

114TH CONGRESS
2D SESSION

H. R. 5348

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

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2016

Ms. SCHAKOWSKY (for herself, Mr. SEAN PATRICK MALONEY of New York, and Ms. KUSTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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 a public utility or natural gas company
12 under the jurisdiction of the Commission.

13 “(3) NATURAL GAS COMPANY.—The term ‘nat-
14 ural gas company’ has the meaning given the term
15 ‘natural-gas company’ in section 2 of the Natural
16 Gas Act (15 U.S.C. 717a), as modified by section
17 601(a)(1)(C) of the Natural Gas Policy Act of 1978
18 (15 U.S.C. 3431(a)(1)(C)).

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

22 “(5) PUBLIC UTILITY.—The term ‘public util-
23 ity’ has the meaning given the term in section
24 201(e).

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

4 “(c) DIRECTOR.—

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

9 “(A) are licensed attorneys admitted to the
10 bar of—

11 “(i) any State; or

12 “(ii) the District of Columbia; and

13 “(B) have experience relating to public
14 utility proceedings.

15 “(2) DUTIES.—The Director shall coordinate
16 assistance made available to—

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

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

22 “(3) COMPENSATION AND POWERS.—

23 “(A) COMPENSATION.—The Director shall
24 be compensated at a rate equal to the daily
25 equivalent of the annual rate of basic pay pre-

scribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(B) POWERS.—The Director may—

“(i) employ at the Office—

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

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

“(ii) procure for the Office such temporary and intermittent services as the Director determines to be necessary.

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

“(1) intervene, appear, and participate, in accordance with this section, in administrative, regulatory, or judicial proceedings on behalf of energy customers with respect to any matter concerning the rates, charges, prices, tariffs, or service of public utilities and natural gas companies, or natural gas siting and infrastructure development, under the jurisdiction of the Commission by representing the interests of the energy customers—

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

4 “(B) as amicus curiae in—

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

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

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

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

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

24 “(5) employ means, such as public dissemina-
25 tion of information, consultative services, and tech-

1 nical assistance, to ensure, to the maximum extent
2 practicable, that the interests of energy customers
3 are adequately represented in the course of any
4 hearing or proceeding described in paragraph (1);

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

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

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

13 “(e) INFORMATION FROM FEDERAL DEPARTMENTS
14 AND AGENCIES.—

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

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

24 “(f) PUBLIC AND CONSUMER ADVOCACY ADVISORY
25 COMMITTEE.—

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

5 “(A) to review rates, services, and dis-
6 putes; and

7 “(B) to make recommendations to the Di-
8 rector.

9 “(2) COMPOSITION.—The Advisory Committee
10 shall—

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

13 “(B) include not fewer than—

14 “(i) 2 individuals representing State
15 utility consumer advocates; and

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

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

22 “(4) REPORTS.—The Director shall publish the
23 recommendations of the Advisory Committee on the
24 public Internet website established for the Office.

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

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

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

13 “(1) regarding market practices;

14 “(2) proposing improvements in Commission
15 monitoring of market practices; and

16 “(3) addressing potential improvements to in-
17 dustry and Commission practices.

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

21 “(1) improved compliance with Commission
22 rules and orders; and

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

1 “(i) COMPENSATION TO ELIGIBLE RECIPIENTS FOR
2 INTERVENTION OR PARTICIPATION.—

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

6 “(A) that intervenes or participates in any
7 proceeding before the Commission;

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

12 “(C) that is—

13 “(i) an individual;

14 “(ii) an energy customer; or

15 “(iii) a representative of the interests
16 of energy customers.

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

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

4 “(A) the applicable proceeding is signifi-
5 cant;

6 “(B) the compensation is approved by the
7 Advisory Committee; and

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

12 “(j) SAVINGS CLAUSE.—Nothing in this section re-
13 stricts or otherwise affects any right or obligation of an
14 intervenor, participant, State utility consumer advocate,
15 energy customer, or group of energy customers under any
16 other applicable provision of law (including regulations),
17 nor does this section restrict in any way the work of Com-
18 mission trial staff in their strong representation of the
19 public interest and their aggressive pursuit of appropriate
20 resolutions in contested matters before the Commission.

21 “(k) FUNDING.—Of the amounts received by the
22 Commission for fiscal year 2016 and each fiscal year
23 thereafter as a result of any fee imposed by the Commis-
24 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.”.

