

1 **OFFICE OF CONSUMER SERVICES ACT**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: John Dougall

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to public utilities to recodify provisions related to
10 the Committee of Consumer Services.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ enacts the Office of Consumer Services Act;
- 14 ▶ creates the Office of Consumer Services within the Department of Commerce;
- 15 ▶ establishes a director of the office, including:
 - 16 • addressing appointment; ~~§~~→ [and] ←~~§~~
 - 17 • addressing terms; ~~§~~→ and
 - 17a • **addressing removal**; ←~~§~~
- 18 ▶ establishes the duties of the office and director;
- 19 ▶ converts the Committee of Consumer Services to an advisory committee; and
- 20 ▶ makes technical and conforming amendments.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **54-7-12.8**, as enacted by Laws of Utah 2002, Chapter 319



28 ENACTS:

29 **54-10a-101**, Utah Code Annotated 1953

30 **54-10a-302**, Utah Code Annotated 1953

31 RENUMBERS AND AMENDS:

32 **54-10a-102**, (Renumbered from 54-10-1, as enacted by Laws of Utah 1977, Chapter 54)

33 **54-10a-201**, (Renumbered from 54-10-5, as last amended by Laws of Utah 1995,
34 Chapters 20 and 215)

35 **54-10a-202**, (Renumbered from 54-10-2, as last amended by Laws of Utah 2002,
36 Chapter 176)

37 **54-10a-203**, (Renumbered from 54-10-7, as last amended by Laws of Utah 1995,
38 Chapter 20)

39 **54-10a-301**, (Renumbered from 54-10-4, as enacted by Laws of Utah 1977, Chapter 54)

40 **54-10a-303**, (Renumbered from 54-10-4.5, as enacted by Laws of Utah 1981, Chapter
41 216)

42 REPEALS:

43 **54-10-3**, as last amended by Laws of Utah 1996, Chapter 243

44 **54-10-6**, as enacted by Laws of Utah 1977, Chapter 54



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **54-7-12.8** is amended to read:

48 **54-7-12.8. Electric energy efficiency and conservation tariff.**

49 (1) As used in this section, "demand side management" means activities or programs
50 that promote electric energy efficiency or conservation or more efficient management of
51 electric energy loads.

52 (2) As provided in this section, the commission may approve a tariff under which an
53 electrical corporation includes a line item charge on its customers' bills to recover costs
54 incurred by the electrical corporation for demand side management.

55 (3) Each electrical corporation proposing a tariff under this section shall, before
56 submitting the tariff to the commission for approval, seek and receive input from:

57 (a) the Division of Public Utilities;

58 (b) the [~~Committee of~~] Office of Consumer Services created in Section 54-10a-201;

59 and

60 (c) other interested parties.

61 (4) Before approving a tariff under this section, the commission shall hold a hearing if:

62 (a) requested in writing by the electrical corporation, a customer of the electrical
63 corporation, or any other interested party within 15 days after the tariff filing; or

64 (b) the commission determines that a hearing is appropriate.

65 (5) The commission may approve a tariff under this section either with or without a
66 provision allowing an end-use customer to receive a credit against the charges imposed under
67 the tariff for electric energy efficiency measures that:

68 (a) the customer implements or has implemented at the customer's expense; and

69 (b) qualify for the credit under criteria established by the Utah Public Service
70 Commission.

71 (6) In approving a tariff under this section, the commission may impose whatever
72 conditions or limits it considers appropriate, including a maximum annual cost.

73 (7) Unless otherwise ordered by the commission, each tariff under this section
74 approved by the commission shall take effect no sooner than 30 days after the electrical
75 corporation files the tariff with the commission.

76 Section 2. Section **54-10a-101** is enacted to read:

77 **CHAPTER 10a. OFFICE OF CONSUMER SERVICES ACT**

78 **Part 1. General Provisions**

79 **54-10a-101. Title.**

80 This chapter is known as the "Office of Consumer Services Act."

81 Section 3. Section **54-10a-102**, which is renumbered from Section 54-10-1 is
82 renumbered and amended to read:

83 **[54-10-1]. 54-10a-102. Definitions.**

84 For the purpose of this [act] chapter:

85 (1) "Applicable public utility" means a public utility in this state for:

86 (a) natural gas;

87 (b) electricity; or

88 (c) telephone.

89 (2) "Committee" means the Committee of Consumer Services created in Section

90 54-10a-202.

91 (3) "Director" means the director of the office appointed under Section 54-10a-201.

92 ~~H→ [(4) "Executive director" means the executive director of the Department of Commerce.~~

93 ~~— (5) (4) ←H "Office" means the Office of Consumer Services created in Section 54-10a-201.~~

94 [(+) H→ [(6) (5) ←H "Residential consumer" is a customer or user of [a natural gas,
94a electric or

95 telephone] an applicable public utility who maintains a permanent [place of abode] residence
96 within the state [of Utah].

