

Commerce 3/31

SENATE FILE 295

Commerce
E. Hill, Chairperson
Palmer
Curtis

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SENATE FILE 295

By DODERER, ORR, CARR,
CALHOON, WILLITS,
SLATER and CRAFT

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating a corporate residential utility consumer
2 action group, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 295

1 Section 1. NEW SECTION. SHORT TITLE. This Act shall
2 be known and may be cited as the Residential Utility Consumer
3 Action Group Act.

4 Sec. 2. NEW SECTION. LEGISLATIVE INTENT. The purpose
5 of this Act is to ensure effective and democratic rep-
6 resentation of residential utility consumers before regula-
7 tory agencies, legislatures, and other public bodies by:

8 1. Creation of a permanent nonprofit organization whose
9 sole duty is the representation of the interests of residen-
10 tial utility consumers before such bodies.

11 2. Provision for democratic accountability of the board
12 of directors of the organization to the will of its consumer
13 constituency through open elections of directors with thor-
14 ough financial disclosure requirements and campaign spending
15 limitations.

16 3. Encouragement of active citizen participation in the
17 regulatory process through involvement in the activities of
18 the organization.

19 4. Creation of an efficient funding mechanism for the
20 organization, involving no compulsory burden whatsoever on
21 the taxpayers of this state, whereby residential utility
22 consumers and others may voluntarily contribute to the or-
23 ganization by adding a sum to their utility payments.

24 Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act,
25 the following definitions shall apply unless the context
26 otherwise requires:

27 1. "Public utility" means a person engaged in the busi-
28 ness of supplying utility services to persons within this
29 state if rates or charges for such utility services have been
30 established or are subject to approval by a local, state,
31 or federal authority.

32 2. "Utility services" means electricity, water, natural
33 gas, and telephone services supplied by a public utility.

34 3. "Residential utility consumer" means any resident of
35 this state whose resident is furnished with a utility ser-

1 vice by a public utility.

2 4. "Regulatory agency" means any local, state, or federal
3 commission or other public body with the legal authority:

4 a. To establish or alter rates or charges for the provi-
5 sion or sale of utility services within this state.

6 b. To plan or to approve, reject, or modify plans for
7 the construction of facilities for the production or pro-
8 vision of utility services within this state.

9 c. To formulate or review energy policies affecting this
10 state.

11 d. Otherwise to regulate the activities of public utili-
12 ties doing business within this state.

13 Local, state, and federal courts and legislative bodies
14 shall not be deemed to be "regulatory agencies" for the pur-
15 poses of this Act.

16 5. "Proceeding" means any formal meeting of a regula-
17 tory agency or subdivision thereof or conducted by a hear-
18 ing examiner or other agent of the regulatory agency, re-
19 garding:

20 a. The establishment or alteration of rates or charges
21 for the provision or sale of utility services within this
22 state.

23 b. The establishment, abrogation, or amendment of rules
24 or regulations concerning residential utility consumers,
25 public utilities, or energy policies affecting this state,
26 or concerning the conduct of regulatory agency proceedings
27 themselves.

28 c. Adjudication of the claims or petitions of residen-
29 tial utility consumers, public utilities, or other persons
30 or groups of persons.

31 6. "Corporation" means the residential utility consumer
32 action group, incorporated.

33 7. "Member" means any person who meets the requirements
34 for membership in the corporation as set forth in subsec-
35 tion two (2) of section four (4) of this Act.

1 8. "Director" means any person serving on the board of
2 directors of the corporation.

3 9. "District" means any one of the six congressional
4 districts of the state as provided in section forty point
5 one (40.1) of the Code, or in the case of a director serving
6 at-large, the state.

7 10. "Campaign expenditure"

8 a. Means a purchase, payment, distribution, loan, advance,
9 deposit, or gift of money or anything of value, made for the
10 purpose of electing a candidate to the board of directors
11 of the corporation.

12 b. Means a contract, promise, or agreement, express or
13 implied, whether or not legally enforceable, to make any
14 campaign expenditure.

