

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 196

BY: LEFTWICH of the SENATE

and

PELTIER of the HOUSE

AS INTRODUCED

AN ACT DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE FOR THEIR APPROVAL OR REJECTION A PROPOSED ACT RELATING TO THE ESTABLISHMENT OF AN OFFICE OF THE UTILITY CONSUMER ADVOCATE; DEFINING TERMS; CREATING THE OFFICE OF THE UTILITY CONSUMER ADVOCATE; PROVIDING FOR APPOINTMENT OF THE UTILITY CONSUMER ADVOCATE; PROVIDING QUALIFICATIONS; SPECIFYING POWERS AND DUTIES OF THE UTILITY CONSUMER ADVOCATE; PROHIBITING CERTAIN ACTIVITY; SPECIFYING CERTAIN FINES AND PENALTIES; PROVIDING FOR THE PAYMENT OF ASSESSMENT BY PUBLIC UTILITIES; PROVIDING FOR ALLOCATIONS AMONG PUBLIC UTILITIES OF CERTAIN COSTS; REQUIRING CERTAIN STATEMENTS; PROVIDING FOR RECOVERY; CREATING THE UTILITY CONSUMER ADVOCATE REVOLVING FUND; PROVIDING FOR DEPOSITS AND EXPENDITURES; PROVIDING AN EFFECTIVE DATE; PROVIDING A BALLOT TITLE; PROVIDING FOR FILING; PROVIDING FOR NONCODIFICATION; PROVIDING FOR CODIFICATION; AND ORDERING A SPECIAL ELECTION.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed statute.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18m of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Public utility" means any individual, firm, association, partnership, company, corporation or any combination thereof, their lessees, trustees and receivers, successors or assigns owning, operating or managing any plant or equipment, or any part thereof directly or indirectly, for public use or supplying any commodity to be furnished to the public for:

- a. producing, generating, transmitting, distributing, selling or furnishing electric current for light, heat or power;
- b. the conveyance, transmission, reception or communications over a telephone system;
- c. the production, transmission, delivery or furnishing of heat or light with gas; or
- d. the conveyance of gas by pipelines.

The term public utility shall not include rural electric cooperatives, or municipalities or towns which provide utility service; and

2. "Small commercial utility consumers" means:

- a. the gas or electric accounts classified by the Corporation Commission as commercial accounts but does not include accounts classified by the Corporation Commission as industrial accounts; and
- b. the accounts classified by the Corporation Commission as telephone business accounts with only one (1) access line.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18n of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General shall establish and maintain the Office of the Utility Consumer Advocate as a separate division within the office of the Attorney General and shall employ and set the compensation of the chief administrative officer of the Office of the Utility Consumer Advocate.

B. The Utility Consumer Advocate shall be a member of the Oklahoma Bar Association and shall have a minimum of three (3) years' experience as an attorney. The position of Utility Consumer Advocate shall be an unclassified position.

C. The Utility Consumer Advocate:

1. Shall employ and set the compensation of such personnel as may be necessary to execute the provisions of this act;

2. May enter into contracts with persons having the experience or technical expertise necessary to implement the provisions of this act;

3. Shall represent and protect the interest of the residential and small commercial utility consumers of this state;

4. Shall intervene as a party or otherwise participate on behalf of residential or small commercial utility consumers in any Corporation Commission proceeding in which a public utility, subject to the assessment pursuant to Section 5 of this act, seeks a general rate increase. In addition, the Utility Consumer Advocate may intervene or otherwise participate in any state or federal judicial or administrative proceeding which affects the interests of residential and small commercial utility consumers or in which matters affecting utility services rendered or to be rendered in this state may be involved. Whenever any action is filed in any court in this state by the Utility Consumer Advocate, no bond or other obligation of security shall be required;

5. May represent the interests of residential and small commercial utility consumers before legislative bodies and other public bodies;

6. Shall have access to and use of all files, records and data of the Corporation Commission available to any other attorney representing parties in a proceeding before the Commission;

7. Shall make an annual report to the Legislature and Governor, a copy of which shall be provided to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of State. The report shall include information on:

- a. the staffing, caseload, budget and budget needs of the Utility Consumer Advocate's office, and
- b. the savings and benefits to residential and small commercial utility consumers as a result of the work of the Utility Consumer Advocate's office; and

8. May exercise all incidental powers as necessary and proper for the administration and execution of the provisions of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Utility Consumer Advocate or any full-time employee of the Office of the Utility Consumer Advocate shall not:

1. Actively engage in any other business or profession;
2. Serve as the representative of any political party or on any executive committee or other governing body thereof;
3. Receive remuneration for activities on behalf of any candidate for public office;
4. Engage on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy;

5. Become a candidate for election to public office unless that person shall first resign from employment;

6. Solicit, suggest, request or recommend directly or indirectly, to any public utility, corporation or person subject to the supervision of the Corporation Commission, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment; and

7. Knowingly accept any transportation, presents, or gratuities from any public utility.

B. The Utility Consumer Advocate or any employee of the Office of the Utility Consumer Advocate who is convicted of a violation of any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00). In addition, if the Utility Consumer Advocate or any person employed by the Utility Consumer Advocate is convicted of violating any provision of this section, such person shall be removed from office.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18p of Title 74, unless there is created a duplication in numbering, reads as follows:

A. For each quarter of each calendar year following the effective date of this act, each public utility which is subject to assessment under this act shall make a payment to the "Utility Consumer Advocate Revolving Fund". The payment required of each such public utility shall be an amount equal to that utility's total number of residential and small commercial utility customers in this state for the reporting quarter, multiplied by one-half cent (\$0.005) per month. Each such public utility shall make its required payments within fourteen (14) calendar days of the end of each quarter.

B. Each public utility, subject to assessment under this act, shall file a quarterly report with the Corporation Commission and

the Attorney General setting forth the computation of its assessment for the quarter.

C. For the purposes of this section each residential and small commercial utility consumer who receives more than one utility service from a single public utility shall be counted as a separate consumer of each such utility service.

D. All costs to public utilities for expenses of the Utility Consumer Advocate shall be recovered from residential and small commercial utility consumers as a regulatory cost of service and no such costs shall be recovered from any other class of utility consumers.

E. No public utility shall recover from its ratepayers any administrative costs related to its compliance with the provisions of this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18q of Title 74, unless there is created a duplication in numbering, reads as follows:

Public utilities subject to assessment under this act shall consist of all public utilities which have a combined total of ten thousand (10,000) or more residential and small commercial utility consumers in the state; provided that long-distance telephone companies who do not provide local exchange service shall not be subject to assessment under this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18r of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General, to be designated the "Utility Consumer Advocate Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of the Utility Consumer Advocate, from the assessment levied pursuant to the provisions of

this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Utility Consumer Advocate for the purpose of implementing the provisions of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 8. The provisions of Sections 1 through 7 of this act shall become effective upon approval of the act by an affirmative vote of the people of this state in an election held for such purpose pursuant to Section \_\_\_ of this act.

SECTION 9. The Ballot Title for the proposed statute shall be in the following form:

BALLOT TITLE

Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

Shall statutes be enacted to require the Attorney General to create the office of the Utility Consumer Advocate. The Utility Consumer Advocate will represent and protect the interests of the residential and small commercial utility consumers of this state. The statutes specify other duties of the advocate. Certain terms are defined. The statutes also prohibit the advocate from certain activities. The statutes provide for an assessment on certain public utilities. The assessment is to be recovered from residential and small commercial utility consumers. A Utility Consumer Advocate Revolving Fund is created. The statutes become effective upon affirmative vote of the people.

SHALL THE ACT BE ADOPTED

    /        YES

    /        NO

SECTION 10. The President Pro Tempore of the Senate shall, immediately after the passage of this act, prepare and file one copy

thereof, including the Ballot Title set forth in SECTION 9 of this act, with the Secretary of State and one copy with the Attorney General.

SECTIION 11. The provision of Section 8 shall not be codified in the Oklahoma Statutes.

SECTION 12. A special election is hereby ordered to be held throughout the State of Oklahoma on the date of the next primary election or special election, whichever occurs first at which time the proposed Statute as provided in this act shall be submitted to the people of Oklahoma for their approval or rejection as and in the manner provided by law.

43-1-673

MJF