97 [(2) H→ [(7) (6) ←H "Small commercial consumer" is a person [or entity] conducting a
97a business

98 [or] enterprise, agriculture enterprise, or other enterprise in the state [of Utah having] that has:

99 (a) less than 25 employees; or

100 (b) a gross income less than \$1,000,000 annually.

101 Section 4. Section **54-10a-201**, which is renumbered from Section 54-10-5 is
102 renumbered and amended to read:

103 Part 2. Organization

104 ~~[54-10-5].~~ **54-10a-201. Office of Consumer Services -- Director.**

105 (1) There is created within the Department of Commerce the "Office of Consumer
106 Services."

107 [(+) (2) (a) The governor shall appoint, with the H→ [f] ←H concurrence of the
107a Committee of

108 Consumer Services H→ [f] and the ←H consent of the Senate, a qualified person in the field of
108a public utilities

109 [who may carry out the policies and directives of the Committee of Consumer Services:] to be
110 the director of the office.

111 [(2) This person shall:]

112 (b) The director shall serve for a term of S→ [four] six ←S years.

113 (c) For purposes of the individual who is the director on May 12, 2009, that
114 individual's S→ [four] six ←S -year term is considered to begin on July 1, 2009.

114a S→ (d) The governor may remove the director for cause. ←S

115 (3) In accordance with this chapter, the director shall on behalf of the office:

116 (a) represent residential consumers and small commercial consumers of [natural gas,
117 electric, or telephone utilities in Utah] an applicable public utility; and

118 (b) represent the interests of:

119 (i) residential consumers; and

120 (ii) small commercial consumers[, as directed by the Committee of Consumer

121 Services].

122 Section 5. Section ~~54-10a-202~~, which is renumbered from Section 54-10-2 is
123 renumbered and amended to read:

124 ~~[54-10-2].~~ 54-10a-202. Committee of Consumer Services.

125 (1) (a) There is created within the [~~Division of Public Utilities of the Department of~~
126 ~~Commerce a~~] office ~~H→~~ [an advisory] a ←H committee known as the "Committee of Consumer
126a Services."

127 (b) ~~[All members]~~ A member of the committee shall maintain [their] the member's
128 principal [place of abode] residence within Utah.

129 (2) (a) The [~~six members shall be appointed by the~~] governor [~~with the consent of the~~
130 ~~Senate~~] shall appoint nine members to the committee subject to Subsection (3).

131 (b) Except as required by Subsection (2)(c), as terms of current committee members
132 expire, the governor shall appoint ~~[each] a~~ new member or reappointed member to a four-year
133 term.

134 (c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the
135 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
136 committee members are staggered so that approximately half of the committee is appointed
137 every two years.

138 (d) When a vacancy occurs in the membership for any reason, the governor shall
139 appoint a replacement [shall be appointed] for the unexpired term.

140 (3) Members of the committee shall represent the following geographic and consumer
141 interests:

142 (a) one member shall be from Salt Lake City, Provo, or Ogden;

143 (b) one member shall be from a city other than Salt Lake City, Provo, or Ogden;

144 (c) one member shall be from an unincorporated area of the state;

145 (d) one member shall be a low-income resident;

146 (e) one member shall be a retired person;

147 (f) one member shall be a small commercial consumer;

148 (g) one member shall be a farmer or rancher who uses electric power to pump water in
149 [his] the member's farming or ranching operation; ~~[and]~~

150 (h) one member shall be a residential consumer[-]; and

151 (i) one member shall be appointed to provide geographic diversity on the committee to

152 ensure to the extent possible that all areas of the state are represented.

153 (4) ~~H~~→ [F] (a) [H] ←~~H~~ No more than [~~three~~] five members of the committee shall
153a be from the same
154 political party.

154a ~~H~~→ (b) Subject to Subsection (3), for a member of the committee appointed on or after
154b May 12, 2009, the governor shall appoint, to the extent possible, an individual with expertise or
154c experience in:

154d (i) public utility matters related to consumers;

154e1 (ii) economics;

154e (iii) accounting;

154f (iv) financing;

154g (v) engineering; or

154h (vi) public utilities law. ←~~H~~

155 [~~(b)~~] (5) The governor shall designate one member as chair of the committee.

156 (6) (a) A member of the committee may not receive compensation or benefits for the
157 member's services, but may receive per diem and expenses incurred in the performance of the
158 member's official duties at the rates established by the Division of Finance under Sections
159 63A-3-106 and 63A-3-107.

160 (b) A member may decline to receive per diem and expenses for the member's service.

161 (7) (a) The committee may hold monthly meetings.

162 (b) The committee may hold other meetings, at the times and places the chair and a
163 majority of the committee determine.

164 (8) (a) Five members of the committee constitute a quorum of the committee.

