

Representative Fred R Hunsaker proposes the following substitute bill:

OFFICE OF CONSUMER SERVICES ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: John Dougall

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ enacts the Office of Consumer Services Act;
- ▶ creates the Office of Consumer Services within the Department of Commerce;
- ▶ establishes a director of the office, including:
 - addressing appointment;
 - addressing terms; and
 - addressing removal;
- ▶ establishes the duties of the office and director;
- ▶ converts the Committee of Consumer Services to an advisory committee with power of consent; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **54-7-12.8**, as enacted by Laws of Utah 2002, Chapter 319

30 ENACTS:

31 **54-10a-101**, Utah Code Annotated 1953

32 **54-10a-302**, Utah Code Annotated 1953

33 RENUMBERS AND AMENDS:

34 **54-10a-102**, (Renumbered from 54-10-1, as enacted by Laws of Utah 1977, Chapter 54)

35 **54-10a-201**, (Renumbered from 54-10-5, as last amended by Laws of Utah 1995,

36 Chapters 20 and 215)

37 **54-10a-202**, (Renumbered from 54-10-2, as last amended by Laws of Utah 2002,

38 Chapter 176)

39 **54-10a-203**, (Renumbered from 54-10-7, as last amended by Laws of Utah 1995,

40 Chapter 20)

41 **54-10a-301**, (Renumbered from 54-10-4, as enacted by Laws of Utah 1977, Chapter 54)

42 **54-10a-303**, (Renumbered from 54-10-4.5, as enacted by Laws of Utah 1981, Chapter

43 216)

44 REPEALS:

45 **54-10-3**, as last amended by Laws of Utah 1996, Chapter 243

46 **54-10-6**, as enacted by Laws of Utah 1977, Chapter 54



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

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

50 **54-7-12.8. Electric energy efficiency and conservation tariff.**

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

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

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

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

61 and

- 62 (c) other interested parties.

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

- 64 (a) requested in writing by the electrical corporation, a customer of the electrical
65 corporation, or any other interested party within 15 days after the tariff filing; or
- 66 (b) the commission determines that a hearing is appropriate.

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

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

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

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

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

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

80 **Part 1. General Provisions**

81 **54-10a-101. Title.**

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

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

85 **[54-10-1]. 54-10a-102. Definitions.**

86 For the purpose of this ~~[act]~~ chapter:

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

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

91 (2) "Committee" means the Committee of Consumer Services created in Section
 92 54-10a-202.

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

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

95 [~~(4)~~] (5) "Residential consumer" is a customer or user of [a natural gas, electric or
 96 telephone] an applicable public utility who maintains a permanent [place of abode] residence
 97 within the state [of Utah].

98 [~~(2)~~] (6) "Small commercial consumer" is a person [or entity] conducting a business
 99 [or] enterprise, agriculture enterprise, or other enterprise in the state [of Utah having] that has:

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

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

Part 2. Organization

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

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

108 [~~(1)~~] (2) (a) The governor shall appoint, with the [concurrence of the Committee of
 109 Consumer Services] consent of the Senate, a qualified person in the field of public utilities
 110 [who may carry out the policies and directives of the Committee of Consumer Services.] to be
 111 the director of the office.

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

- 113 (b) The director shall serve for a term of six years.
- 114 (c) For purposes of the individual who is the director on May 12, 2009, that
 115 individual's six-year term is considered to begin on July 1, 2009.

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

117 (3) In accordance with this chapter, the director shall, on behalf of the office, and
 118 subject to the consent of the committee to the extent required in Section 54-10a-301:

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

121 (b) represent the interests of:

122 (i) residential consumers; and

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

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

127 **~~[54-10-2].~~ 54-10a-202. Committee of Consumer Services.**

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

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

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

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

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

141 (d) When a vacancy occurs in the membership for any reason, the governor, with the
142 consent of the Senate, shall appoint a replacement [~~shall be appointed~~] for the unexpired term.

143 (3) Members of the committee shall represent the following geographic and consumer
144 interests:

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

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

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

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

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

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

151 (g) one member shall be a farmer or rancher who uses electric power to pump water in

152 ~~his~~ the member's farming or ranching operation; ~~and~~

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

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

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

156 (4) (a) No more than ~~three~~ five members of the committee shall be from the same

157 political party.

158 (b) Subject to Subsection (3), for a member of the committee appointed on or after

159 May 12, 2009, the governor shall appoint, to the extent possible, an individual with expertise or

160 experience in:

161 (i) public utility matters related to consumers;

162 (ii) economics;

163 (iii) accounting;

164 (iv) financing;

165 (v) engineering;

166 (vi) planning; or

167 (vii) public utilities law.

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

169 (6) (a) A member of the committee may not receive compensation or benefits for the

170 member's services, but may receive per diem and expenses incurred in the performance of the

171 member's official duties at the rates established by the Division of Finance under Sections

172 63A-3-106 and 63A-3-107.

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

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

175 (b) The committee may hold other meetings, at the times and places the chair and a

176 majority of the committee determine.

177 (8) (a) Seven members of the committee constitute a quorum of the committee.

178 (b) An action of the committee requires:

179 (i) that a quorum be present; and

180 (ii) a vote of five members of the committee.

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

183 ~~[54-10-7].~~ **54-10a-203. Attorney general to represent office.**

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

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

192 (3) An attorney assigned to the office may prosecute an action that the director of the
 193 office considers necessary, subject to the consent of the committee in accordance with Section
 194 54-10a-302, to enforce the rights of residential consumers and small commercial consumers of
 195 ~~[such utilities]~~ an applicable public utility.

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

198 Part 3. Powers and Duties

199 ~~[54-10-4].~~ **54-10a-301. Powers and duties of office and director.**

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

202 (1) The ~~[committee]~~ office, through its director, and subject to the consent of the
 203 committee in accordance with Section 54-10a-302 shall:

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

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

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

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

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

212 ~~[(3) The committee shall be an]~~
213 (c) advocate, on [its] the office's own behalf and in its own name, [of positions] a
214 position most advantageous to [a majority of]:

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

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

217 (2) (a) The director, with the consent of the committee in accordance with Section
218 54-10a-302, may bring an original [actions in its own] action in the name of the office before
219 [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, with the consent of the committee in
225 accordance with Section 54-10a-302, may:

226 (i) commence an original proceeding, file a complaint, appear as a party, appeal, or
227 otherwise represent residential consumers or small commercial consumers in a matter or a
228 proceeding involving regulation of an applicable public utility pending before one or more of
229 the following of the federal government:

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

231 (B) a court; or

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

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

236 **54-10a-302. Committee is advisory with power of consent.**

237 (1) The committee shall advise the director as to any duty or power of the director or
238 office under Section 54-10a-301.

239 (2) If an action of the director or office is subject to the consent of the committee under
240 this chapter, consent requires the vote of five members of the committee at a meeting of the
241 committee.

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 electric power utility prohibited.**

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

249 Section 10. **Repealer.**

250 This bill repeals:

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

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