

115TH CONGRESS
1ST SESSION

S. 1240

To amend the Federal Power Act to establish an Office of Public Participation and Consumer Advocacy.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2017

Mrs. SHAHEEN (for herself, Mr. FRANKEN, Ms. WARREN, Ms. HASSAN, Mr. WYDEN, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Federal Power Act to establish an Office of Public Participation and Consumer Advocacy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Engagement
5 at FERC Act”.

6 **SEC. 2. OFFICE OF PUBLIC PARTICIPATION AND CON-**
7 **SUMER ADVOCACY.**

8 Section 319 of the Federal Power Act (16 U.S.C.
9 825q-1) is amended to read as follows:

1 **“SEC. 319. OFFICE OF PUBLIC PARTICIPATION AND CON-**
2 **SUMER ADVOCACY.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) ADVISORY COMMITTEE.—The term ‘Advi-
5 sory Committee’ means the Public and Consumer
6 Advocacy Advisory Committee established under
7 subsection (f)(1).

8 “(2) ENERGY CUSTOMER.—The term ‘energy
9 customer’ means a residential customer or a small
10 commercial customer that receives products or serv-
11 ices from—

12 “(A) a public utility or natural gas com-
13 pany under the jurisdiction of the Commission;
14 or

15 “(B) an electric cooperative (as defined in
16 section 3 of the Federal Power Act (16 U.S.C.
17 796)).

18 “(3) NATURAL GAS COMPANY.—The term ‘nat-
19 ural gas company’ has the meaning given the term
20 ‘natural-gas company’ in section 2 of the Natural
21 Gas Act (15 U.S.C. 717a), as modified by section
22 601(a)(1)(C) of the Natural Gas Policy Act of 1978
23 (15 U.S.C. 3431(a)(1)(C)).

24 “(4) OFFICE.—The term ‘Office’ means the Of-
25 fice of Public Participation and Consumer Advocacy
26 established by subsection (b).

1 “(5) PUBLIC UTILITY.—The term ‘public util-
2 ity’ has the meaning given the term in section
3 201(e).

4 “(b) ESTABLISHMENT.—There is established within
5 the Commission an office, to be known as the ‘Office of
6 Public Participation and Consumer Advocacy’.

7 “(c) DIRECTOR.—

8 “(1) IN GENERAL.—The Office shall be headed
9 by a Director, to be appointed by the President by
10 and with the advice and consent of the Senate from
11 among individuals who—

12 “(A) are licensed attorneys admitted to the
13 bar of—

14 “(i) any State; or

15 “(ii) the District of Columbia; and

16 “(B) have experience relating to public
17 utility proceedings.

18 “(2) DUTIES.—The Director shall coordinate
19 assistance made available to—

20 “(A) the public, with respect to authorities
21 exercised by the Commission; and

22 “(B) individuals and entities intervening or
23 participating, or proposing to intervene or par-
24 ticipate, in proceedings before the Commission.

25 “(3) COMPENSATION AND POWERS.—

1 “(A) COMPENSATION.—The Director shall
2 be compensated at a rate equal to the daily
3 equivalent of the annual rate of basic pay pre-
4 scribed for level IV of the Executive Schedule
5 under section 5315 of title 5, United States
6 Code.

7 “(B) POWERS.—The Director may—

8 “(i) employ at the Office—

9 “(I) not more than 125 full-time
10 professional employees at appropriate
11 levels of the General Schedule; and

12 “(II) such additional support
13 personnel as the Director determines
14 to be necessary; and

15 “(ii) procure for the Office such tem-
16 porary and intermittent services as the Di-
17 rector determines to be necessary.

18 “(d) POWERS OF OFFICE.—The Office may—

19 “(1) intervene, appear, and participate, in ac-
20 cordance with this section, in administrative, regu-
21 latory, or judicial proceedings on behalf of energy
22 customers with respect to any matter concerning the
23 rates, charges, prices, tariffs, or service of public
24 utilities and natural gas companies, or natural gas
25 siting and infrastructure development, under the ju-

1 jurisdiction of the Commission by representing the in-
2 terests of the energy customers—

3 “(A) on any matter before the Commission
4 concerning rates or service of such a public util-
5 ity or natural gas company; or

6 “(B) as *amicus curiae* in—

7 “(i) a review in any United States
8 court of a ruling by the Commission in
9 such a matter; or

10 “(ii) a hearing or proceeding in any
11 other Federal regulatory agency or com-
12 mission relating to such a matter;

13 “(2) support public participation in the siting
14 and permitting of natural gas storage and distribu-
15 tion infrastructure under the jurisdiction of the
16 Commission;

17 “(3) monitor and review energy customer com-
18 plaints and grievances on matters concerning rates
19 or service of public utilities and natural gas compa-
20 nies under the jurisdiction of the Commission;

21 “(4) investigate independently, or within the
22 context of a formal proceeding, the services provided
23 by, the rates charged by, and the valuation of the
24 properties of, public utilities and natural gas compa-
25 nies under the jurisdiction of the Commission;

1 “(5) employ means, such as public dissemina-
2 tion of information, consultative services, and tech-
3 nical assistance, to ensure, to the maximum extent
4 practicable, that the interests of energy customers
5 are adequately represented in the course of any
6 hearing or proceeding described in paragraph (1);

7 “(6) collect data concerning rates or service of
8 public utilities and natural gas companies under the
9 jurisdiction of the Commission;

10 “(7) prepare and issue reports and rec-
11 ommendations; and

12 “(8) take such other actions as the Director of
13 the Office determines to be necessary to ensure just
14 and reasonable rates for energy customers.

