

EXISTING LEGISLATION ON CITIZENS UTILITY BOARDS

By Robert Gould

CUB Illinois

The Illinois Legislature formed the Citizens Utility Board (CUB) in 1983 to serve as a voice for residential and small-business utility ratepayers. CUB is a nonpartisan, nonprofit statewide organization funded by Illinois consumers and a grant from the Illinois Clean Energy Community Trust. Though created by the state, CUB receives no state tax dollars. CUB is guided by a 20-member board of directors, with one director elected by dues-paying CUB members in each of Illinois' Congressional Districts. Working as volunteers, board members determine CUB's policy and budget and serve as local representatives for the organization.

“The Purpose of this Act is to promote the health, welfare and prosperity of all the citizens of this State by ensuring effective and democratic representation of utility consumers...Such purpose shall be deemed a statewide interest and not a private or special concern.” *Citizens Utility Board Act Illinois Revised Statutes, Ch. 111 2/3, Sec. 902*

When the Illinois General Assembly created CUB in 1983, it gave the nonprofit, nonpartisan organization a clear mission: to represent the interests of residential utility customers across the state. The statute directs CUB to carry out that mission by intervening in ratemaking proceedings before the Illinois Commerce Commission (ICC), in the courts and before other public bodies and by providing consumers with information and assistance regarding their utility companies. Since its inception in 1984, CUB has been doing just that—working for lower rates and better service from the state’s investor-owned electric, gas and telephone companies. Over the last 17 years, CUB has saved consumers more than \$5 billion by blocking rate hikes and winning consumer refunds.

CUB - Wisconsin

The purpose of this organisation is to 1) ensure effective and democratic representation of residential, farm and small business utility customers before regulatory agencies; 2) ensure effective and democratic representation of residential, farm and small business utility customers before the legislature and other public bodies; and 3) provide education on utility service costs and on the benefits and methods of energy conservation for consumers.

- CUB fought and stopped the proposed USD 6 billion merger between Wisconsin Electric Power and Northern States Power, a Minnesota-based utility. The merger would have been the largest in US history, caused higher rates, fewer good Wisconsin jobs, and poorer service.
- CUB saved WEPCO ratepayers USD 75 million by hiring a nuclear expert that proved to the PSC [Public Service Commission] that WEPCO mismanagement caused the lengthy shutdown of the Point Beach nuclear plant in 1997. The PSC denied 75% of WEPCO’s request to increase rates by USD 100 million to pay for nuclear cost overruns.
- CUB was the leading consumer advocate for the passage of Wisconsin’s 1998 Electric Reliability Act.

CUB - Oregon

Website getting updated – no information available, except for law authorising the CUB (following.

Chapter 774 — Citizens' Utility Board

2001 EDITION

774.010 Definitions. As used in this chapter, except as otherwise specifically provided or unless the context requires otherwise:

- (1) "Board" means the Citizens' Utility Board of Governors.
- (2) "Consumer" or "utility consumer" means any natural person 18 years of age or older who is a resident of the State of Oregon.
- (3) "District" means an electoral district for members of the Citizens' Utility Board of Governors.
- (4) "Member" means a member of the Citizens' Utility Board.
- (5) "Utility" means any utility regulated by the Public Utility Commission pursuant to ORS chapters 757 and 759, which furnishes electric, telephone, gas or heating service. However, "utility" does not include any municipality, cooperative, or people's utility district. [1985 c.1 §2; 1987 c.447 §102]

774.020 Policy. The people of the State of Oregon hereby find that utility consumers need an effective advocate to assure that public policies affecting the quality and price of utility services reflect their needs and interests, that utility consumers have the right to form an organization which will represent their interests before legislative, administrative and judicial bodies, and that utility consumers need a convenient manner of contributing to the funding of such an organization so that it can advocate forcefully and vigorously on their behalf concerning all matters of public policy affecting their health, welfare and economic well-being. [1985 c.1 §1]

774.030 Citizens' Utility Board; powers. (1) The Citizens' Utility Board is hereby created as an independent nonprofit public corporation and is authorized to carry out the provisions of this chapter.

(2) The Citizens' Utility Board has perpetual succession and it may sue and be sued, and may in its own name purchase and dispose of any interest in real and personal property, and shall have such other powers as are granted to corporations by ORS 65.077. No part of its net earnings shall inure to the benefit of any individual or member of the Citizens' Utility Board.

(3) The Citizens' Utility Board shall have all rights and powers necessary to represent and protect the interests of utility consumers, including but not limited to the following powers:

(a) To conduct, fund or contract for research, studies, plans, investigations, demonstration projects and surveys.

(b) To represent the interests of utility consumers before legislative, administrative and judicial bodies.

(c) To accept grants, contributions and appropriations from any source, and to contract for services.

(d) To adopt and modify bylaws governing the activities of the Citizens' Utility Board. [1985 c.1 §3; 1989 c.1010 §179]

774.040 Membership on board. (1) All consumers are eligible for membership in the Citizens' Utility Board. A consumer shall become a member of the Citizens' Utility Board upon contribution of at least \$5 but not more than \$100 per year to the Citizens' Utility Board. Each member shall be entitled to cast one vote for the election of the Citizens' Utility Board of Governors. The board shall establish a method whereby economically disadvantaged individuals may become members of the Citizens' Utility Board without full payment of the yearly contribution.