15 c. Does not include the use of real or personal property
16 and the cost of invitations, food, and beverages, voluntarily
17 provided by an individual to a candidate in rendering voluntary
18 personal services on the individual's residential premises
19 for candidate-related activities if the cumulative value of
20 such activities by such individual on behalf of any candidate
21 does not exceed one hundred dollars for any election.

22 11. "Campaign contribution"

23 a. Means a gift, subscription, loan, advance, or depo-
24 sit of money or anything of value, made for the purpose of
25 electing a candidate to the board of directors of the cor-
26 poration.

27 b. Means a contract, promise, or agreement, express or
28 implied, whether or not legally enforceable, to make any
29 campaign contribution.

30 c. Does not include:

31 (1) The value of services provided without compensation
32 by individuals who volunteer a portion or all of their time
33 on behalf of a candidate or political committee.

34 (2) The use of real or personal property and the cost
35 of invitations, food, and beverages, voluntarily provided

1 by an individual to a candidate in rendering voluntary personal
2 services on the individual's residential premises for
3 candidate-related activities if the cumulative value of such
4 activities by such individual on behalf of any candidate
5 does not exceed one hundred dollars for any election.

6 12. "Political committee" means any committee, club,
7 association, or other group of persons which makes campaign
8 expenditures or receives campaign contributions during the
9 year before an election of the board of directors.

10 13. "Periodic customer billing" means a demand for pay-
11 ment for utility services by a public utility to a residential
12 utility consumer which is made on a monthly or other regular
13 basis.

14 14. The "immediate family" of a person means the per-
15 son and his or her spouse, and their parents, children,
16 brothers and sisters.

17 15. "Board" means the board of directors of the residen-
18 tial utility consumer action group, incorporated.

19 Sec. 4. NEW SECTION. CORPORATION CREATED--MEMBERSHIP.

20 1. There is created a corporation not for pecuniary profit
21 to be known as the residential utility consumer action group,
22 incorporated.

23 2. The membership of the corporation shall consist of
24 all residential utility consumers of sixteen years of age
25 or older who have contributed to the corporation at least
26 two dollars in either its preceding or its current fiscal
27 year; provided, that any person may resign from membership
28 at any time.

29 Sec. 5. NEW SECTION. CORPORATE DUTIES, RIGHTS, AND POWERS.

30 1. It shall be the duty of the corporation effectively
31 to represent and protect the interests of the residential
32 utility consumers of this state. All actions which it
33 undertakes under the provisions of this Act shall be directed
34 toward that goal.

35 2. The corporation shall have all rights and powers

1 accorded generally to, and shall be subject to all duties
2 imposed generally upon, corporations not for pecuniary profit
3 under chapter five hundred four (504) of the Code.

4 3. The corporation may seek tax-exempt status under state
5 and federal law.

6 4. The corporation may conduct, support, and assist
7 research, surveys, investigations, planning activities,
8 conferences, demonstration projects, and public information
9 activities concerning the interests of residential utility
10 consumers. The corporation may accept grants, contributions,
11 and legislative appropriations for such activities.

12 5. The corporation may contract for services which can-
13 not reasonably be performed by its employees.

14 6. The corporation may represent the interests of re-
15 sidential utility consumers before regulatory agencies,
16 legislative bodies, and other public authorities, except as
17 this Act otherwise provides.

18 7. The corporation shall not sponsor, endorse, or other-
19 wise support, nor shall it oppose, any political party or
20 the candidacy of any person for public office.

21 8. The corporation may support or oppose referenda
22 concerning matters which it determines may affect the interests
23 of residential utility consumers.

24 9. The corporation, upon receipt of any written complaint
25 regarding a public utility, shall promptly transmit the
26 complaint to the appropriate regulatory agency or other public
27 authority. The agency or authority shall inform the
28 corporation of its response to the complaint.

29 10. The corporation shall have, in addition to the rights
30 and powers enumerated in this Act, such other incidental
31 rights and powers as are reasonably necessary for the effec-
32 tive representation and protection of the interests of re-
33 sidential utility consumers.