15 “(e) INFORMATION FROM FEDERAL DEPARTMENTS
16 AND AGENCIES.—

17 “(1) IN GENERAL.—The Director of the Office
18 may secure directly from a Federal department or
19 agency such information as the Director considers to
20 be necessary to carry out this section.

21 “(2) PROVISION OF INFORMATION.—On request
22 of the Director under paragraph (1), the head of a
23 Federal department or agency shall provide the in-
24 formation to the Office, to the extent practicable and
25 authorized by law.

1 “(f) PUBLIC AND CONSUMER ADVOCACY ADVISORY
2 COMMITTEE.—

3 “(1) ESTABLISHMENT.—The Director of the
4 Office shall establish an advisory committee, to be
5 known as the ‘Public and Consumer Advocacy Advi-
6 sory Committee’—

7 “(A) to review rates, services, and dis-
8 putes; and

9 “(B) to make recommendations to the Di-
10 rector.

11 “(2) COMPOSITION.—The Advisory Committee
12 shall—

13 “(A) be composed of such members as the
14 Director determines to be appropriate; but

15 “(B) include not fewer than—

16 “(i) 2 individuals representing State
17 utility consumer advocates; and

18 “(ii) 1 individual representing a non-
19 governmental organization that represents
20 consumers.

21 “(3) MEETINGS.—The Advisory Committee
22 shall meet at such frequency as is required to carry
23 out the duties of the Advisory Committee.

1 “(4) REPORTS.—The Director shall publish the
2 recommendations of the Advisory Committee on the
3 public Internet website established for the Office.

4 “(5) DURATION.—Notwithstanding any other
5 provision of law, the Advisory Committee shall con-
6 tinue in operation during the period for which the
7 Office exists.

8 “(6) APPLICATION OF FACa.—Except as other-
9 wise specifically provided, the Advisory Committee
10 shall be subject to the Federal Advisory Committee
11 Act (5 U.S.C. App.).

12 “(g) REPORTS AND GUIDANCE.—As the Director of
13 the Office determines to be appropriate, the Office shall
14 issue to the Commission and entities subject to regulation
15 by the Commission reports and guidance—

16 “(1) regarding market practices;

17 “(2) proposing improvements in Commission
18 monitoring of market practices; and

19 “(3) addressing potential improvements to in-
20 dustry and Commission practices.

21 “(h) OUTREACH.—The Office shall promote, through
22 outreach, publications, and, as appropriate, direct commu-
23 nication with entities regulated by the Commission—

24 “(1) improved compliance with Commission
25 rules and orders; and

1 “(2) public participation in the siting and per-
2 mitting of natural gas storage and distribution infra-
3 structure under the jurisdiction of the Commission.

4 “(i) COMPENSATION TO ELIGIBLE RECIPIENTS FOR
5 INTERVENTION OR PARTICIPATION.—

6 “(1) DEFINITION OF ELIGIBLE RECIPIENT.—In
7 this subsection, the term ‘eligible recipient’ means
8 an individual or entity—

9 “(A) that intervenes or participates in any
10 proceeding before the Commission;

11 “(B) the intervention or participation of
12 which substantially contributed to the approval,
13 in whole or in part, of a position advocated by
14 the individual or entity in the proceeding; and

15 “(C) that is—

16 “(i) an individual;

17 “(ii) an energy customer; or

18 “(iii) a representative of the interests
19 of energy customers.

20 “(2) COMPENSATION.—Subject to paragraph
21 (3), the Commission, in accordance with regulations
22 promulgated by the Commission, may provide to any
23 eligible recipient compensation for reasonable attor-
24 ney fees, expert witness fees, and other costs of in-

1 tervening or participating in the applicable pro-
2 ceeding before the Commission.

3 “(3) REQUIREMENT.—The Commission may
4 only provide compensation under paragraph (2) if
5 the Commission determines that—

6 “(A) the applicable proceeding is signifi-
7 cant;

8 “(B) the compensation is approved by the
9 Advisory Committee; and

10 “(C) the intervention or participation by
11 the eligible recipient in the proceeding without
12 receipt of compensation constitutes a significant
13 financial hardship to the eligible recipient.

14 “(j) SAVINGS CLAUSE.—Nothing in this section re-
15 stricts or otherwise affects—

16 “(1) any right or obligation of an intervenor,
17 participant, State utility consumer advocate, energy
18 customer, or group of energy customers under any
19 other applicable provision of law (including regula-
20 tions); or

21 “(2) the work of Commission trial staff in rep-
22 resenting the public interest and pursuing appro-
23 priate resolutions in contested matters before the
24 Commission.

1 “(k) FUNDING.—Of the amounts received by the
2 Commission for fiscal year 2017 and each fiscal year
3 thereafter as a result of any fee imposed by the Commis-
4 sion, the Commission shall use such sums as are necessary
5 to establish and provide for the operation of the Office
6 under this section.”.

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