

116TH CONGRESS
1ST SESSION

S. 1477

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

IN THE SENATE OF THE UNITED STATES

MAY 15, 2019

Mrs. SHAHEEN (for herself, Mr. VAN HOLLEN, Mr. WYDEN, Mr. WARNER, Ms. WARREN, Mr. SANDERS, Ms. HASSAN, Mr. BLUMENTHAL, and Mr. CARDIN) 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) DIRECTOR.—The term ‘Director’ means
9 the Director of the Office appointed under sub-
10 section (c)(1).

11 “(3) ENERGY CUSTOMER.—The term ‘energy
12 customer’ means a residential customer or a small
13 commercial customer that receives products or serv-
14 ices from—

15 “(A) a public utility or natural gas com-
16 pany under the jurisdiction of the Commission;
17 or

18 “(B) an electric cooperative.

19 “(4) NATURAL GAS COMPANY.—The term ‘nat-
20 ural gas company’ has the meaning given the term
21 ‘natural-gas company’ in section 2 of the Natural
22 Gas Act (15 U.S.C. 717a), as modified by section
23 601(a)(1)(C) of the Natural Gas Policy Act of 1978
24 (15 U.S.C. 3431(a)(1)(C)).

1 “(5) OFFICE.—The term ‘Office’ means the Of-
2 fice of Public Participation and Consumer Advocacy
3 established by subsection (b).

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 Secretary of
10 Energy from among individuals who—

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

13 “(i) any State; or

14 “(ii) the District of Columbia; and

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

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

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

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

24 “(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
23 natural gas siting and infrastructure development
24 under the jurisdiction of the Commission or the
25 rates, charges, prices, tariffs, or service of public

1 utilities and natural gas companies under the juris-
2 diction of the Commission by representing the inter-
3 ests of the energy customers—

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

7 “(B) as amicus curiae in—

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

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

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

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

22 “(4) employ means, such as public dissemina-
23 tion of information, consultative services, and tech-
24 nical assistance, to ensure, to the maximum extent
25 practicable, that the interests of energy customers

1 are adequately represented in the course of any
2 hearing or proceeding described in paragraph (1);

3 “(5) collect data concerning rates or service of
4 public utilities and natural gas companies under the
5 jurisdiction of the Commission;

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

8 “(7) take such other actions as the Director de-
9 termines to be necessary to ensure just and reason-
10 able rates for energy customers.

11 “(e) INFORMATION FROM FEDERAL DEPARTMENTS
12 AND AGENCIES.—

13 “(1) IN GENERAL.—The Director may secure
14 directly from a Federal department or agency such
15 information as the Director considers to be nec-
16 essary to carry out this section.

17 “(2) PROVISION OF INFORMATION.—On request
18 of the Director under paragraph (1), the head of a
19 Federal department or agency shall, to the extent
20 practicable and authorized by law, provide the infor-
21 mation to the Office.

22 “(f) PUBLIC AND CONSUMER ADVOCACY ADVISORY
23 COMMITTEE.—

24 “(1) ESTABLISHMENT.—The Director shall es-
25 tablish an advisory committee, to be known as the

1 'Public and Consumer Advocacy Advisory Com-
2 mittee'—

3 “(A) to review rates, services, and dis-
4 putes; and

5 “(B) to make recommendations to the Di-
6 rector.

7 “(2) COMPOSITION.—The Advisory Committee
8 shall—

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

11 “(B) include not fewer than—

12 “(i) 2 individuals representing State
13 utility consumer advocates; and

14 “(ii) 1 individual representing a non-
15 governmental organization that represents
16 consumers.

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

20 “(4) REPORTS.—The Director shall publish the
21 recommendations of the Advisory Committee on the
22 public internet website established for the Office.

23 “(5) DURATION.—Notwithstanding any other
24 provision of law, the Advisory Committee shall con-

1 tinue in operation during the period for which the
2 Office exists.

3 “(6) APPLICATION OF FACA.—Except as other-
4 wise specifically provided, the Advisory Committee
5 shall be subject to the Federal Advisory Committee
6 Act (5 U.S.C. App.).

7 “(g) REPORTS AND GUIDANCE.—As the Director de-
8 termines to be appropriate, the Office shall issue to the
9 Commission and entities subject to regulation by the Com-
10 mission reports and guidance—

11 “(1) regarding market practices;

12 “(2) proposing improvements in Commission
13 monitoring of market practices; and

14 “(3) addressing potential improvements to in-
15 dustry and Commission practices.

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

19 “(1) improved compliance with Commission
20 rules and orders; and

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

24 “(i) COMPENSATION TO ELIGIBLE RECIPIENTS FOR
25 INTERVENTION OR PARTICIPATION.—

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

4 “(A) that intervenes or participates in any
5 proceeding before the Commission;

6 “(B) the intervention or participation of
7 which substantially contributed to the approval,
8 in whole or in part, of a position advocated by
9 the individual or entity in the proceeding; and

10 “(C) that is—

11 “(i) an individual;

12 “(ii) an energy customer; or

13 “(iii) a representative of the interests
14 of energy customers.

15 “(2) COMPENSATION.—Subject to paragraph
16 (3), the Commission, in accordance with regulations
17 promulgated by the Commission, may provide to any
18 eligible recipient compensation for reasonable attor-
19 ney fees, expert witness fees, and other costs of in-
20 tervening or participating in the applicable pro-
21 ceeding before the Commission.

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

1 “(A) the applicable proceeding is signifi-
2 cant;

3 “(B) the compensation is approved by the
4 Advisory Committee; and

5 “(C) the intervention or participation by
6 the eligible recipient in the proceeding without
7 receipt of compensation constitutes a significant
8 financial hardship to the eligible recipient.

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

11 “(1) any right or obligation of an intervenor,
12 participant, State utility consumer advocate, energy
13 customer, or group of energy customers under any
14 other applicable provision of law (including regula-
15 tions); or

16 “(2) the work of Commission trial staff in rep-
17 resenting the public interest and pursuing appro-
18 priate resolutions in contested matters before the
19 Commission.

20 “(k) FUNDING.—Of the amounts received by the
21 Commission for fiscal year 2020 and each fiscal year
22 thereafter as a result of any fee imposed by the Commis-
23 sion, the Commission shall use such sums as are necessary

- 1 to establish and provide for the operation of the Office
- 2 under this section.”.

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