(2) Each year the Citizens' Utility Board shall cause to be prepared, by a certified public accountant authorized to do business in this state, an audit of its financial affairs. The audit is a public record subject to inspection in the manner provided in ORS 192.410 to 192.505. [1985 c.1 §9]

774.060 Board of Governors; duties; executive committee. The Citizens' Utility Board of Governors shall manage the affairs of the Citizens' Utility Board. The board may delegate to an executive committee composed of not fewer than five members of the board the authority as would be allowed by ORS 65.354. [1985 c.1 §4; 1989 c.1010 §180]

774.070 Election of board; term; qualifications; statement of financial interest; disqualification of candidate; recall; vacancies. (1) The Citizens' Utility Board of Governors shall be comprised of three persons elected from each congressional district described in ORS 188.135 by a majority of the votes cast by members residing in that district. The election shall be conducted by mail ballot in such manner as the Citizens' Utility Board of Governors may prescribe.

(2) The term of office of a member of the Citizens' Utility Board of Governors is four years. No person may serve more than two consecutive terms on the Citizens' Utility Board of Governors.

(3) Each candidate and each member of the Citizens' Utility Board of Governors must be a member of the Citizens' Utility Board and must be a resident of the district from which the candidate seeks to be or is elected.

(4) At least 45 days before an election each candidate shall file with the Citizens' Utility Board of Governors a statement of financial interests, which shall contain the information in such form as the Citizens' Utility Board of Governors shall determine. Each candidate shall maintain a complete record of contributions received

and expenditures made with regard to an election campaign. Each candidate shall make the records available for public inspection at such reasonable times as the Citizens' Utility Board of Governors considers appropriate.

(5) No member who is employed by a utility shall be eligible for appointment or election to the Citizens' Utility Board of Governors, and no member of the Citizens' Utility Board of Governors who obtains employment by a utility may maintain a position on the Citizens' Utility Board of Governors. While on the board, no director elected under this section may hold elective public office, be a candidate for any elective public office, or be a state public official. No person who owns or controls, either singly or in combination with any immediate family member, utility stocks or bonds of a total value in excess of \$3,000 is eligible to serve as an elected member of the Citizens' Utility Board of Governors.

(6) The Citizens' Utility Board of Governors may disqualify any candidate or member of the Citizens' Utility Board of Governors for any violation of this chapter or of the bylaws of the Citizens' Utility Board.

(7) Upon petition signed by 20 percent of the members in a district for the recall of a member of the Citizens' Utility Board of Governors elected from the district, the Citizens' Utility Board of Governors shall mail ballots to each member in the district, submitting the question whether the member of the Citizens' Utility Board of Governors shall be recalled. If a majority of the members voting at the election vote in favor of the recall, then the member of the Citizens' Utility Board of Governors shall be recalled. Elections and recall proceedings shall be conducted in a manner as the Citizens' Utility Board of Governors may prescribe. Ballots for all election and recall proceedings shall be counted at a regular meeting of the Citizens' Utility Board of Governors.

(8) The remaining members of the Citizens' Utility Board of Governors shall have the power to fill vacancies on the Citizens' Utility Board of Governors. [1985 c.1 §6; 1997 c.249 §222]

774.110 Meetings. All meetings of the Citizens' Utility Board of Governors shall be open to the public, except under the same circumstances in which a public agency would be allowed to hold executive meetings under ORS 192.660. [1985 c.1 §8]

774.120 Inclusion of information in utility billings; frequency; notice; duty of utility to forward board mail. (1) Upon request by the Citizens' Utility Board pursuant to this section, each utility shall include in billings to a utility consumer materials prepared and furnished by the Citizens' Utility Board, not exceeding in folded size the dimensions of the envelope customarily used by such utility to send billings to its customers.

(2) The Citizens' Utility Board shall not intentionally make any false material statement in any material submitted to a utility for inclusion with a billing. If the utility believes that the Citizens' Utility Board has intentionally made false material statements in an enclosure, it may file a complaint with the Public Utility Commission

of Oregon within five days of receipt. The Public Utility Commission of Oregon must review the complaint within 10 days, and if the commission determines that the Citizens' Utility Board has intentionally made false material statements, the commission shall give the Citizens' Utility Board of Governors written notification that specifies any false material statements made and the reasons why the commission determines the statements to be false.

(3) No utility shall be required to enclose Citizens' Utility Board material with a billing more than six times in any calendar year.

(4) The Citizens' Utility Board shall notify a utility of its intention to include under the provisions of this chapter any material in any specified periodic billing or billings not fewer than 30 calendar days prior to the mailing of the periodic billings and shall supply the utility with the material not fewer than 20 calendar days prior to the mailing of the periodic billings.

(5) All material submitted by the Citizens' Utility Board for inclusion in a utility billing must include the return address of the Citizens' Utility Board. A utility is not required to deliver or forward to the Citizens' Utility Board material intended for the Citizens' Utility Board mistakenly sent to the utility. However, a utility shall retain such materials for a period of 60 days from the date of receipt. The utility shall notify the Citizens' Utility Board that such materials have been received and make these materials available to the Citizens' Utility Board on demand. [1985 c.1 §10]

774.130 Mailing costs; reimbursement. (1) The Citizens' Utility Board shall not be required to pay any postage charges for materials submitted by the Citizens' Utility Board for inclusion in a utility billing if such materials weigh four-tenths of one ounce avoirdupois or less. If the materials submitted weigh over four-tenths of one ounce avoirdupois, then the Citizens' Utility Board shall reimburse the utility for a portion of the postage costs which is equal to that portion of the Citizens' Utility Board material over four-tenths of one ounce avoirdupois in proportion to the total weight of the billing. In addition to postage costs, the Citizens' Utility Board shall reimburse such other reasonable costs, as determined by the Public Utility Commission of Oregon, incurred by a utility in complying with ORS 774.120.