34 Sec. 6. NEW SECTION. REPRESENTATION OF UTILITY CONSU-
35 MERS IN REGULATORY AGENCY PROCEEDINGS.

1 1. NOTIFICATION OF IMPENDING PROCEEDINGS. Each regula-
2 tory agency of this state as defined in subsection four (4)
3 of section three (3) of this Act shall notify the corpora-
4 tion in writing in advance of the time, place, subject, and
5 names of parties of each proceeding of the agency, unless
6 the agency reasonably determines that the proceeding will
7 not affect the interests of the residential utility consu-
8 mers of this state. The agency shall so notify the cor-
9 poration at least thirty days before the scheduled date of
10 the proceeding or within five days after such date is fixed,
11 whichever is later.

12 2. INTERVENTION AND PARTICIPATION IN PROCEEDINGS.

13 a. The corporation may intervene as of right as a party
14 or otherwise participate in any regulatory agency proceeding
15 which the corporation reasonably determines may affect the
16 interests of residential utility consumers.

17 b. The intervention or participation of the corporation
18 in any such proceeding shall not affect the obligation of
19 the regulatory agency to operate in the public interest.

20 3. CONDUCT OF THE PROCEEDING. When the corporation in-
21 tervenes or participates in a regulatory agency proceeding,
22 it shall be subject to all laws and rules of procedure of
23 general applicability governing the conduct of the proceed-
24 ing and the rights of interveners and participants. The
25 corporation shall have the same rights regarding represen-
26 tation by counsel, participation in pre-hearing conferences,
27 discovery, requests for issuance of subpoenas by the agen-
28 cy, stipulation of facts, presentation and cross-examina-
29 tion of witness, oral and written argument, participation
30 in settlement negotiations, and other aspects of the pro-
31 ceeding as are accorded to other interveners under the laws
32 of this state, except as otherwise provided in this Act.

33 Sec. 7. NEW SECTION. JUDICIAL REVIEW OF REGULATORY AGEN-
34 CY DECISIONS; ENFORCEMENT ACTIONS. The corporation shall
35 be deemed to have an interest sufficient to maintain, intervene

1 as of right in, or otherwise participate in any civil action
2 for the review or enforcement of any regulatory agency deci-
3 sion which the corporation reasonably determines would ad-
4 versely affect the interests of residential utility consu-
5 mers.

6 Sec. 8. NEW SECTION. FUNDING OF THE CORPORATION.

7 1. The corporation shall have the authority to prepare
8 and furnish to each public utility in this state, not less
9 than thirty calendar days and not more than one year in ad-
10 vance of the date of each of the public utility's periodic
11 customer billings, the following materials:

12 a. A statement, not to exceed the folded size of three
13 and one-half inches by five inches, concerning the organiza-
14 tion and activities of the corporation and other matters which
15 the corporation determines may affect the interests of
16 residential utility consumers.

17 b. A card, leaflet, or similar enclosure, not to exceed
18 three and one-half inches by five inches:

19 (1) Indicating that the utility consumer billed and others
20 in his or her household may contribute money to the corporation
21 by a payment to the public utility in excess of his or her
22 payment for utility services and that such excess payment
23 will be transferred to the corporation; and

24 (2) Containing a box of dimensions of not less than one-
25 fourth inch by one-fourth inch and a statement next to it
26 indicating that if the utility consumer billed checks the
27 box and adds twenty cents (or such amounts as the corpora-
28 tion may determine) to his or her payment, such excess pay-
29 ment will be transferred automatically to the corporation
30 as a contribution from the utility consumer bills; and

31 (3) Containing space where the names of contributing per-
32 sons may be written in by the consumer.

33 2. Each public utility furnished with such statements
34 or other enclosures in accordance with the provisions of
35 subsection one (1) of this section shall enclose such

1 statements or enclosures within, upon, or attached to each
2 periodic customer billing which the public utility mails or
3 delivers to any residential consumer. However, a utility
4 shall not be required to enclose any materials which have
5 a combined total weight in excess of one-half of one ounce
6 avoirdupois.

