

AN ACT CONCERNING THE CREATION OF A RESIDENTIAL UTILITY CONSUMER  
ACTION GROUP

Be it enacted by the Senate and House of Representatives in  
General Assembly convened:

LEGISLATIVE FINDINGS AND POLICY

Section 1. The legislature finds and declares that

(a) utility bills are increasing at an unparalleled rate in  
all forms of utility service;

(b) a well funded private nonprofit membership corporation  
composed of consumers is needed to represent the interests of  
consumers before utility regulatory agencies and courts to help  
such agencies and courts in the exercise of their statutory  
responsibilities in a manner consistent with the public interest  
and with effective and responsive government;

(c) utility regulatory agencies often fail to consider  
adequately the interests of consumers, in part because consumers  
lack effective representation before such agencies;

(d) consumer complaints are increasing and are inadequately  
handled;

(e) it is the responsibility of the state government to in-  
sure that a utility corporation chartered under its jurisdiction  
does not earn more than a fair rate of return and is operated  
efficiently;

(f) it is the responsibility of state government to assure  
that utility services are priced to the people of the state so  
that their basic human needs can be met without undue economic  
hardship;

(g) the rapid rate of growth in the demand for energy is due in part to wasteful, uneconomic, inefficient, and unnecessary exploitation of energy and that a continuation of such growth will result, and is currently resulting in serious threat to the health and well being of individuals and the environment and to the personal and financial well being of the citizens of this state; and

(h) utility consumers have the right to use the check-off provision described below to fund activities to provide funds for consumer representation in utility matters.

Section 2. It is the policy and intent of this Legislature to:

(a) establish with all necessary powers a not for profit membership corporation to be called a Residential Utility Consumer Action Group, Inc. with the powers and responsibilities to assure adequate representation and protection of consumers; and;

(b) provide for consumer membership in the corporation and consumer responsibility for the actions of the corporation.

#### DEFINITIONS

Section 3. As used in this Chapter, unless the context otherwise requires--

(1) the term "residential consumer" or "residential utility consumer" as used in this Chapter shall mean any person billed by a utility under a residential rate or any person whose rent for lodging includes payment for such utilities.

(2) the term "regulated public utility", "utility" or "utility corporation" as used in this Chapter means a corporation which is engaged in the business of furnishing electric, telephone,

gas or water service if rates for such furnishing or sale have been established or are subject to approval by a regulatory or municipal authority.

(3) the term "member" or "member of the corporation" as used in this Chapter shall mean any residential consumer who has contributed a minimum of \_\_\_\_\_ dollar(s) to the Residential Utility Consumer Action Group in the corporation's preceding fiscal year.

(4) the term "Member" or "Member of the Board of Directors" as used in this Chapter shall mean any residential consumer duly elected to the Board of Directors of the Corporation.

(5) the term "utility regulatory agency" or "agency" as used in this Chapter shall mean a State, or political subdivision thereof, an agency or instrumentality of the United States, a public service or public utility commission or other similar body, which has jurisdiction to establish rates and charges for the sale of utility services, siting of power plants, protection of the environment, or general review authority over energy matters affecting the state.

(6) the term "Senatorial district" as used in this Chapter shall mean those political subdivisions used for the election of members to the Senate of the State.

(7) the term "proxy" as used in this Chapter shall mean a signed statement authorizing one member to vote in another member's name.

(8) the term "campaign expenditure" as used in this Chapter shall mean money, goods, services or other benefit paid, made, loaned, given, conferred, or promised, including, but not limited to use of office space, telephones, equipment, staff services, and provision of meals, drinks, entertainment, or transportation. This definition shall be construed as broadly as possible to in-

clude anything for which a recipient would or could be expected to pay money, or the promise (whether or not legally enforceable) of any such thing.

#### ESTABLISHMENT AND MEMBERSHIP

Section 4. There is hereby created a not for profit membership corporation to be known as the Residential Utility Consumer Action Group, Inc. whose members shall consist of all residential utility consumers who contributed a minimum of \_\_\_\_\_ dollar(s) to the organization during the corporation's preceeding fiscal year.

#### POWERS

##### Section 5.

(a) The Residential Utility Consumer Action Group shall have all powers, duties and responsibilities as any other private membership nonprofit corporation chartered by the State.

