

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 Office 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;
 - 17 • addressing terms; and
 - 18 • addressing removal;
- 19 ▶ addresses provisions relating to the Committee of Consumer Services within the
20 office, including:
 - 21 • addressing membership;
 - 22 • addressing appointment; and
 - 23 • addressing committee procedures and requirements;
- 24 ▶ establishes the powers and duties of the office, committee, and director;
- 25 ▶ addresses attorney general representation of the office; and
- 26 ▶ makes technical and conforming amendments.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **54-7-12.8**, as enacted by Laws of Utah 2002, Chapter 319

34 ENACTS:

35 **54-10a-101**, Utah Code Annotated 1953

36 **54-10a-302**, Utah Code Annotated 1953

37 RENUMBERS AND AMENDS:

38 **54-10a-102**, (Renumbered from 54-10-1, as enacted by Laws of Utah 1977, Chapter
39 54)

40 **54-10a-201**, (Renumbered from 54-10-5, as last amended by Laws of Utah 1995,
41 Chapters 20 and 215)

42 **54-10a-202**, (Renumbered from 54-10-2, as last amended by Laws of Utah 2002,
43 Chapter 176)

44 **54-10a-203**, (Renumbered from 54-10-7, as last amended by Laws of Utah 1995,
45 Chapter 20)

46 **54-10a-301**, (Renumbered from 54-10-4, as enacted by Laws of Utah 1977, Chapter
47 54)

48 **54-10a-303**, (Renumbered from 54-10-4.5, as enacted by Laws of Utah 1981, Chapter
49 216)

50 REPEALS:

51 **54-10-3**, as last amended by Laws of Utah 1996, Chapter 243

52 **54-10-6**, as enacted by Laws of Utah 1977, Chapter 54

53

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

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

56 **54-7-12.8. Electric energy efficiency and conservation tariff.**

57 (1) As used in this section, "demand side management" means activities or programs

58 that promote electric energy efficiency or conservation or more efficient management of
59 electric energy loads.

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

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

- 65 (a) the Division of Public Utilities;
- 66 (b) the [~~Committee of~~] Office of Consumer Services created in Section 54-10a-201;

67 and

- 68 (c) other interested parties.

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

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

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

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

- 76 (a) the customer implements or has implemented at the customer's expense; and
- 77 (b) qualify for the credit under criteria established by the Utah Public Service
78 Commission.

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

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

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

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

Part 1. General Provisions

54-10a-101. Title.

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

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

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

For the purpose of this [act] chapter:

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

- (a) natural gas;
(b) electricity; or
(c) telephone.

(2) "Committee" means the Committee of Consumer Services created in Section 54-10a-202.

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

(4) "Office" means the Office of Consumer Services created in Section 54-10a-201.

[(+)] (5) "Residential consumer" is a customer or user of [a natural gas, electric or telephone] an applicable public utility who maintains a permanent [place of abode] residence within the state [of Utah].

[(2)] (6) "Small commercial consumer" is a person [or entity] conducting a business [or] enterprise, agriculture enterprise, or other enterprise in the state [of Utah having] that has:

- (a) less than 25 employees; or
(b) a gross income less than \$1,000,000 annually.

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

Part 2. Organization

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

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

114 ~~[(1)]~~ (2) (a) The governor shall appoint, with the concurrence of the Committee of
 115 Consumer Services and the consent of the Senate, a qualified person in the field of public
 116 utilities ~~[who may carry out the policies and directives of the Committee of Consumer~~
 117 ~~Services.]~~ to be the director of the office.

118 ~~[(2) This person shall:]~~

119 (b) The director shall serve for a term of six years.

120 (c) For purposes of the individual who is the director on May 12, 2009, that
 121 individual's six-year term is considered to begin on July 1, 2009.

122 (d) The governor may remove the director for cause.

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

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

126 (b) represent the interests of:

127 (i) residential consumers; and

128 (ii) small commercial consumers~~[, as directed by the Committee of Consumer~~
 129 ~~Services].~~

130 Section 5. Section **54-10a-202**, which is renumbered from Section 54-10-2 is
 131 renumbered and amended to read:

132 ~~[54-10-2].~~ **54-10a-202. Committee of Consumer Services.**

133 (1) (a) There is created within the ~~[Division of Public Utilities of the Department of~~
 134 ~~Commerce a]~~ office a committee known as the "Committee of Consumer Services."

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

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

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

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

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

148 (3) Members of the committee shall represent the following geographic and consumer
149 interests:

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

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

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

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

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

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

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

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

159 (i) one member shall be appointed to provide geographic diversity on the committee to
160 ensure to the extent possible that all areas of the state are represented.

161 (4) (a) No more than [~~three~~] five members of the committee shall be from the same
162 political party.

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

166 (i) public utility matters related to consumers;

167 (ii) economics;

168 (iii) accounting;

169 (iv) financing;

170 (v) engineering; or

171 (vi) public utilities law.

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

173 (6) (a) A member of the committee may not receive compensation or benefits for the
 174 member's services, but may receive per diem and expenses incurred in the performance of the
 175 member's official duties at the rates established by the Division of Finance under Sections
 176 63A-3-106 and 63A-3-107.

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

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

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

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

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

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

186 **[54-10-7]. 54-10a-203. Attorney general to represent office.**

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

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

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

198 Section 7. Section **54-10a-301**, which is renumbered from Section 54-10-4 is
199 renumbered and amended to read:

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

201 ~~[54-10-4].~~ **54-10a-301. Powers and duties of office.**

202 ~~[The Committee of Consumer Services shall have the following duties and~~
203 ~~responsibilities:]~~

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

205 (a) assess the impact of utility rate changes and other regulatory actions related to an
206 applicable public utility on:

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

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

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

210 (b) assist a residential ~~[consumers and those engaged in]~~ consumer or a small
211 commercial ~~[enterprises]~~ consumer in appearing before the ~~[Public Service Commission of the~~
212 ~~state of Utah.]~~ commission; and

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

214 (c) through its director, advocate, on ~~[its]~~ the office's own behalf and in its own name,
215 ~~[of positions]~~ a position most advantageous to ~~[a majority of]:~~

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

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

218 (2) (a) The director may bring an original ~~[actions in its own]~~ action in the name of the
219 office before ~~[the Public Service Commission of this state or any]:~~

220 (i) the commission; or

221 (ii) a court having appellate jurisdiction over ~~[orders or decisions of the Public Service~~
222 ~~Commission, as the committee in its discretion may direct]~~ an order or decision of the
223 commission.

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

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

226 otherwise represent residential consumers or small commercial consumers in a matter or a
227 proceeding involving regulation of an applicable public utility pending before one or more of
228 the following of the federal government:

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

230 (B) a court; or

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

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

235 **54-10a-302. Powers of committee.**

236 By a majority vote of a quorum of the committee, the committee may:

237 (1) advise the director as to a duty or power of the office under Section 54-10a-301;

238 and

239 (2) give direction to the director on a policy objective related to a duty or power of the
240 office under Section 54-10a-301 that serves the needs of residential consumers and small
241 commercial consumers.

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

244 ~~[54-10-4.5].~~ **54-10a-303. Representation of municipal electrical energy utility**
245 **prohibited.**

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

250 Section 10. **Repealer.**

251 This bill repeals:

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

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