7 3. Each public utility shall maintain an account to be
8 called the residential utility consumer action group account.
9 All contributions to the corporation received by the public
10 utility shall be deposited in this account immediately upon
11 receipt of such contributions. Interest, calculated at the
12 rate of seven and one-half percent shall be added daily to
13 this account.

14 4. Each public utility which receives contributions to
15 the corporation shall transfer to the corporation by the
16 fifteenth day of each month:

17 a. The balance of the residential utility consumer ac-
18 tion group account as of the date of transfer.

19 b. Each enclosure described in paragraph b of subsec-
20 tion one (1) of this section which was completed by the
21 consumer and which was received by the utility since the
22 preceding transfer.

23 5. The corporation shall promptly reimburse each public
24 utility for all reasonable costs incurred by the public
25 utility, above the utility's normal billing costs, in com-
26 plying with this section; provided, that

27 a. All postage costs of mailings pursuant to this sec-
28 tion shall be borne by the utility.

29 b. The corporation may postpone reimbursement of the
30 public utilities for costs incurred through the first elec-
31 tion of directors until twelve months after such directors
32 are installed.

33 6. Any disputes arising from the operation of this sec-
34 tion shall be resolved by negotiations between the corpora-
35 tion and the public utility if possible, or by a civil pro-

1 ceeding in the courts of this state. Neither the public
2 utility nor the corporation shall fail to comply with the
3 provisions of this Act by reason of the existence of such
4 a dispute.

5 7. A public utility, or an officer, employee, or agent
6 of a public utility shall not interfere or threaten to in-
7 terfere with or cause any interference with the utility ser-
8 vice of, or penalize or threaten to penalize or cause to be
9 penalized, any person who contributes to the corporation or
10 participates in any of its activities, in retribution for
11 such contribution or participation.

12 8. A public utility, or an officer, employee, or agent
13 of a public utility shall not prevent, interfere with, or
14 hinder the activities described in subsections two (2), three
15 (3) or four (4) of this section.

16 9. A person who violates subsections seven (7) or eight
17 (8) of this section shall be subject to a civil penalty of
18 not more than five thousand dollars, payable to the cor-
19 poration. Each such violation shall constitute a separate
20 and continuing violation of the Act.

21 10. A person shall not use any list of contributors to
22 the corporation, nor any part of such list, for purposes other
23 than the conduct of the activities described in subsections
24 two (2), three (3) and four (4) of this section, or the conduct
25 of other business of the corporation as prescribed in this
26 Act. A person shall not disclose any such list or part thereof
27 to any other who the person has substantial reason to believe
28 intends to use it for other than the lawful purposes described
29 in this subsection. A person who violates this subsection
30 shall be subject to a civil penalty of not more than five
31 thousand dollars, payable to the corporation.

32 Sec. 9. NEW SECTION. BOARD OF DIRECTORS.

33 1. FUNCTION. The affairs of the corporation shall be
34 managed by a board of directors.

35 2. TERM OF OFFICE. The term of office of elected directors

1 shall be three years. The term of office of directors
2 appointed pursuant to subsection five (5) of this section
3 shall end when the first elected directors are installed in
4 office. A director shall not serve more than two consecutive
5 terms.

6 3. STAGGERING OF TERMS. One-third of the directors first
7 elected to the board shall serve for a one-year term, one-
8 third of such directors shall serve for a two-year term, and
9 one-third of such directors shall serve for a full three-
10 year term. The directors shall draw lots upon their
11 installation in office to determine the length of each of
12 their first terms.

13 4. QUALIFICATIONS. Directors shall be residents of this
14 state who are members of the corporation. An officer,
15 employee, consultant, attorney, accountant, real estate agent,
16 shareholder, or bondholder, or a member of the immediate
17 family of an officer, employee, consultant, attorney,
18 accountant, real estate agent, shareholder, or bondholder,
19 of any public utility doing business in this state shall not
20 be eligible to become a director.

21 5. APPOINTED DIRECTORS. Within sixty days after the
22 effective date of this Act, the attorney general, the speaker
23 of the house, the president pro tempore of the senate, the
24 majority and minority leaders of the house, and the majority
25 and minority leaders of the senate shall each appoint one
26 director of the corporation to serve until the first elected
27 directors are installed in office. The appointed directors
28 shall be installed in office by the governor.