(b) The Residential Uitlity Consumer Action Group shall have all rights and powers reasonably necessary to effectively represent and protect the interests of consumers of utility services. It has all powers specifically designated as well as those necessary and incidental to providing such representation and protection.

(c) The Residential Utility Consumer Action Groap may seek such exempt status under the Internal Revenue Code as the members decide could further the protection of consumer interests.

(d) The Residential Utility Consumer Action Group may use any legislative devices necessary to carry out its purposes including, but not limited to, initiative, referendum and recall.

(e) The Residential Utility Consumer Action Group may accept grants, contributions and appropriations and contract for services which cannot reasonably be performed by its employees.

## REPRESENTATION OF CONSUMERS

### Section 6. Hearings

(a) Whenever the Residential Utility Consumer Action Group determines that the result of any utility regulatory agency proceeding may substantially affect the interests of residential utility consumers, it may intervene as of right as a party or otherwise participate for the purpose of representing the interests of residential utility consumers in such proceeding. The Residential Utility Consumer Action Group shall comply with utility regulatory agency statutes and rules of procedure of general applicability governing (1) intervention or participation in such proceeding and (2) the conduct of such proceeding. The intervention of the Residential Utility Consumer Action Group in any such proceeding shall not affect the obligation of the utility regulatory agency conducting such proceeding to operate in the public interest.

(b) In any utility proceeding or activity in which the Residential Utility Consumer Action Group is intervening or participating, it is authorized to request the utility regulatory agency to issue such orders as are appropriate under the agency's rules of practice and procedure with respect to the summoning of witnesses, copying of documents, papers, and records, production of books and papers, and submission of information in writing. Such utility regulatory agency shall issue such orders unless it reasonably determines that any such order requested is not relevant to the matter at issue, or would unduly interfere with such utility regulatory agency's discharge of its own statutory obligation.

## Section 7. Prehearing activity

(a) In exercising its authority under this Section, the Residential Utility Consumer Action Group is authorized to obtain data by requiring any utility corporation whose actions it determines may substantially affect an interest of residential utility consumers, by general or specific order setting forth with particularity the consumer interest involved and the purposes for which the information is being sought, to file with it a report or answers in writing to specific questions concerning such activities and other related information.

(b) The Residential Utility Consumer Action Group shall not exercise its authority under Section 6(a) if the information sought --

- (1) is available as a matter of public record; or
- (2) is for use in connection with its intervention in a regulatory proceeding against the utility to whom the interrogatory is addressed if the proceeding is pending at the time the interrogatory is requested and the regulatory agency has subpoena power.

## Section 8. Petitions for rule making

(a) Whenever the Residential Utility Consumer Action Group determines that it would be in the interest of residential utility consumers to do so, it may file with the regulatory agency a petition requesting it (1) to commence and complete a proceeding respecting any utility activity or lack thereof, or (2) to complete such proceedings.

(b) The petition shall set forth facts which it is claimed establish the need for the proceeding and a brief description of

the substance of the order or amendment desired as a result of the hearing.

(c) The Regulatory Agency may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) Within sixty days after the filing of the petition described in subsection (b), the utility regulatory agency shall either grant or deny the petition. If the agency grants the petition, it shall promptly commence or complete the proceeding, as requested by the petition. If the agency denies the petition it shall publish the reasons for such denial.

(e) If the Utility regulatory agency denies the petition made under this section (or if it fails to grant or deny such petition within sixty days), the petitioner may commence a civil action in a court to compel the utility regulatory agency to commence or complete the proceeding (or both), as requested in the petition. Any such action may be filed by the petitioner thirty days after the denial of the petition (or (if the agency fails to grant or deny the petition within sixty days) within thirty days after the expiration of the sixty day period.)

(f) If the petitioner can demonstrate to the satisfaction of the court, by a preponderance of the evidence in a de novo proceeding before such court, that the failure of the agency to commence or complete the proceeding as requested in the petition was unreasonable the court shall order the agency to commence or complete the proceeding (or both), as requested in the petition.

(g) In any action under this subsection, the court shall have no authority to compel the agency to take any action other than the commencement or completion (or both) of a proceeding.

#### ADDITIONAL REMEDIES

##### Section 9.

The remedies under this section shall be in addition to, and not in lieu of other remedies provided by law.

#### JUDICIAL REVIEW

Section 10. The Residential Utility Consumer Action Group shall be deemed to have an interest sufficient to maintain actions for judicial review and may, as of right, and in the manner prescribed by law, intervene or otherwise participate in any civil proceedings which involves the review or enforcement of an agency action that the Residential Utility Consumer Action Group determines may substantially affect the interests of consumers.

