
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2519 Session of
1984

INTRODUCED BY SALVATORE, WOGAN, PERZEL, O'BRIEN AND WESTON,
OCTOBER 2, 1984

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, OCTOBER 2, 1984

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for a Citizens Utility
3 Board.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 66 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 35

9 CITIZENS UTILITY BOARD

10 Sec.

11 3501. Declaration of policy.

12 3502. Definitions.

13 3503. Creation of corporation.

14 3504. Duties, rights and powers of corporation.

15 3505. Notification of ratepayers.

16 3506. Organization of board of directors.

17 3507. Duties of board of directors.

18 3508. Appointment of interim board of directors.

1 3509. Election of directors.
2 3510. Qualifications of candidates.
3 3511. Nomination of candidates.
4 3512. Statement of financial interests.
5 3513. Statement of personal background and positions.
6 3514. Restrictions on and reporting of campaign contributions
7 and expenditures.
8 3515. Election procedures.
9 3516. Installation of elected candidates.
10 3517. Recall of directors.
11 3518. Vacancies.
12 3519. Duties of public utility.
13 § 3501. Declaration of policy.

14 It is the intent of the General Assembly to supplement the
15 office of the Consumer Advocate by creating a network of
16 regional citizens organizations, headed by an elected board of
17 directors. These organizations will investigate consumer's
18 utility concerns and complaints in those regions where boards
19 are created.

20 § 3502. Definitions.

21 The following words and phrases when used in this chapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Corporation." The Citizens Utility Board.

25 "Immediate family." Spouses and their parents, children,
26 brothers and sisters.

27 "Periodic customer billing." A demand for payment for
28 utility services by a public utility to a residential utility
29 customer on a monthly or other regular basis.

30 "Residential utility consumer." Any person in this

1 Commonwealth whose residence is furnished with a utility service
2 by a public utility company.

3 "Utility service." Electricity, water, natural gas and
4 telephone services supplied by a public utility, municipality,
5 municipal authority or similar government entity.

6 § 3503. Creation of corporation.

7 (a) Creation.--There is hereby created a nonprofit
8 membership corporation to be known as the Citizens Utility
9 Board.

10 (b) Membership.--The membership of the corporation will
11 consist of all residential utility consumers 18 years of age or
12 older who have contributed to the corporation, in either its
13 preceding or its current fiscal year, an amount to be set by the
14 board of directors. Any person may resign from membership.

15 (c) Regional board.--Each regional board may be organized on
16 the basis of the utility serving the residential utility
17 ratepayer or the geographic area. The members of the regional
18 board shall be drawn from the residential utility ratepayers
19 which the regional board represents. A citizens utility board
20 petitioning for representation for a single utility shall take
21 precedence over a board petitioning for a geographic area.

22 § 3504. Duties, rights and powers of corporation.

23 (a) Duties.--The corporation will do the following:

24 (1) Represent and promote the interests of the
25 residential utility consumers of this Commonwealth. All
26 actions by the corporation under this chapter shall be
27 directed toward such duty.

28 (2) Inform, insofar as possible, all residential utility
29 consumers about the corporation, including the procedure for
30 obtaining membership in the corporation.

1 (3) Establish a minimum annual membership fee of at
2 least \$3.

3 (4) Have all rights and powers accorded generally to,
4 and be subject to all duties imposed generally upon, not-for-
5 profit membership corporations under the laws of this
6 Commonwealth.

7 (b) Rights and powers.--In addition, the corporation shall
8 have the following rights and powers:

9 (1) Solicit and accept gifts, loans, grants or other aid
10 in order to support activities concerning the interests of
11 residential utility consumers, except that the corporation
12 may not accept gifts, loans or other aid from any public
13 utility or from any director, employee or agent or member of
14 the immediate family of a director, employee or agent of any
15 public utility.

16 (2) Seek tax-exempt status under State and Federal law.

17 (3) Conduct, support and assist research, surveys,
18 investigations, planning activities, conferences,
19 demonstration projects and public information activities
20 concerning the interests of residential utility customers.

21 (4) Contract for services which cannot reasonably be
22 performed by its employees.

23 (5) Represent the interests of residential utility
24 consumers before regulatory agencies, legislative bodies and
25 other public bodies.

26 (6) Initiate, intervene as a party, maintain or
27 otherwise participate on behalf of residential utility
28 consumers in any proceeding which affects the interests of
29 residential utility consumers.