29 6. SPECIAL DUTIES OF APPOINTED DIRECTORS. The appointed
30 directors shall:

31 a. Inform the residential utility consumers of this state,
32 by the means provided for in this Act, of the existence,
33 nature, and purposes of the corporation, and shall encourage
34 residential utility consumers to participate in the
35 corporations's activities and contribute to its operating

1 funds.

2 b. Elect officers as provided in section eleven (11) of
3 this Act.

4 c. Employ such staff as the directors deem necessary to
5 carry out the purposes of this Act.

6 d. Make all necessary preparations for the first election
7 of directors, oversee the election campaign, and tally the
8 votes, as provided in section ten (10) of this Act.

9 e. Carry out all other duties and exercise all other
10 powers of the board of directors as provided in this Act.

11 7. ELECTED DIRECTORS. Nine directors shall be elected,
12 pursuant to the procedures set down in section ten (10) of
13 this Act, including one from each congressional district and
14 three at-large. Each director shall represent the interest
15 of the residential utility consumers of his or her district
16 and of the state. Each director shall have one vote. Newly
17 elected directors shall be installed in office by the president
18 of the outgoing board.

19 8. RECALL OF DIRECTORS. Upon receipt by the president
20 of the board of a petition to recall any director with the
21 valid signatures of at least forty percent of the members
22 from such director's district, the president shall call an
23 election for the district, to be held not less than four
24 months and not more than six months after his or her receipt
25 of the petition, for the purpose of electing a director to
26 serve out the term of the recalled director; provided, that
27 no petition to recall a director may be filed within six
28 months of his or her election. An election following recall
29 shall be conducted in accordance with the provisions of section
30 ten (10) of this Act. A director may become a candidate in
31 an election following his or her own recall. The director
32 recalled shall continue to serve until the installment in
33 office of his or her successor.

34 9. VACANCIES. When a director dies, resigns, is
35 disqualified, or otherwise vacates his or her office, except

1 pursuant to recall, the board shall select within three months
2 a successor from the same district for the remainder of the
3 director's term of office. Any director may nominate any
4 qualified person as successor. The board shall select the
5 successor from among those nominated, by majority vote of
6 the remaining directors present and voting. The successor
7 shall be installed in office by the president of the board.

8 10. DUTIES OF BOARD OF DIRECTORS. The board shall have
9 the following duties:

10 a. To maintain up-to-date membership rolls, and to keep
11 them in confidence to the extent required by the provisions
12 of section eight (8) of this Act.

13 b. To keep minutes, books, and records which shall reflect
14 all the acts and transactions of the board and which shall
15 be open to examination by any member during regular business
16 hours.

17 c. To make all reports, studies, and other information
18 compiled by the corporation pursuant to section six (6) of
19 this Act, and all data pertaining to the finances of the
20 corporation, available for public inspection during regular
21 business hours.

22 d. To prepare quarterly statements of the financial and
23 substantive operations of the corporation, and to make copies
24 of such statements available to the general public.

25 e. To cause the corporation's books to be audited by a
26 certified public accountant at least once each fiscal year,
27 and to make the audit available to the general public.

28 f. To prepare and mail, as soon as practicable after the
29 close of the corporation's fiscal year, an annual report of
30 the corporation's financial and substantive operations to
31 each member and to each public library in the state.

32 g. To report to the membership at the annual membership
33 meeting on the past and projected activities and policies
34 of the corporation.

35 h. To employ an executive director and to direct and

1 supervise his or her activities.

2 1. To carry out all other duties and responsibilities
3 imposed upon the corporation and the board by this Act.

4 11. MEETINGS OF THE BOARD OF DIRECTORS.

5 a. The board shall hold regular meetings at least once
6 every three months on such dates and at such places as it
7 may determine. Special meetings may be called by the president
8 or by any three directors upon at least five days' notice.

9 Five of the directors shall constitute a quorum.

10 b. All meetings of the board and of its committees and
11 subdivisions shall be open to the public. Complete minutes
12 of the meetings shall be kept and distributed to all public
13 libraries in the state.