(2) Reimbursement of a utility by the Citizens' Utility Board shall be made within 60 days of the date the utility submits to the Citizens' Utility Board an itemized statement of the costs incurred by the utility. In no event shall such reimbursement exceed the fair market value for the services provided by the utility. [1985 c.1 §11]

774.140 Interference with mailings or contributions prohibited. (1) No utility, nor any of its employees, officers, members of the board of directors, agents, contractors or assignees, shall in any manner interfere with, delay, alter or otherwise discourage the distribution of any material or statement authorized by the provisions of this chapter for inclusion in periodic utility billings, nor in any manner interfere with, hamper, hinder or otherwise infringe upon a utility consumer's

right to contribute to Citizens' Utility Board, nor in any manner hamper, hinder, harass, penalize or retaliate against any utility consumer because of the consumer's contribution to, or participation in, any activities of the Citizens' Utility Board.

(2) No utility may change its mailing, accounting, or billing procedures if such change will hamper, hinder, or otherwise interfere with the ability of the Citizens' Utility Board to distribute materials or statements authorized by this chapter. [1985 c.1 §12]

774.160 Disposition of complaints. Citizens' Utility Board may submit to the appropriate agency any complaint it receives regarding a utility company. Public agencies shall periodically inform Citizens' Utility Board of any action taken on complaints received pursuant to this section. [1985 c.1 §13]

774.180 Intervening in agency proceedings affecting utility consumers; standing to obtain judicial or administrative review. Notwithstanding any other provision of law:

(1) Whenever the board determines that any agency proceeding may affect the interests of utility consumers, Citizens' Utility Board may intervene as of right as an interested party or otherwise participate in the proceeding.

(2) Citizens' Utility Board shall have standing to obtain judicial or administrative review of any agency action, and may intervene as of right as a party or otherwise participate in any proceeding which involves the review or enforcement of any action by an agency, if the board determines that the action may affect the interests of utility consumers. [1985 c.1 §14]

774.190 Certain laws inapplicable to board; protection from liability. (1) ORS chapters 278, 279, 282, 283, 291, 292, 293, 295 and 297 do not apply to Citizens' Utility Board or to the administration and enforcement of this chapter. An employee of Citizens' Utility Board shall not be considered an "employee" as the term is defined in the public employees retirement laws. Citizens' Utility Board and its employees shall be exempt from the provisions of the State Personnel Relations Law.

(2) ORS 183.310 to 183.550 does not apply to determinations and actions by the board.

(3) The board, and any of the officers, employees, agents or members of Citizens' Utility Board shall be provided the same protections from liability as the board, officers, employees, agents, or members of any nonprofit corporation of the State of Oregon. [1985 c.1 §15]

774.210 Remedies; attorney fees. (1) Any utility, and any of its employees, officers, members of the board of directors, agents, contractors or assignees which does, or causes or permits to be done, any matter, act or other thing prohibited by this chapter, or omits to do any act, matter or other thing required to be done by this chapter, is liable for any injury to Citizens' Utility Board and to any other person in the amount of damages sustained in consequence of such violation. The

court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) Citizens' Utility Board may obtain equitable relief, without bond, to enjoin any violation of this chapter.

(3) Any recovery or enforcement obtained under this section shall be in addition to any other recovery or enforcement under this section or under any statute or common law. Any recovery under this section shall be in addition to recovery by the state of the penalty or fine prescribed for such violation by this chapter. The rights and remedies provided by this chapter shall be in addition to all other rights and remedies available under law. [1985 c.1 §16; 1995 c.618 §136]

774.250 Severability. If any section, portion, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional the remaining sections, portions, clauses and phrases shall not be affected but shall remain in full force or effect, and to this end the provisions of this chapter are severable. [1985 c.1 §18]

774.990 Penalty. Willful violation of ORS 774.120 (1) or (5) or 774.140 is a Class A misdemeanor. [1985 c.1 §17]

A MODEL ACT TO CREATE A CITIZENS' UTILITY BOARD

- Sec. 1. Short Title.
- Sec. 2. Findings and Purposes.
- Sec. 3. Definitions.
- Sec. 4. Creation of Corporation; Membership.
- Sec. 5. Duties, Rights and Powers of the Corporation.
- Sec. 6. Notification of Impending Proceedings.
- Sec. 7. Judicial Review of Regulatory Agency Decisions; Enforcement Actions.
- Sec. 8. State-assisted Fundraising by the Corporation.
- Sec. 9. Prohibited Acts.
- Sec. 10. Board of Directors
- Sec. 11. Duties of the Board of Directors.
- Sec. 12. Appointment of Interim Board of Directors.
- Sec. 13. Election of Directors.
- Sec. 14. Qualifications of Candidates.
- Sec. 15. Nomination.
- Sec. 16. Statement of Financial Interests.
- Sec. 17. Statement of Personal Background and Positions.
- Sec. 18. Restrictions on and Reporting of Campaign Contributions and Expenditures.
- Sec. 19. Election Procedures.
- Sec. 20. Installation of Elected Candidates.
- Sec. 21. Recall of Directors.
- Sec. 22. Vacancies.
- Sec. 23. Officers.
- Sec. 24. Executive Director; Qualifications; Appointments; Duties.
- Sec. 25. Annual Membership Meeting.
- Sec. 26. Relationship to Existing Law and Policy.
- Sec. 27. Corrupt Practices and Conflicts of Interest.
- Sec. 28. Penalties.
- Sec. 29. Construction.
- Sec. 30. Severability.
- Sec. 31. Effective Date.