30 (c) Other powers.--The corporation shall have, in addition

1 to the rights and powers enumerated in this chapter, such other
2 incidental rights and powers as are reasonably necessary for the
3 effective representation and protection of the interests of
4 residential utility consumers.

5 (d) Prohibitions.--The corporation shall not sponsor,
6 endorse or otherwise support, nor shall it oppose, any political
7 party or the candidacy of any person for public office.

8 § 3505. Notification of ratepayers.

9 (a) General rule.--To accomplish its duties under this
10 chapter and subject to the limitations in section 3519 (relating
11 to duties of public utility), the regional board may prepare and
12 furnish to any public utility a statement to be printed on the
13 face of the periodic billing of the public utility or an
14 enclosure to be mailed with the periodic billing.

15 (b) Time of submission.--An enclosure or statement furnished
16 by the regional board may not be submitted to the utility less
17 than 21 calendar days in advance of the date of the public
18 utility's periodic customer billing.

19 (c) Size and weight of enclosure.--An enclosure shall be of
20 a size compatible with the mailing envelope of the utility and
21 shall otherwise conform to the specifications of the billing
22 enclosure inserting equipment of the utility.

23 (d) Size of statement.--A statement furnished by the
24 regional board shall be a size compatible with the normal
25 periodic billing of the utility.

26 (e) Information contained.--An enclosure or statement
27 furnished by the regional board shall be limited to informing
28 the reader of the purpose, nature and activities of the regional
29 board and informing the reader that the utility ratepayer
30 billed, and others in the household, may contribute money to the

1 regional board directly. The enclosure or statement shall have
2 the character of a circular and may not have the character of a
3 bill, statement of account or personal correspondence.

4 § 3506. Organization of board of directors.

5 (a) Membership.--The affairs of the corporation shall be
6 managed by a board of directors consisting of one member from
7 each utility district.

8 (b) Expenses.--The directors shall serve without salary, but
9 each director may be entitled to reimbursement for actual and
10 necessary expenses incurred in conjunction with official duties.
11 The board of directors shall establish standard allowances for
12 mileage, room and meals and the purposes for which the
13 allowances may be made and shall determine the reasonableness
14 and necessity for the reimbursements.

15 (c) Term of office.--The term of office for members of the
16 board of directors shall be three years and no member shall
17 serve more than two consecutive terms. One-third of the
18 directors first elected shall serve for a one-year term; one-
19 third of the directors shall serve for a two-year term; and one-
20 third of the directors shall serve a full three-year term.

21 (d) Conflicts.--No director shall, either directly or
22 indirectly, be employed for compensation as a staff member or
23 consultant of the corporation.

24 (e) Bonding.--Any director who shall handle, disburse or
25 receive money on behalf of the corporation shall be bonded. The
26 bond shall be a cost to the corporation.

27 § 3507. Duties of board of directors.

28 The board of directors shall perform the following duties:

- 29 (1) Establish the policies of the corporation regarding
30 appearances before the commission, other regulatory agencies,

1 the courts and other public bodies and regarding other
2 activities which the corporation has the authority to perform
3 under this chapter.

4 (2) Solicit membership through the means provided in
5 section 3505 (relating to notification of ratepayers).

6 (3) Keep minutes, books and records which shall reflect
7 all the acts and transactions of the board of directors.

8 (4) Make all reports, studies and other information
9 compiled by the corporation, and all data pertaining to the
10 finances of the corporation, available for public inspection
11 during regular business hours.

12 (5) Cause the corporation's books to be audited by a
13 certified public accountant at least once each fiscal year
14 and make the audit available to the general public.

15 (6) Prepare, as soon as practicable after the close of
16 the corporation's fiscal year, an annual report of the
17 corporation's financial and substantive operations to be made
18 available for public inspection.

19 (7) Report to the membership at the annual membership
20 meeting the past and projected activities and policies of the
21 corporation. In addition, the corporation shall sponsor on
22 behalf of each director at least one meeting per year in the
23 director's utility district.

24 (8) Employ an executive director and direct and
25 supervise his activities.

26 (9) Hold regular meetings, including meetings by
27 telephone conference, at least once every three months on
28 such dates and at such places as it may determine. Special
29 meetings may be called by the president of the board of
30 directors or by at least one-quarter of the directors upon at

1 least five days' notice. One-half of the directors plus one
2 shall constitute a quorum. All meetings of the board of
3 directors and of its committees and subcommittees shall be
4 open to the public. Complete minutes of the meetings shall be
5 kept.

6 (10) Make available to each member, upon request and
7 under guidelines established by the board which shall protect
8 personal privacy, all papers, records, documents and other
9 material in the possession of the corporation.