14 12. EXPENSES. The treasurer shall reimburse directors
15 for actual expenses necessarily incurred by them in the
16 performance of their duties, and for such expenses only.

17 13. BONDING. Directors and employees eligible to receive
18 or disburse funds shall be bonded. The cost of such bonds
19 shall be paid by the corporation.

20 Sec. 10. NEW SECTION. ELECTION OF DIRECTORS.

21 1. TIME OF ELECTIONS.

22 a. When the membership of the corporation has reached
23 one thousand persons and the corporation has received ten
24 thousand dollars in contributions, the appointed directors
25 shall promptly fix a date for the first election of directors.
26 The election shall be held not less than four months and not
27 more than six months after the membership and contributions
28 have both reached the prescribed levels.

29 b. Subsequent elections of directors shall be held every
30 twelve months after the first election. The dates of such
31 elections shall be fixed not less than four months in advance
32 by the board.

33 2. QUALIFICATIONS OF CANDIDATES. To be eligible for
34 election to the board, a candidate must:

35 a. Meet the qualifications for directors prescribed in

1 section nine (9) of this Act.

2 b. Be a resident of the district which he or she seeks
3 to represent.

4 c. Have his or her nomination certified by the board
5 pursuant to subsection three (3) of this section.

6 d. Submit to the board a statement of financial interests
7 in accordance with subsection four (4) of this section and
8 a statement of personal background and positions in accordance
9 with subsection five (5) of this section.

10 e. Make the affirmation prescribed in paragraph c of sub-
11 section six (6) of this section.

12 3. NOMINATION OF CANDIDATES.

13 a. A candidate for election to the board shall submit
14 to the board, not later than sixty days prior to the election,
15 a petition for nomination signed by at least one hundred of
16 the members of the corporation residing in his or her district.

17 b. The board shall verify the validity of the signatures.
18 Upon determination that a sufficient number are valid, the
19 board shall certify the nomination of the candidate.

20 4. STATEMENT OF FINANCIAL INTERESTS.

21 a. A candidate for election to the board shall submit
22 to the board, not later than sixty days prior to the election,
23 a statement of financial interest upon a form approved by
24 the board.

25 b. The statement of financial interest shall include the
26 following information:

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

30 (2) A description of all significant personal or
31 professional transactions by the candidate and by his or her
32 immediate family members with any public utility during the
33 previous three years.

34 (3) A list of all corporate and organizational
35 directorships or other offices, and of all fiduciary

1 relationships, held in the past three years by the candidate
2 and by his or her immediate family members.

3 (4) An affirmation, subject to penalty of perjury, that
4 the information contained in the statement of financial
5 interest is true and complete.

6 5. STATEMENT OF PERSONAL BACKGROUND AND POSITIONS. A
7 candidate for election to the board shall submit to the board,
8 not later than sixty days prior to the election, a statement
9 not exceeding two written pages in length concerning his or
10 her personal background and positions on issues relating to
11 public utilities or the operations of the corporation. The
12 statement shall contain an affirmation, subject to penalty
13 of perjury, that the candidate meets the qualifications
14 prescribed for directors of section nine (9) of this Act and
15 is a resident of the district which he or she seeks to
16 represent.

17 6. RESTRICTIONS ON AND REPORTING OF CAMPAIGN CONTRIBUTIONS
18 AND EXPENDITURES.

19 a. Each candidate may accept no more than fifty dollars
20 in campaign contributions, as defined in section three (3)
21 of this Act, from any person or political committee from one
22 year before the date of an election through the date of the
23 election.

24 b. Each candidate shall keep complete records of all
25 contributions to his or her campaign of five dollars or more
26 made from one year before the date of an election through
27 the date of the election.

28 c. Each candidate may incur no more than twenty cents
29 for each member of the corporation residing in the candidate's
30 district as of sixty days prior to the election in campaign
31 expenditures, as defined in section three (3) of this Act,
32 from the date he or she commences circulation of petitions
33 for nomination, or from four months prior to the election,
34 whichever is earlier, through the date of the election.