165 (b) A majority of members voting when a quorum is present constitutes an action of
166 the committee.

167 Section 6. Section **54-10a-203**, which is renumbered from Section 54-10-7 is
168 renumbered and amended to read:

169 **[54-10-7]. 54-10a-203. Attorney general to represent office.**

170 (1) The attorney general shall assign [~~not less than~~] at least one attorney to the
171 [~~Committee of Consumer Services of the Department of Commerce~~] office to represent the
172 [~~Committee of Consumer Services~~] office. [~~It shall be the duty of such attorney to represent the~~
173 ~~Committee of Consumer Services at all hearings or other proceedings~~]

174 (2) An attorney assigned to the office under Subsection (1) shall represent the office at
175 a hearing or other proceeding affecting the services, rates, or charges of [natural gas, electric or
176 telephone utilities in the state of Utah. He or she may prosecute all actions which the
177 Committee of Consumer Services deems necessary] an applicable public utility.

178 (3) An attorney assigned to the office may prosecute an action that the office considers
179 necessary to enforce the rights of residential consumers and small commercial consumers of
180 [such utilities] an applicable public utility.

181 Section 7. Section **54-10a-301**, which is renumbered from Section 54-10-4 is

182 renumbered and amended to read:

183 **Part 3. Powers and Duties of Office**

184 ~~[54-10-4].~~ **54-10a-301. Powers and duties of office.**

185 ~~[The Committee of Consumer Services shall have the following duties and~~

186 ~~responsibilities:]~~

187 (1) The ~~[committee]~~ office shall:

188 (a) assess the impact of utility rate changes and other regulatory actions related to an

189 applicable public utility on:

190 (i) residential consumers; and [those engaged in]

191 (ii) small commercial [enterprises in the state of Utah.] consumers;

192 ~~[(2) The committee shall]~~

193 (b) assist a residential [consumers and those engaged in] consumer or a small

194 commercial [enterprises] consumer in appearing before the [Public Service Commission of the

195 state of Utah.] commission; and

196 ~~[(3) The committee shall be an]~~

197 (c) through its director, advocate, on [its] the office's own behalf and in its own name,

198 [of positions] a position most advantageous to [a majority of]:

199 (i) residential consumers [as determined by the committee and those engaged in]; and

200 (ii) small commercial [enterprises, and] consumers.

201 (2) (a) The director may bring an original [actions in its own] action in the name of the

202 office before [the Public Service Commission of this state or any]:

203 (i) the commission; or

204 (ii) a court having appellate jurisdiction over [orders or decisions of the Public Service

205 Commission, as the committee in its discretion may direct] an order or decision of the

206 commission.

207 (b) The director on behalf of the office may:

208 (i) commence an original proceeding, file a complaint, appear as a party, appeal, or

209 otherwise represent residential consumers or small commercial consumers in a matter or a

210 proceeding involving regulation of an applicable public utility pending before one or more of

211 the following of the federal government:

212 (A) an officer, department, board, agency, commission, or governmental authority; or

213 (B) a court; or

214 (ii) intervene in, protest, resist, or advocate the granting, denial, or modification of a
 215 petition, application, complaint, or other proceeding, decision, or order of a governmental
 216 authority of the federal government.

217 Section 8. Section **54-10a-302** is enacted to read:

218 **54-10a-302.** ~~H→~~ [~~Committee is advisory~~] **Powers of committee** ~~←H~~ .

219 ~~H→~~ [~~The~~] **By a majority vote of a quorum of the committee, the** ~~←H~~ committee
 219a ~~H→~~ [~~shall~~] **may:**

219b **(1)** ~~←H~~ advise the director as to ~~H→~~ [~~any~~] **a** ~~←H~~ duty or power of the office under
 220 Section 54-10a-301 ~~H→~~ ; **and**

220a **(2)** give direction to the director on a policy objective related to a duty or power of the
 220b office under Section 54-10a-301 that serves the needs of residential consumers and small
 220c commercial consumers ~~←H~~ .

221 Section 9. Section **54-10a-303**, which is renumbered from Section 54-10-4.5 is
 222 renumbered and amended to read:

223 ~~[54-10-4.5].~~ **54-10a-303. Representation of electric power utility prohibited.**

224 The [~~Committee of Consumer Services shall~~] office, director, or committee may not
 225 represent, assist, or be an advocate on behalf of [any city or municipal electric power utility] a
 226 municipality, as defined in Section 10-1-104, that generates, transmits, or distributes electrical
 227 energy.

228 Section 10. **Repealer.**

229 This bill repeals:

230 Section **54-10-3, Per diem and expenses of members -- Meetings.**

231 Section **54-10-6, Review of public utility accounting procedures and expenditures.**

Legislative Review Note
 as of 2-20-09 1:35 PM

Office of Legislative Research and General Counsel

S.B. 214 - Office of Consumer Services Act

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
