

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:

1 Section 1. The public service law is amended by adding a new article
2 12 to read as follows:

3 ARTICLE 12

4 GENERAL PROVISIONS

5 Section 240. Definitions.

6 241. Limitations on rates.

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

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

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

16 (a) the transmission and distribution portion of a rural electrifica-
17 tion cooperative;

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

20 (c) a municipal or quasi-municipal transmission and distribution util-
21 ity located in the state;

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

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

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1 (e) a transmission and distribution utility wholly owned by a municipi-
2 ality located in the state.

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

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

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

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

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

17 (i) a broadcast, cable or satellite transmission;

18 (ii) a communication delivered by print media;

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

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

23 (v) telephone; or

24 (vi) a method of communication similar to those listed in subpara-
25 graphs (i) through (v) of this paragraph.

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

29 5. "Lobbying" means to communicate directly with any official in the
30 legislative branch or any official in the executive branch or with a
31 constitutional officer for the purpose of influencing any legislative
32 action or with the governor or the governor's cabinet and staff for the
33 purpose of influencing the approval or veto of a legislative action when
34 reimbursement for expenditures or compensation is made for those activ-
35 ities. "Lobbying" includes the time spent to prepare and submit to the
36 governor, an official in the legislative branch, an official in the
37 executive branch, a constitutional officer or a legislative committee
38 oral and written proposals for, or testimony or analyses concerning, a
39 legislative action. "Lobbying" does not include time spent by any person
40 providing information to or participating in a subcommittee, stakeholder
41 group, task force or other work group regarding a legislative action by
42 the appointment or at the request of the governor, a legislator or
43 legislative committee, a constitutional officer, a state agency commis-
44 sioner or the chair of a state board or commission.

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

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

50 (b) a charitable trust.

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

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

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

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

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

12 (c) any direct or indirect cost associated with (i) travel, lodging or
13 food and beverage expenses for the public utility's board of directors
14 and officers or the board of directors and officers of such public util-
15 ity's parent company; (ii) entertainment or gifts; (iii) any owned,
16 leased or chartered aircraft for such public utility's board of direc-
17 tors and officers or the board of directors and officers of such public
18 utility's parent company; or (iv) investor relations;

19 (d) expenditures for lobbying or grassroots lobbying;

20 (e) educational expenditures, as defined by the commission by rule,
21 unless approved by the commission as serving a public interest. Educa-
22 tional expenditures include expenditures relating to information deliv-
23 ered to the public or to public utility's customers by radio, tele-
24 vision, the Internet, print and other media or through sponsorships,
25 paid endorsements and public relations campaigns. This paragraph does
26 not apply to a consumer-owned transmission and distribution utility or a
27 consumer-owned water utility; or

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

30 2. On or before January fifteenth, two thousand twenty-five, and annu-
31 ally thereafter, each public utility's with more than seventy-five thou-
32 sand customers shall submit to the commission a report, in a form
33 prescribed by the commission, containing a written, itemized description
34 of any expenses that may not be included or incorporated in the public
35 utility's operating expenses under subdivision one of this section. The
36 report must also include a written, itemized description of the expenses
37 that may not be included or incorporated in the public utility's operat-
38 ing expenses under subdivision one of this section that are relevant to
39 the business interests of the public utility paid by a membership organ-
40 ization of which the public utility is a member. For each expense, the
41 report must include the date, the payee, the amount and a description of
42 the purpose of the expense and any other information deemed relevant by
43 the commission.

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

52 4. The public utility shall make available for public inspection all
53 materials filed with the commission in accordance with subdivisions two
54 and three of this section. The commission shall make available the annu-
55 al reports filed by public utilities in accordance with this section on

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

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

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

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