35 d. Each candidate shall keep complete records of his or

1 her campaign expenditures, and shall make such records
2 available for inspection during normal business hours to any
3 member or employee of the corporation.

4 e. Each candidate, within twenty-one days after the
5 election, shall submit an accurate statement of his or her
6 campaign contributions accepted and campaign expenditures
7 incurred to the board, and shall affirm to the board, subject
8 to penalty of perjury, that he or she has fully complied with
9 the requirements of this subsection.

10 7. ELECTION PROCEDURES.

11 a. The board shall send or have sent by first class mail
12 to each member, not later than twenty-one days before the
13 date fixed for the election:

14 (1) An official ballot listing all candidates for director
15 from the member's district whose nominations the board has
16 certified and who have complied with the requirements of
17 subsections four (4) and five (5) of this section.

18 (2) Each such candidate's statement of financial interests.

19 (3) Each such candidate's statement of personal background
20 and positions.

21 b. Each member may cast a vote in the election by returning
22 his or her official ballot, properly marked, by mail or by
23 other delivery to the main office of the corporation not later
24 than five o'clock p.m. of the date fixed for the election.

25 c. Voting shall be by secret ballot.

26 d. The board shall tally votes with all reasonable speed
27 and shall inform the membership promptly by any reasonable
28 means of the names of the candidates elected.

29 e. In each district, the candidate with the most votes
30 who meets the qualifications for office shall be declared
31 elected.

32 f. The president of the board shall install all elected
33 candidates in office within thirty days after the election

34 g. The board may prescribe rules not inconsistent with
35 this Act for the conduct of elections and election campaigns.

1 Sec. 11. NEW SECTION. OFFICERS.

2 1. ELECTION OF OFFICERS. At the first regular meeting
3 of the board subsequent to the initial appointments of
4 directors and at the first regular meeting of the board
5 subsequent to the installation of new directors following
6 each annual election, the board shall elect by majority vote
7 of members present and voting from among the directors a
8 president, a vice president, a secretary, and a treasurer.
9 The board shall also have the power to elect a comptroller
10 and such other officers as it deems necessary.

11 2. TERM OF OFFICE--REMOVAL FROM OFFICE.

12 a. Officers shall be installed by the president immediately
13 upon their election. The term of office of officers shall
14 be one year; provided that an officer may resign, or may be
15 removed from office by a majority vote of all of the directors.
16 After an officer's term of office has expired, the officer
17 shall continue to serve until his or her successor is
18 installed.

19 b. When an officer dies, resigns, is removed, or otherwise
20 vacates his or her office, the board shall elect a successor
21 to serve out such officer's term of office.

22 3. DUTIES AND POWERS OF OFFICERS. The officers shall
23 exercise such powers and perform such duties as are prescribed
24 by this Act or are delegated to them by the board.

25 Sec. 12. NEW SECTION. EXECUTIVE DIRECTOR.

26 1. The board shall employ an executive director.

27 2. The executive director shall have the following powers
28 and duties, subject at all times to the directions and
29 supervision of the board:

30 a. To decide upon the course of action of the corporation
31 regarding appearances before regulatory agencies, legislative
32 bodies, and other public authorities, and regarding other
33 activities which the corporation has the authority to perform
34 under sections five (5), six (6), seven (7), and eight (8)
35 of this Act.

1 b. To employ and discharge employees of the corporation.

2 c. To supervise the offices, the facilities, and the work
3 of the employees of the corporation.

4 d. To have custody of and to maintain the books, records,
5 and membership rolls of the corporation, in accordance with
6 the provisions of this Act.

7 e. To prepare and submit to the board annual and quarterly
8 statements of the financial and substantive operations of
9 the corporation, and financial estimates for the future
10 operations of the corporation.

11 f. To attend and participate in meetings of the board
12 as a nonvoting director.

13 g. To exercise such other powers and perform such other
14 duties as the board delegates to him or her.

15 3. The executive director may be discharged by majority
16 vote of all of the directors.

