

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 699

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO AN OFFICE OF UTILITY CONSUMER ADVOCATE; AMENDING TITLE 48, IDAHO
2 CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 48, IDAHO CODE, TO PRO-
3 VIDE A SHORT TITLE, TO DEFINE TERMS, TO CREATE THE OFFICE OF UTILITY
4 CONSUMER ADVOCATE WITHIN THE OFFICE OF THE ATTORNEY GENERAL, TO PROVIDE
5 APPOINTMENT AND TO PROVIDE POWERS AND DUTIES, TO CREATE THE UTILITY
6 RATEPAYER ADVISORY COMMITTEE, TO PROVIDE POWERS AND DUTIES OF THE OF-
7 FICE, TO PROVIDE POWERS OF THE COMMITTEE, TO ESTABLISH DUTIES OF CERTAIN
8 PUBLIC UTILITIES TO PROVIDE DOCUMENTS AND TO PROVIDE FOR FINANCING OF
9 THE OFFICE.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended
13 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
14 ter 17, Title 48, Idaho Code, and to read as follows:

15 CHAPTER 17

16 OFFICE OF UTILITY CONSUMER ADVOCATE ACT

17 48-1701. SHORT TITLE. This chapter is known as the "Office of Utility
18 Consumer Advocate Act."

19 48-1702. DEFINITIONS. As used in this chapter:

20 (1) "Applicable public utility" means a public utility in this state as
21 defined in section 61-129, Idaho Code, providing natural gas, electricity,
22 water or telephone service.

23 (2) "Committee" means the utility ratepayer advisory committee created
24 in section 48-1704, Idaho Code.

25 (3) "Director" means the director of the office appointed pursuant to
26 section 47-1703, Idaho Code.

27 (4) "Farm, industrial customer and large commercial customer" means a
28 person or entity, with more than twenty-five (25) employees or a gross income
29 of one million dollars (\$1,000,000) or more annually, engaged in agricul-
30 ture, industrial pursuits or commercial pursuits.

31 (5) "Office" means the office of utility consumer advocate created in
32 section 48-1703, Idaho Code.

33 (6) "Residential consumer" is a customer or user of an applicable pub-
34 lic utility who maintains a permanent residence within the state.

35 (7) "Small commercial consumer" means a person conducting a business
36 enterprise, agriculture enterprise or other enterprise that has less than
37 twenty-five (25) employees or a gross income of less than one million dollars
38 (\$1,000,000) annually.

39 (8) "Small farm" means a family-owned farm employing fewer than twenty-
40 five (25) full-time employees, not including laborers, during peak season.

1 48-1703. OFFICE OF UTILITY CONSUMER ADVOCATE -- DIRECTOR. (1) There
2 is created within the office of the attorney general the "Office of Utility
3 Consumer Advocate."

4 (2) The attorney general shall appoint a qualified person in the field
5 of public utilities, or advocacy on behalf of consumers, to be the direc-
6 tor of the office subject to confirmation by the senate. The director shall
7 serve for a term of four (4) years. The attorney general may remove the di-
8 rector only for cause.

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

11 (a) Represent Idaho utility ratepayers of an applicable public util-
12 ity;

13 (b) Represent the interests of Idaho utility ratepayers on any matter
14 affecting their interests before appropriate state and federal regula-
15 tory authorities and the courts;

16 (c) Represent the interests of Idaho utility ratepayers on any matter
17 affecting their interests before appropriate state, regional or fed-
18 eral organizations, including regional transmission planning organi-
19 zations; and

20 (d) Hire employees and consultants necessary to carry out duties of the
21 office and such employees shall be exempt from the provisions of chapter
22 53, title 67, Idaho Code.

23 48-1704. UTILITY RATEPAYER ADVISORY COMMITTEE. (1) There is created
24 within the office a committee known as the "Utility Ratepayer Advisory Com-
25 mittee." A member of the committee shall maintain a principal residence
26 within Idaho.

27 (2) (a) The attorney general shall appoint nine (9) members to the com-
28 mittee subject to subsection (3) of this section.

29 (b) Except as required by subsection (2) (c) of this section, as terms of
30 current committee members expire, the attorney general shall appoint a
31 new member or reappointed member to a four (4) year term.