Sec. 1. Short Title. --This Act may be cited as the "Citizens' Utility Board Incorporation Act of ..."

Sec. 2. Findings and Purposes. --

(a) FINDINGS . --The legislature finds that:

(1) individual action by residential consumers for the purposes of participating in utility matters and communicating their views is rendered impracticable by reason of the disproportionate expense of taking such action;

(2) such participation and representation can be best secured by the creation of a permanent, non-for-profit organization which is under the democratic control of its membership, solely responsive to that membership's goals, and which is funded by voluntary contributions;

(3) the formation of such an entity by consumers acting voluntarily is impeded because consumers have neither the resources nor an efficient mechanism to contact all residential utility customers, raise initial funds and join such an entity; and

(4) in order to create such an entity, it is necessary to establish a democratically structured organization and to provide for the dissemination to all customers of information as to the formation and purposes of such organization and to provide an efficient means for joining and contributing to such organization.

(b) PURPOSES. --It is the purpose of this Act--

(1) to assist in establishing adequate and affordable utility service to all residential customers in order to preserve the health and general welfare of the citizens of this state;

(2) to foster and encourage active citizen participation in utility matters and to facilitate effective representation and advocacy of the interests of residential utility consumers before regulatory agencies, the legislature, the courts and other bodies; and for these purposes to create a permanent not-for-profit organization;

(3) to create an efficient funding mechanism for the organization, involving no compulsory burden whatsoever on the taxpayers of this State, whereby residential utility consumers and others may voluntarily contribute to the organization; and

(4) to ensure that public policies affecting the provision, quality and cost of utility services fairly reflect the needs and concerns of those consumers.

For these reasons there shall be established a not-for-profit Corporation known as the "Citizens' Utility Board, Inc." with the responsibility to promote adequate representation of residential utility consumers; to collect operating funds; to assist in the redress of residential utility consumer complaints; and to provide for residential utility consumer membership in such Corporation and residential utility consumer direction of the actions of such Corporation.

Sec. 3. Definitions. --As used in this Act:

(a) "Utility company ", "public utility company ", "utility corporation" and "public utility corporation " mean a corporation or other entity engaged in the business of supplying utility services to persons within this State if rates or charges for such utility services have been established or are subject to approval by a local, state or federal authority.

(b) "Utility services " means electricity, water, natural gas, steam and telephone services supplied by a public utility.

(c) "Residential utility consumer " means any person in this State whose residence is furnished with a utility service by a public utility company.

(d) "Regulatory agency " means any local, state, or federal department, commission, office, authority or other public body with the legal authority:

(1) to establish or alter rates or charges for the provision or sale of utility services within this state;

(2) to plan or to approve, reject, or modify plans for the construction of facilities for the production or provision of utility services within this State;

(3) to formulate or review energy policies affecting this state; or

(4) otherwise to regulate the activities of utility companies doing business within this State; provided that local, state and federal courts and legislative bodies shall not be deemed to be "regulatory agencies" for the purposes of this Act.

(e) "Formal proceeding " means any formal meeting of a regulatory agency or subdivision thereof, including a meeting conducted by an administrative law judge or other agent of the regulatory agency, regarding:

(1) the establishment or alteration of rates or charges for the provision or sale of utility services within this State;

(2) the establishment, abrogation, or amendment of rules or regulations, or the investigation of or inquiry into activities and procedures of utility companies, concerning residential utility consumers, public utility companies, or energy policies affecting this State, or concerning the conduct of regulatory agency proceedings themselves; or

(3) adjudication of the claims or petitions of residential utility consumers, public utility companies, or other persons or groups of persons; or

(4) certification of the construction or operation of utility plants, including pipelines and transmission lines.

(f) "State agency " means any department, board, bureau, commission, division, office, council, committee, officer, public benefit corporation or authority, institution or entity of the executive branch of state government.

(g) "Corporation " means the Citizens' Utility Board, Inc.

(h) "Member " means any person who meets the requirements for membership in the Corporation set forth in section four of this Act.

(i) "Director " means any member of the Corporation duly elected or appointed to the board of directors of the Corporation.

(j) "Utility district " or "district " means an area comprised of two contiguous congressional districts as such congressional districts are described in state law. The board of directors shall certify the boundaries of each utility district no less than sixty days prior to the Corporation's first general election. In the event that an odd number of congressional districts are created within the State, the board of directors shall have the authority to determine how the additional congressional district shall be represented. In the event that the boundaries or number of congressional districts are adjusted, the board of directors shall recertify the boundaries of each utility district no less than four months after such adjustment. The board member representing any utility district whose boundaries are changed in such recertification, shall resign within thirty days of such recertification and the vacancy shall be filled pursuant to section twenty-one of this Act.

(k) " Campaign expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of electing a candidate to the board of directors, or a contract, promise, or agreement therefor.

(l) "Campaign contribution " means money, goods, services, or other benefits paid, made, loaned, given, conferred, or promised, including but not limited to, use of office space, telephones, equipment, staff services and provisions of meals, drinks, entertainment, services or transportation made for the purpose of electing a candidate to the board of directors.

(m) The "immediate family " of a person means the person and his or her spouse and their dependents.