17 Sec. 13. NEW SECTION. ANNUAL MEMBERSHIP MEETING.

18 1. An annual meeting of the membership shall be held in
19 the month of June on a date and at a place within the state
20 to be determined by the board.

21 2. All members shall be eligible to attend, participate
22 in, and vote in the annual membership meeting.

23 3. The form of the annual membership meeting shall be
24 as provided in the law of this state regarding not for
25 pecuniary profit membership corporations.

26 4. The annual membership meeting shall be open to the
27 public.

28 Sec. 14. NEW SECTION. CORRUPT PRACTICES AND CONFLICTS
29 OF INTEREST.

30 1. Neither the corporation nor any of its directors,
31 employees, or agents shall offer anything of monetary value
32 to, or accept anything of monetary value from, any public
33 official or official or employee of any public utility or
34 agent thereof, except as specifically permitted in this Act.

35 2. No director shall personally or through any partner

1 or agent render any professional service or make or perform
2 any business contract with or for any public utility.

3 3. No public official, or official or employee of any
4 public utility or agent thereof, shall offer anything of
5 monetary value to, or accept anything of monetary value from,
6 the corporation or any of its directors, employees, or agents,
7 except as specifically permitted in this Act.

8 4. Any person who violates subsection one (1), two (2),
9 or three (3) of this section shall be subject to a fine of
10 not more than five thousand dollars, or imprisonment for a
11 term not to exceed two years, or both.

12 5. A director found in violation of subsection one (1)
13 or two (2) of this section shall be immediately removed from
14 office by the board.

15 Sec. 15. NEW SECTION. BOND REQUIRED. A public utility
16 shall not be required to provide the corporation with any
17 assistance as required by this Act until the corporation
18 submits evidence that it has obtained a bond of ten thousand
19 dollars to guarantee payment by the corporation of costs
20 incurred by public utilities in providing such assistance.

21 Sec. 16. NEW SECTION. CONSTRUCTION OF THE ACT.

22 1. The provisions of this Act shall be construed in such
23 a manner as best to enable the corporation effectively to
24 represent and protect the interest of the residential utility
25 consumers of this state.

26 2. Nothing in this Act shall be construed to limit the
27 right of any person to initiate, intervene in, or otherwise
28 participate in any regulatory agency proceeding or court
29 action, nor to require any petition or notification to the
30 corporation as a condition precedent to the exercise of such
31 right, nor to relieve any regulatory agency or court of any
32 obligation, or to affect its discretion, to permit intervention
33 or participation by any person in any proceeding or action.

34 Sec. 17. This Act shall be effective January 1, 1978.

35

1 EXPLANATION

2 This bill creates a not for pecuniary profit corporation
3 composed of residential utility consumers who have contributed
4 at least two dollars each year to the corporation.

5 The purpose of the corporation is to employ persons to
6 act on behalf of the corporation and its members in actions
7 before local, state and federal agencies which operate or
8 regulate public utilities, and in actions before the courts
9 relating to such public utilities. The expressed function
10 of the corporation is to represent the interests of consumers
11 of residential utility service (electricity, water, natural
12 gas, and telephone).

13 The corporation is managed and operated by a board composed
14 of nine directors elected by consumers, one from each of the
15 six state congressional districts and three at-large, and
16 by corporate officers appointed by the directors.

17 The corporation is funded by contributions from members.
18 Provisions are included which allow consumers to contribute
19 by paying excess amounts toward periodic utility bills, and
20 which require the utilities to receive and pay those
21 contributions to the corporation. The corporation is given
22 the right to have certain limited materials included with
23 the statements mailed by the utilities to their customers.
24 Each utility is entitled to be reimbursed by the corporation
25 for the reasonable added costs of including the corporations
26 printed materials in the billing envelopes.

27 Penalties are included to deter frauds in the election
28 of directors, conflicts of interest between directors and
29 utilities, violations of limitations imposed upon campaign
30 receipts and expenditures of candidates for directorships,
31 and interference with public utilities and their officers,
32 directors and employees with the lawful operation and function
33 of the corporation.

34 The bill has an effective date of January 1, 1978.

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