#### RESEARCH

Section 11. The Residential Utility Consumer Action Group is authorized to conduct, support, and assist research, studies, plans, investigations, conferences, demonstration projects, and surveys concerning the interests of residential utility consumers.

#### FUNDING

##### Section 12.

(a) There is hereby created a new account to be included in the Uniform Systems of Accounts to be called the Residential Utility Consumer Action Group Account.



(b) Upon proper request by the Residential Utility Consumer Action Group, as described in subsection ( ) of this section, each utility shall include or enclose within, upon or attached to any periodic billing which such utility sends, mails, or delivers to any or every utility consumer,

(1) a card, statemetn, or similar enclosure not to exceed \_\_\_ x \_\_\_ inches and not to exceed \_\_\_ ounces avoirdupois, prepared (and furnished) by the Residential Utility Consumer Action Group upon which the utility consumer may indicate that any payment in excess of the balance due on such billing shall be transferred to such Residential Utility Consumer Action Group Account;

(2) a statemetn prepared and furnished to such utility by the Residential Utility Consumer Action Group to be printed upon the face of the billing which shall be no smaller than \_\_\_ inches high and \_\_\_ inches wide and a box to be printed upon the face of the billing which shall be no smaller than \_\_\_ inches high and \_\_\_ inches wide upon which the utility consumer may indicate that any payment in excess of the balance due on such billing shall be transferred to the Residential Utility Consumer Action Group; and/or

(3) a statement or any materials prepared and furnished to such utility by the Residential Utility Consumer Action Group concerning the organization, past, current and future activities of the Residential Utility Consumer Action Group and/or any other matter which may affect the interests of utility consumers. The statement or materials shall not exceed the folded size of \_\_\_ x \_\_\_ inches and shall not exceed \_\_\_ ounces avoirdupois.

(c) Each utility subject to this act shall include or enclose within, upon or attached to any periodic billing any material prepared and furnished by the Residential Utility Consumer Action Group as described in subsection (b) upon the written request of the Residential Utility Consumer Action Group which shall conform to the following guidelines:

(1) The Residential Utility Consumer Action Group shall notify the utilities of its intention to include any material or statement as described in subsection (b) within, upon or attached to any specified periodic billing up to one year in advance, but not less than twenty-one (21) calendar days prior to the mailing of such periodic billings; and

(2) The Residential Utility Consumer Action Group shall supply the utility with the material or statement to be included within, upon or attached to any specified periodic billing up to one year in advance, but not less than fourteen (14) calendar days prior to the mailing of such periodic bills.

(d) The Residential Utility Consumer Action Group shall pay all reasonable costs incurred by such utility company in complying with the Act. In case of dispute as to the proper costs, the utility must continue to comply with the Act.

(e) Each utility subject to this Act shall transfer the monies accumulated in the Residential Utility Consumer Action Group to the Residential Utility Consumer Action Group every thirty days. It shall also within the time period stated transfer to the Residential Utility Consumer Action Group the names and the amount of the contribution of those consumers who have made contributions to the Residential Utility Consumer Action Group Account.

(f) No utility, officer or employee of such utility may in any way interfere with the service or in any way penalize any consumer contributing to the Residential Utility Consumer Action Group or participating in any of its activities.

(g) No utility, officer or employee of such utility may in any way interfere with or hinder the distribution of the check-off card, or in any way change its mailing procedures so as to make the inclusion and distribution of said check-off card difficult and more expensive.

#### BOARD OF DIRECTORS

##### Section 13.

###### (a) Establishment and Membership

There is hereby created a Board of Directors whose Members shall be chosen by the membership of the Residential Utility Consumer Action Group in a yearly meeting convened for that purpose. The terms of the members of the Board shall be staggered and drawn by lot, one-half of the Board elected annually.

###### (b) Term of Office

The term of office for Members of the Board shall be three years and no Member shall serve more than two consecutive terms.

###### (c) Nomination

###### (1) Initial Members

There shall be seven initial Members of the Board of Directors, each individually appointed by the Attorney General, The Speaker of the House, The Majority Leader of the House, the Minority Leader of the House, the President Pro Tempore of the Senate, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(2) Successor Members

(i) Once the consumers of the utilities have contributed ten thousand dollars, a meeting of the membership of the Corporation shall be promptly held to elect the Board of Directors.