(n) "Enclosure " means a card, leaflet, envelope or combination thereof furnished by the Corporation under this section.

(o) "Mailing " means any communication by a state agency that is sent through the United States Postal Service to more than fifty thousand persons within a twelve-month period.

Sec. 4. Creation of Corporation; Membership. --

(a) There is hereby created a not-for-profit membership corporation to be known as the "Citizens' Utility Board, Inc." herein referred to as the Corporation.

(b) The membership of the Corporation shall consist of all residential utility consumers sixteen years of age or older who have contributed to the Corporation an annual membership fee at such times as shall be set by the board of directors, provided, that any person may resign from membership.

Sec. 5. Duties, Rights and Powers of the Corporation. --

(a) The Corporation shall:

(1) Represent and promote the interests of the residential utility consumers of this State. All actions by the Corporation under this Act shall be directed toward such duty.

(2) Inform, insofar as possible, all residential utility consumers about the Corporation, including the procedure for obtaining membership in the Corporation.

(3) Establish annual membership fee which shall be set at a level that provides sufficient funding for the Corporation to effectively perform its powers and duties, and is affordable for as many utility consumers as is possible, but nevertheless not less than five dollars.

(4) Have all rights and powers accorded generally to, and be subject to all duties imposed generally upon, not-for-profit membership corporations under the laws of this State.

(b) In addition, the Corporation shall have the following rights and powers:

(1) To solicit and accept gifts, loans, grants or other aid in order to support activities concerning the interests of residential utility consumers, except that the Corporation may not accept gifts, loans or other aid from any public utility or from any director, employee or agent or member of the immediate family of a director, employee or agent of any public utility.

(2) To seek tax-exempt status under state and federal law.

(3) To conduct, support, and assist research, surveys, investigations, planning activities, conferences, demonstration projects, and public information activities concerning the interests of residential utility consumers. The Corporation may accept grants, contributions and legislative appropriations for such activities.

(4) To contract for services which cannot reasonably be performed by its employees.

(5) To represent the interests of residential utility consumers before regulatory agencies, legislative bodies and other public bodies.

(6) To initiate, to intervene as a party, to maintain, or to otherwise participate on behalf of residential utility consumers in any proceeding which affects the interests of residential utility consumers.

(7) To support or oppose ballot propositions concerning matters which it determines may affect the interests of residential utility consumers.

(c) The Corporation shall have, in addition to the rights and powers enumerated in this Act, such other incidental rights and powers as are reasonably necessary for

the effective representation and protection of the interests of residential utility consumers.

(d) The Corporation shall not sponsor, endorse, or otherwise support, nor shall it oppose, any political party or the candidacy of any person for public office.

Sec. 6. Notification of Impending Proceedings. --Each regulatory agency of this State as defined in subdivision (d) of section three of this Act shall notify or cause notice to be given in the state register, in advance of the time, place, and subject of each formal proceeding of the regulatory agency, in which the Corporation may be eligible to participate. The agency shall so notify or cause notice to be given to the Corporation at least thirty days before the scheduled date of such proceeding or within five days after the date and calendar for such proceeding is fixed, whichever, is later. In addition, the agency shall give notice or cause notice to be given within five days to the Corporation of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rule or regulations.

Sec. 7. Judicial Review of Regulatory Agency Decisions; Enforcement Actions. --The Corporation shall be deemed to have an interest sufficient to maintain, intervene as of right in, or otherwise participate in any civil action, proceeding or appeal for the review of enforcement of any regulatory agency decision or action, or refusal to act, which the Corporation determines may substantially affect the interests of residential utility consumers provided that the Corporation participated at the regulatory agency decision level. If the Corporation did not participate in the regulatory agency decision or action at the agency level, the court may grant the Corporation the right to participate in any civil action, proceeding or appeal if the interest of the residential utility consumers is significantly affected.

Sec. 8. State-assisted Fundraising by the Corporation.

(a) The Corporation shall have the authority to prepare and furnish to any state agency an enclosure which the state agency shall include within any mailing designated by the Corporation. The Corporation shall provide the agency with any such enclosure at a time reasonably in advance of the mailing. The Corporation may not require any state agency to mail an enclosure more than [four times] in any calendar year.

(b) Enclosures furnished by the Corporation under this section shall be limited to soliciting information and money from consumers and explaining:

- (1) the purpose, history, nature, activities and achievements of the Corporation;
- (2) that the Corporation is open to membership by residential consumers;
- (3) that the Corporation is not connected to any utility company or governmental agency;

(4) that the Corporation is a not-for-profit corporation directed by its consumer members;

(5) the procedure for contributing to or becoming a member of the Corporation, and

(6) the yearly membership fee.

(c) Prior to furnishing an enclosure to a state agency for mailing, the Corporation shall seek and obtain the approval of the [Public Service Commission] of the content of the enclosure. The Commission shall approve the enclosure if it determines that the enclosure (a) is not false or misleading, and (b) contains and is limited to the information permitted by this section. The Commission shall be deemed to have approved the enclosure unless it disapproves the enclosure within fourteen days of receipt.

(d) The Corporation shall reimburse each state agency for all reasonable incremental costs incurred by the state agency in complying with this section above the agency's normal mailing and handling costs, provided that:

(1) The state agency shall first furnish the Corporation with an itemized accounting of such additional costs; and

(2) The Corporation shall not be required to reimburse the state agency for postage costs if the weight of the Corporation's enclosure does not increase the cost of the state agency mailing. If the Corporation's enclosure increases the cost of the state agency mailing, then it will be required to reimburse the state agency for postage cost over and above what the agency's postage cost would have been without the Corporation's enclosure.