32 (c) Notwithstanding the requirements of subsection (2) (b) of this
33 section, the attorney general shall, at the time of appointment or
34 reappointment, adjust the length of terms to ensure that the terms of
35 committee members are staggered so that approximately one-half (1/2) of
36 the committee is appointed every two (2) years.

37 (d) When a vacancy occurs in the membership for any reason, the attorney
38 general shall appoint a replacement for the unexpired term.

39 (3) Members of the committee shall represent the following consumer in-
40 terests:

41 (a) Three (3) people who shall represent residential ratepayers from
42 different parts of Idaho;

43 (b) One (1) person who shall represent low-income residential con-
44 sumers;

45 (c) One (1) person who shall represent an organization advocating for
46 energy efficiency;

47 (d) One (1) person who shall be a small farmer;

48 (e) One (1) person who shall represent small commercial users;

49 (f) One (1) person who shall represent large commercial users; and

1 (g) One (1) person who shall represent industrial users.

2 (4) The committee may hold monthly meetings, but shall meet no less of-
3 ten than quarterly. The committee may hold other meetings at the times and
4 places the chair and a majority of the committee determine. After initial
5 selection, the committee shall select a chairperson. Five (5) members of the
6 committee constitute a quorum of the committee. A majority of members vot-
7 ing when a quorum is present constitutes an action of the committee. Members
8 shall be compensated as provided by section 59-509 (c), Idaho Code.

9 48-1705. POWERS AND DUTIES OF OFFICE. (1) After taking direction from
10 the committee according to section 48-1706, Idaho Code, the office shall as-
11 sess the impact of utility rate changes and other regulatory actions related
12 to an applicable public utility on Idaho utility ratepayers, and through its
13 director, advocate on the office's own behalf, and in its own name, a posi-
14 tion most advantageous to Idaho utility ratepayers.

15 (2) The director may bring an original action in the name of the office
16 before the public utilities commission or the Idaho supreme court regarding
17 commission business. The director on behalf of the office may commence an
18 original proceeding, file a complaint, appear as a party, appeal or other-
19 wise represent Idaho utility ratepayers in a matter or a proceeding involv-
20 ing regulation of an applicable public utility pending before one (1) or more
21 of the following of the federal government: an officer, department, board,
22 agency, commission or governmental authority, or a court; or intervene in,
23 protest, resist or advocate the granting, denial or modification of a pe-
24 tition, application, complaint or other proceeding, decision or order of a
25 governmental authority of the federal government.

26 (3) The director shall have discretion to represent or refrain from
27 representing Idaho utility ratepayers in any proceeding. The director shall
28 consider, in exercising this discretion, the importance and the extent of
29 the ratepayer interest involved and whether that interest would be ade-
30 quately represented without the action of his office.

31 (4) If the director determines that there are conflicting ratepayer in-
32 terests involved in a particular matter, the director may choose to repre-
33 sent one (1) or more such interests based upon the considerations of this
34 section and the interests represented by other parties in the proceeding.

35 (5) Nothing in this section shall be construed to limit the right of any
36 person, firm or corporation to petition or make complaint to the commission
37 or otherwise intervene in proceedings or other matters before the commis-
38 sion.

39 48-1706. POWERS OF COMMITTEE. By a majority vote of the committee,
40 the committee shall advise the director as to the implementation of those du-
41 ties or powers of the office according to section 48-1705, Idaho Code.

42 48-1707. DUTY OF CERTAIN PUBLIC UTILITIES TO PROVIDE DOCUMENTS. If
43 requested by the director, all public utilities, except railroads and coop-
44 erative utilities, shall provide the office of the utility consumer advocate
45 with copies of any proposed changes in rates or service, correspondence, le-
46 gal papers and other documents, which are served on or delivered or mailed to
47 the public utilities commission of Idaho.

1 48-1708. FINANCING OF OFFICE. At each regular session, the legisla-
2 ture shall determine the amount to be expended by the office of utility con-
3 sumer advocate for the direct and indirect costs of performing the duties and
4 responsibilities required by this chapter and the determined amount shall be
5 appropriated to the office from the public utilities commission fund, pur-
6 suant to section 61-1008, Idaho Code.