to public utility's customers by radio, television, the Internet, print and other media or through sponsorships, paid endorsements and public relations campaigns. This paragraph does not apply to a consumer-owned transmission and distribution utility or a consumer-owned water utility; or

(f) any expenses associated with the preparation of the reports described in subdivisions two and three of this section.

2. On or before January fifteenth, two thousand twenty-five, and annually thereafter, each public utility's with more than seventy-five thousand customers shall submit to the commission a report, in a form prescribed by the commission, containing a written, itemized description of any expenses that may not be included or incorporated in the public utility's operating expenses under subdivision one of this section. The report must also include a written, itemized description of the expenses that may not be included or incorporated in the public utility's operating expenses under subdivision one of this section that are relevant to the business interests of the public utility paid by a membership organization of which the public utility is a member. For each expense, the report must include the date, the payee, the amount and a description of the purpose of the expense and any other information deemed relevant by the commission.

3. In addition to the report required under subdivision two of this section, if a public utility or an affiliated interest engages in major political activities, as defined by the commission by rule, the public utility shall file a quarterly report containing a written description of those major political activities and the expenditures associated with those activities. For each expenditure, the report must include the date, the payee, the amount and a description of the purpose of the expenditure.

4. The public utility shall make available for public inspection all materials filed with the commission in accordance with subdivisions two and three of this section. The commission shall make available the annual reports filed by public utilities in accordance with this section on

its publicly accessible website with notice of the availability of the reports prominently displayed on the website.

§ 2. Section 5 of the public service law is amended by adding a new subdivision 7 to read as follows:

7. The commission shall adopt and implement rules and regulations necessary to implement the provisions of section two hundred forty-one of this chapter, including, but not limited to, rules concerning promotional advertising; promotional allowances, including, but not limited to, the granting of promotional rebates or credits; advertising to promote corporate image or goodwill; contributions to public charities; educational expenditures; or political activities, including major political activities, by a public utility or an affiliated interest as defined in section two hundred forty of this chapter.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.