Sec. 9. Prohibited Acts.

(a) No public utility company or officer, employee, or agent of the public utility company may interfere or threaten to interfere with or cause any interference with the utility service of, or penalize or threaten to penalize or cause to be penalized, any person who contributes to the Corporation or participates in any of its activities, in retribution for such contribution or participation.

(b) No person may act with intent to prevent, interfere with or hinder the activities permitted under this Act.

(c) No person shall use any list of contributors to the Corporation, nor any part of such list, for purposes other than the conduct of business of the Corporation as prescribed in this Act. No person shall disclose any such list or part thereof to any other person unless there is substantial reason to believe that such list or part thereof is intended to be used for the lawful purposes described in this Act. Any person who violates this subdivision shall be subject to a civil penalty of not more than ten thousand dollars.

Sec. 10. Board of Directors

(a) The affairs of the Corporation shall be managed by a board of directors consisting of one member from each utility district.

(b) The directors shall serve without salary, but each director may be entitled to reimbursement for actual and necessary expenses. The board of directors shall establish standard allowances for mileage, room and meals and the purposes for which such allowances may be made and shall determine the reasonableness and necessity for such reimbursements.

(c) The term of office for members of the board of directors shall be three years and no member shall serve more than two consecutive terms. One third of the directors first elected shall serve for a one-year term; one-third of such directors shall serve a two-year term; and one-third of such directors shall serve a full three-year term.

(d) No director nor members of his or her immediate family shall, either directly or indirectly, be employed for compensation as a staff member or consultant of the Corporation.

(e) Any director who shall handle, disburse, or receive money on behalf of the Corporation shall be bonded. Such bond shall be a cost to the Corporation.

Sec. 11. Duties of the Board of Directors.--The board of directors shall have the following duties:

(a) to establish the policies of the Corporation regarding appearances before the [Public Service Department], other regulatory agencies, the courts, and other public bodies, and regarding other activities which the Corporation has the authority to perform under this Act;

(b) to maintain up-to-date membership rolls, and to keep them in confidence to the extent required by the provisions of section nine of this Act;

(c) to keep minutes, books and records which shall reflect all the acts and transactions of the board of directors which shall be open to examination by any member during regular business hours;

(d) to make all reports, studies and other information compiled by the Corporation pursuant to paragraph (3) of subdivision (b) of section five of this Act, and all data pertaining to the finances of the Corporation, available for public inspection during regular business hours;

(e) to maintain for inspection by the membership quarterly statements of the financial and substantive operations of the Corporation, as prepared in accordance with paragraph (5) of subdivision (c) of section twenty-four of this Act;

(f) to cause the Corporation's books to be audited by a certified public accountant at least once each fiscal year, and to make the audit available to the general public;

(g) to prepare, as soon as practicable after the close of the Corporation's fiscal year, an annual report of the Corporation's financial and substantive operations to be made available for public inspection;

(h) to report to the membership at the annual membership meeting on the past and projected activities and policies of the corporation. In addition, the corporation shall sponsor on behalf of each director at least one meeting per year in such director's utility district;

(i) to employ an executive director and to direct and supervise his or her activities;

(j) to hold regular meetings, including meetings by telephone conference, at least once every three months on such dates and at such places as it may determine. Special meetings may be called by the president of the board or by at least one-quarter of the directors upon at least five days' notice. One-half of the directors plus one shall constitute a quorum. All meetings of the board of directors and of its committees and subcommittees shall be open to the public. Complete minutes of the meetings shall be kept; and

(k) to carry out all other duties and responsibilities imposed upon the Corporation and the board of directors by this Act.

Sec. 12. Appointment of Interim Board of Directors. --

(a) Within ninety days after the effective date of this Act, an interim board of directors shall be appointed by the governor, to serve until a board of directors is first elected. If the number of members of the Corporation fails to reach the level required by section thirteen of this Act within two years of the appointment of the complete interim board of directors, the Corporation shall be dissolved after having satisfied its debts, liabilities and obligations to the extent possible from funds made available to the Corporation.

(b) The method of appointment of interim directors shall be as follows: three shall be appointed by the governor, three shall be appointed by the governor from a list containing no less than five names submitted by the president Pro Tempore of the senate; three shall be appointed by the governor from a list containing no less than five names submitted by the speaker of the assembly; one shall be appointed by the governor from a list of not less than five names submitted by the speaker of the assembly; one shall be appointed by the governor from a list of not less than five names submitted by the minority leader of the assembly. Individuals considered for appointment to the interim board shall have the same qualifications as candidates for the board of directors pursuant to section fourteen of this Act, and shall, to the extent possible, represent each region of the State.

(c) The interim board of directors shall:

- (1) As soon as possible after appointment, organize for the transaction of business.
- (2) Inform the residential utility consumers of this State of the existence, nature and purpose of the Corporation, and encourage residential utility consumers to join the Corporation, to participate in the Corporation's activities and to contribute to the Corporation.
- (3) Elect officers.
- (4) Employ such staff as the directors deem necessary to carry out the purposes of this Act.
- (5) Make all necessary preparations for the first election of directors, oversee the election campaign and tally the votes.
- (6) Solicit funds for the Corporation.
- (7) Designate by a random method the length of the term of office of each director position to be filled after the first election of directors.
- (8) Carry out all other duties and exercise all other power accorded to the board of directors under this Act.