(ii) The Board shall be comprised of one person from each Senatorial District who shall represent the interests of the members of that District. Each member of the corporation within a Senatorial District shall have one vote in the election from that district.

(3) Financial disclosure of Candidates for Board Members

(i) Each Candidate for the Board of Directors shall file a statement of financial interests in accordance with the provisions of this Act within sixty days prior to the election of Members of the Board of Directors.

(ii) A statement of financial interests shall be on a form approved by the members, and shall include the following information:

(A.) the identity, by name, of all corporate and organizational directorships, held and fiduciary relationships held;

(B.) a detailed description of all real estate in the state in which any interest, direct or indirect is held, including an option to buy;

(C.) the name of each creditor to whom monies in excess of \$1,000 are owed, the nature of the amount owed, and the interest rate;

(D.) the name of each business, insurance policy, or trust in which a financial interest exists, and the nature of the amount of such interest;

(E.) the source, by name, and category of the amounts of any income, including capital gains, whether or not taxable, received during the preceding year;

(F.) a list of businesses with which he/she is associated that do business with a utility and a description of the nature of the business or regulation;

(G.) if an attorney, accountant or engineer, a list of all clients doing business with a utility, and a description of the nature of such business;

(H.) if an insurance or real estate agent, a list of all clients of the individual or firm with which he/she is associated who are either a utility, an employee of such utility, a consultant to any utility, or a shareholder of any utility.

(4) Financing of elections

(i) The Residential Utility Consumer Action Group shall mail to each member within a Senatorial District a two page statement from each candidate. The costs for such mailing shall be borne by the Residential Utility Consumer Action Group.

(ii) In addition to the assistance provided each candidate in subsection (i), each candidate may spend \_\_\_\_\_.

(iii) In order to become eligible for the mailing described in this Section, a candidate shall

(a) obtain, maintain and furnish to the membership any records, books and other information it may request regarding campaign expenditures; and

(b) cooperate fully with the audit and examination conducted by the membership.

(iv) Each member who is a candidate for election to the Board of Directors shall certify, under penalty of perjury, that they have incurred no expenditures in excess of \_\_\_\_\_.

(d) Election procedures

(1) Every candidate for election as a Member of the Board of Directors from a Senatorial district must be a member of the Residential Utility Consumer Action Group and reside in that Senatorial district.

(2) A petition for nomination to the Board of Directors from any District must be submitted to the Board of Directors not less than sixty (60) days prior to the election signed by 5 percent of the members residing in such district.

(3) The Board of Directors shall verify the validity of the signatures.

(4) If the Board of Directors verifies the signatures required under subsection (1), the Board shall declare such nomination in effect.

(5) At the same time that a candidate's statement and financial disclosure form, as described in subsection , is sent to each member residing in that district, an official ballot listing the candidates for election to the Board of Directors from that district shall be included. Each member has one vote in the election and shall submit the mail ballot by

(6) Election shall be by a simple majority of the votes cast. If there are more than two candidates and no one receives a majority, the candidate with the most votes shall be declared the winner.

(7) After the first election of the Board of Directors, the Board shall develop election procedures and standards to be approved by a majority of the members of the corporation.

(e) Eligibility

No employee, shareholder, bondholder or spouse of any employee, shareholder or bondholder of a utility shall be eligible for election to the Board of Directors.

(f) Vacancies

To fill any vacancy occasioned by the failure of any person elected as a director to qualify, or in the event of death, removal, resignation, or disqualification of any member, a successor for the unexpired term shall be nominated from the same Senatorial District and selected by a two thirds majority of the remaining members of the Board. Such vacancies shall be filled within two meetings of the Board.

(g) Powers

The Board shall have the power to manage the affairs of the Corporation.

(h) Duties

The Board shall have, among others, the following duties:

(1) to submit to the membership at each quarterly meeting a financial report for such quarterly period; (2) to submit to the membership at each quarterly meeting a summary of its activities for the preceding quarter, (3) to keep minutes, books and records

which will reflect all of the acts and transactions of the Board and which shall be subject to examination by any member; (4) to prepare periodic statements of the financial and substantive operations of the Corporation and to make copies of each available to members and the public; (5) to cause its books to be audited by a competent certified public accountant at least once each fiscal year;

(1) Meetings and Materials

(1) All meetings of the Board shall be open to the public, including meetings of all subcommittees. In addition, complete minutes of the meetings shall be kept and distributed to all public libraries in the state. All reports, studies and financial data shall be open to public inspection during regular business hours.

