

116TH CONGRESS  
1ST SESSION

# S. 1477

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

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## 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

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## 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 attorney  
19                 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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