Sec. 13. Election of Directors. --

- (a) Not more than sixty days after the membership of the Corporation reaches twenty-five thousand persons with at least one hundred members in each district, the interim board of directors shall set a date for the first general election of directors and shall so notify every member. The date set for elections shall be not less than four months nor more than eight months after such notification.
- (b) Each general election of directors other than the first election of directors shall be held not less than eleven months and not more than thirteen months after the last preceding general election. The date of such elections shall be fixed by the board of directors at least four months in advance of the date chosen for the election.

Sec. 14. Qualifications of Candidates. --

- (a) No present employee, director, consultant, attorney, accountant, real estate agent, shareholder, bondholder of any public utility doing business in this State and no employee of the [Public Service Commission] shall be eligible to be a director. No director nor any candidate for the board of directors may hold an elective public office or be a candidate for an elective public office or be appointed to hold state office. These qualifications shall also apply to immediate family members of persons enumerated above.

(b) To be eligible for election to the board of directors a candidate must:

(1) meet the qualifications for candidates;

(2) be a member of the Corporation and a resident of the district which he or she seeks to represent;

(3) submit a petition for nomination;

(4) submit a statement of financial interest and a statement of personal background and position; and

(5) affirm, under penalty of perjury, that the information contained in the statement of financial interest and personal background and position is true and complete.

Sec. 15. Nomination. --

(a) The interim board of directors and every subsequent board shall make available for inspection by any member, upon request, a list of the current members in that member's district.

(b) A candidate for election to the board of directors shall circulate a petition for nomination no sooner than one hundred twenty days preceding the election and shall file the petition with the corporation no later than sixty days prior to the election. The petition for nomination shall be signed by at least one hundred of the corporation's current members residing in the candidate's district. Upon receipt of a member's nominating petition and confirmation of the current membership of the candidate and confirmation of the current membership of the individuals who signed such petition, the board of directors shall certify that such member is a nominated candidate for the board of directors.

Sec. 16. Statement of Financial Interests.

A candidate for election to the board of directors whose nomination is certified shall submit to the board of directors, not later than sixty days prior to the election, a statement of financial interests upon a form provided by the board of directors. The statement of financial interests, which shall be open for public inspection, shall include the following information:

(a) The occupation, employer and position at place of employment of the candidate and of his or her immediate family members.

(b) A list of all corporate and organizational directorships or other offices, and of fiduciary relationships, held in the past three years by the candidate and by his or her immediate family members.

(c) Such other information as the board of directors shall require candidates to disclose, which disclosure required of other public officials at the time and shall be in the judgment of the board of directors in the best interests of the Corporation.

(d) An affirmation, subject to penalty of perjury, that the information contained in the statement of financial interests is true and complete.

Sec. 17. Statement of Personal Background and Positions. --A candidate for election to the board of directors shall submit to the board of directors, not later than sixty days prior to the election, or a form to be provided by the board of directors, a statement concerning his or her personal background and positions on issues relating to regulated public utilities or the operations of the Corporation. The statement shall contain an affirmation, subject to penalty of perjury, that the information contained in the statement of personal background is true and complete and that the candidate meets the qualifications prescribed for directors.

Sec. 18. Restrictions on and Reporting of Campaign Contributions and Expenditures.
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(a) No candidate may incur more than two thousand dollars to campaign expenditures from the time he or she commences circulation of petitions for nomination or from four months prior to the election whichever is earlier, through the date of the election.

(b) No candidate may accept more than two hundred fifty dollars in campaign contributions from any one contributor during the year preceding the date of the election.

(c) No candidate shall accept campaign contributions from a utility company, public utility company, utility corporation, public utility corporation or any organization supported with public funds.

(d) Each candidate for election to the board of directors shall keep complete records of all contributions to his or her campaign of fifty dollars or more made during the year preceding the date of the election. Such records shall be available for inspection by the public.

(e) No earlier than the next day succeeding the election and no later than thirty days after the election, each candidate shall submit to the board of directors, on a form provided by the board of directors, an accurate statement of his or her campaign contributions accepted and campaign expenses incurred, and shall affirm to the board of directors, subject to penalty of perjury, that he or she has fully complied with the requirements of this subdivision.

(f) If the board of directors determines that the candidates's campaign expenses have exceeded the limits contained in this section, the candidate shall be disqualified and may be required to pay the expenses incurred by the Corporation in mailing that candidate's statement of personal background and position. The

Corporation may pursue all civil remedies to recover the cost of mailing that candidate's statement of personal background and position. In the event of disqualification, the board of directors shall call a special election to be held not fewer than four months and not more than six months after the campaign contribution for any purpose except for campaign expenditures.

Sec. 19. Election Procedures. --

(a) The board of directors shall send or have sent to each member, to be post-marked no later than twenty days before the date fixed for a special or general election, the following:

(1) an official ballot listing all candidates for the board of directors from their district who have complied with the requirements of this Act;

(2) each such candidate's statement of financial interests; and

(3) each such candidate's statement of personal background and position.

(b) Each residential utility consumer who is a member of the Corporation on the thirtieth day preceding a special or general election may cast a vote in such election by returning his or her official ballot, properly marked, to the principal office of the Corporation by eight p.m. of the date fixed for the election. Voting shall be by secret ballot. The candidate receiving the greatest number of votes in each district shall be declared elected.

(c) The board of directors may prescribe rules for the conduct of elections and election campaigns not inconsistent with this Act.