(2) The Board of Directors shall hold regular meetings at least quarter-annually on such dates as it may determine. Special meetings may be called by the President or any \_\_\_\_\_ Members upon at least 10 days notice. \_\_\_\_\_ Members of the Board shall constitute a quorum.

(j) Annual Report

The Board shall, as soon as practical after the close of the fiscal year, prepare and mail an annual report to each member and prepare and mail an annual report to each public library in the state.

(k) Expenses and Compensation

The members of the Board shall be reimbursed for expenses necessarily incurred by them in the performance of their duties.



(1) Recall

Members of the Board of Directors can be removed by petition of forty percent of the total members eligible to vote in the last election from the Senatorial District from which that Board member was elected. No petition for recall may be filed within six months of the election of the Board member.

(m) Members of the Board of Directors and staff eligible to disburse funds shall be bonded. The cost of such bonds shall be paid by the Residential Utility Consumer Action Group.

OFFICERS

Section 14. Election

(a) At the first regular meeting of the Board following the annual election, the Board shall elect from its Members a President, a Vice-President, a Secretary and a Treasurer. Such officers shall hold office for the ensuing year and until their successors are elected, unless removed from office by the concurring vote of a majority of all the directors.

(b) In case of the death, resignation or removal of any of the aforementioned officers, the Board shall elect a successor to hold office for the remainder of the term for which that officer had been elected.

(c) The Board shall also have the power to elect and at pleasure remove a Comptroller and such other officers as it shall determine.

Section 15. Duties and Powers

The officers shall perform the duties customary to their offices and such other duties as shall be delegated to them by the Board of Directors.

#### EXECUTIVE DIRECTOR

Section 16. The Board of Directors shall engage the services of an Executive Director who shall be in immediate charge of the activities of the staff of the corporation, subject to the directions of the Board of Directors. He or she shall exercise supervision over the offices, facilities and personnel of the corporation and shall have custody of its books, records and mailing lists. He or she shall prepare and submit to the Treasurer the annual and quarterly budgets and income estimates which are to be presented to the Board of Directors. He or she shall have all the privileges of Membership on the Board of Directors except the right to vote. The Executive Director shall be subject to removal by the concurring vote of a majority of all the directors.

#### CONSUMER COMPLAINTS

Section 17. Whenever the Residential Utility Consumer Action Group receives from a residential utility consumer any written complaint it shall, unless it determines that such complaint or information appears to be frivolous, promptly transmit such complaint of information to the appropriate utility regulatory agency. Such utility regulatory agency shall keep the Residential Utility Consumer Action Group informed of what action it is taking on complaints transmitted pursuant to this section.

#### ANNUAL MEETING

Section 18. The annual membership meeting shall be held on a date in     (month)    , and at a place, to be determined by the Board of Directors.

#### MISCELLANEOUS PROVISIONS

Section 18. Nothing in this Chapter shall be construed to limit the right of any consumer or group or class of consumers or environmentalists to initiate, intervene in, or otherwise participate in any utility regulatory agency or court proceeding or activity, nor to require any petition or notification to the Residential Utility Consumer Action Group as a condition precedent to such right, nor to relieve any utility regulatory agency or court of any obligation, or affect its discretion, to permit intervention or participation by a consumer or group or class of consumers in any proceeding or activity.

#### STOCK OWNERSHIP

Section 19. Nothing in this Chapter shall be deemed to preclude the ownership by the corporation of one share of stock in each utility doing business in the state.

#### SEVERABILITY

Section 20. If any provision of this Chapter shall be declared unconstitutional or invalid, the other provisions shall remain in effect notwithstanding.

#### PENALTIES

(a) Whoever violates any provision of this Chapter, shall be subject to civil penalty of not more than \$5,000 for each violation. Such violation of any Section shall constitute a separate and continuing violation with respect to each violation of Section 12.

(b) Any person, Director or Officer who shall knowingly or wilfully violate any provision of this Chapter or shall fail to perform any duty imposed under this Chapter shall be liable to imprisonment for a term not to exceed six (6) months.

**EFFECTIVE DATE**

**Section 19.** This Act shall take affect upon passage.

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