Sec. 20. Installation of Elected Candidates.

The president of the board of directors shall install in office within thirty days after the election all elected candidate who meet the qualifications prescribed in this Act.

Sec. 21. Recall of Directors.

Upon receipt by the president of the board of directors of a petition to recall any director, with the valid signatures of at least forty percent of the members of the utility district the director represents, the board of directors shall call a special election to be held not fewer than four months and not more than six months after receipt of the petition, for the purpose of electing a director to serve out the term of the recalled director; provided, that no director may be recalled within six months of his or her election. A director may become a candidate in an election following his or her own recall. A director recalled shall continue to serve until the installation in office of his or her successor.

Sec. 22. Vacancies. --When a director dies, resigns, is disqualified, or otherwise vacates his or her office, except as provided in section twenty-one of this Act, the board of directors shall select, within three months, a successor from the same district as such director for the remainder of the director's term of office. Any director may nominate any qualified person as successor. The board of directors shall select the successor from among those nominated, by a two-thirds majority of the remaining directors present and voting. The successor shall be installed in office by the president of the board of directors.

Sec. 23. Officers. --

(a) At the first regular meeting of the board of directors at which a quorum is present and subsequent to the initial appointments of directors, and at the first regular meeting of the board of directors at which a quorum is present subsequent to the installation of new directors following each annual election, the board shall elect by majority vote of members present and voting from among the directors a president, a vice-president, a secretary, and a treasurer. The board shall also have the power to elect a comptroller and such other officers as it deems necessary.

(b) Officers shall be installed by the president immediately upon their election. The term of office for officers shall be one year; provided that an officer may resign, or may be removed from office by a two-thirds vote of all the directors. After an officer's term of office has expired, the officer shall continue to serve until his or her successor is installed.

(c) When an officer dies, resigns, is removed, or otherwise vacates his or her office, the board of directors shall elect a successor to serve out such officer's term of office.

(d) The officers shall exercise such powers and perform such duties as are prescribed by this Act or are delegated to them by the board of directors.

Sec. 24. Executive Director; Qualifications; Appointments; Duties. --

(a) The executive director hired by the board of directors shall have the same qualifications as a candidate. The executive director may not be a candidate for the board of directors while serving as executive director. The by-laws of the Corporation shall provide a method for discharging the executive director, but in no even shall such discharge occur unless one-half of the directors plus one shall have consented to such discharge.

(b) The board of directors shall require all applicants for the position of executive director of the Corporation to file a financial statement . The board of directors shall require the executive director to file a financial statement annually.

(c) The Executive director shall have the following duties:

(1) to implement the policies established by the board of directors;

- (2) to employ and discharge employees of the Corporation;
- (3) to supervise the offices, facilities and work of the employees of the Corporation;
- (4) to have custody of and maintain the books, records and membership rolls of the Corporation;
- (5) to prepare and submit to the board of directors annual and quarterly statements of the financial and substantive operations of the Corporation, and financial estimates for the operations of the Corporation;
- (6) to attend and participate in meetings of the board of directors as a non-voting director; and
- (7) to exercise such other powers and perform such other duties as the board of directors delegates.

Sec. 25. Annual Membership Meeting.

An annual meeting of the membership shall be held on a date and at a place within the state to be determined by the board of directors. All members shall be eligible to attend, participate in and vote at the annual membership meeting. The meeting shall be open to the public.

Sec. 26. Relationship to Existing Law and Policy. --

(a) The not-for-profit corporation law applies to the Corporation; provided, that if any provision of the not-for-profit corporation law conflicts with any provision of this Act, the conflicting provision of the not-for-profit corporation law shall not apply in such case. If any provision of this Act relates to a matter embraced in the not-for-profit Corporation law but is not in conflict therewith, both provisions shall apply.

(b) Nothing in this Act shall be construed to limit the right of any individual or group or class of individuals to initiate, intervene in, or otherwise participate in any proceeding before any regulatory agency or court; nor to require any petition or notification to the Corporation as a condition precedent to such right, nor to relieve any utility agency, court or other public body of any obligation, or affect its discretion to permit intervention or participation by a consumer or group or class of consumers in any proceeding or activity, nor to limit the right of any individual or individuals to obtain administrative or judicial review.

(c) The intervention or participation of the Corporation in a proceeding or activity shall not affect the obligation of any regulatory agency or other public body to operate in the public interest.

Sec. 27. Corrupt Practices and Conflicts of Interest. --

(a) No person may offer or give anything of monetary value to any director, employee or agent of the Corporation if the offer or gift influences, or is intended to influence, the action or judgment of the director, employee or agent of the Corporation in his or her capacity as director, employee or agent of the Corporation.

(b) No director, employee or agent of the Corporation may solicit or accept anything of monetary value from any person if their solicitation or acceptance influences, or is intended to influence, the official action or judgement of the director, employee or agent in his or her capacity as director, employee or agent of the Corporation.

(c) Any person who knowingly and willfully violates this section shall be subject to a civil penalty of not more than ten thousand dollars.

(d) The board shall remove from office any director, employee or agent violating the provision of this section.

Sec. 28. Penalties. A violation of any provision of this Act pertaining to conduct by a utility or officers or employees thereof shall be subject to a civil penalty of not more than ten thousand dollars for each violation.

Sec. 29. Construction. This Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

Sec. 30. Severability. If any clause, sentence, paragraph or part of this Act or the application thereof be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, and the application thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 31. Effective Date. This Act shall become effective on the date of its enactment.