10 (11) Carry out all other duties and responsibilities
11 imposed upon the corporation and the board of directors by
12 this chapter.

13 § 3508. Appointment of interim board of directors.

14 (a) General rule.--Within 90 days after the effective date
15 of this chapter, an interim board of directors shall be
16 appointed by the Governor to serve until a board of directors is
17 first elected. If the number of members of the corporation fails
18 to reach the level required by section 3509 (relating to
19 election of directors) within two years of the appointment of
20 the complete interim board of directors, the corporation shall
21 be dissolved after having satisfied its debts, liabilities and
22 obligations to the extent possible from funds made available to
23 the corporation.

24 (b) Method of appointment.--The method of appointment of
25 interim directors shall be as follows: three shall be appointed
26 by the Governor; three shall be appointed by the Governor from a
27 list containing no less than five names submitted by the
28 President pro tempore of the Senate; three shall be appointed by
29 the Governor from a list containing no less than five names
30 submitted by the Speaker of the House of Representatives; one

1 shall be appointed by the Governor from a list of not less than
2 five names submitted by the Minority Leader of the Senate; and
3 one shall be appointed by the Governor from a list of not less
4 than five names submitted by the Minority Leader of the House of
5 Representatives. Individuals considered for appointment to the
6 interim board shall have the same qualifications as candidates
7 for the board of directors pursuant to section 3510 (relating to
8 qualifications of candidates), and shall, to the extent
9 possible, represent each region of this Commonwealth.

10 (c) Duties.--The interim board of directors shall:

11 (1) As soon as possible after appointment, organize for
12 the transaction of business.

13 (2) Inform the residential utility consumers of this
14 Commonwealth of the existence, nature and purpose of the
15 corporation, and encourage residential utility consumers to
16 join the corporation, to participate in the corporation's
17 activities and to contribute to the corporation.

18 (3) Elect officers.

19 (4) Employ such staff as the directors deem necessary to
20 carry out the purposes of this chapter.

21 (5) Make all necessary preparations for the first
22 election of directors, oversee the election campaign and
23 tally the votes.

24 (6) Solicit funds for the corporation.

25 (7) Designate by a random method the length of the term
26 of office of each director position to be filled after the
27 first election of directors.

28 (8) Carry out all other duties and exercise all other
29 powers accorded to the board of directors under this chapter.

30 § 3509. Election of directors.

1 (a) Initial election.--Not more than 60 days after
2 membership of the corporation reaches 25,000 persons with at
3 least 100 members in each district, the interim board of
4 directors shall set a date for the first general election of
5 directors and shall so notify every member. The date set for
6 elections shall be not less than four months nor more than eight
7 months after the notification.

8 (b) Subsequent elections.--Each general election of
9 directors other than the first election of directors shall be
10 held not less than 11 months and not more than 13 months after
11 the last preceding general election. The date of the elections
12 shall be fixed by the board of directors at least four months in
13 advance of the date chosen for the election.

14 § 3510. Qualifications of candidates.

15 (a) General rule.--No present employee, director,
16 shareholder, bondholder, consultant, attorney or accountant, or
17 the spouse of such persons, of any public utility doing business
18 in this Commonwealth or of the power authority of the
19 Commonwealth and no employee of the commission shall be eligible
20 to be a director. No candidate for the board of directors may
21 hold an elective public office or be a candidate for an elective
22 public office.

23 (b) Eligibility for election.--To be eligible for election
24 to the board of directors, a candidate must comply with the
25 following:

26 (1) Meet the qualifications for candidates.

27 (2) Be a member of the corporation and a resident of the
28 district which he or she seeks to represent.

29 (3) Submit a petition for nomination.

30 (4) Submit a statement of financial interest and a

1 statement of personal background and position.

2 (5) Affirm, under penalty of perjury, that the
3 information contained in the statement of financial interest
4 and personal background position is true and complete.

5 § 3511. Nomination of candidates.

6 (a) List of current members.--The interim board of directors
7 and every subsequent board shall make available for inspection
8 by any member, upon request, a list of the current members in
9 that member's district.

10 (b) Petition for nomination.--A candidate for election to
11 the board of directors shall circulate a petition for nomination
12 no sooner than 120 days preceding the election and shall file
13 the petition with the corporation no later than 60 days prior to
14 the election. The petition for nomination shall be signed by at
15 least 100 of the corporation's current members residing in the
16 candidate's district.

17 (c) Certification of nomination.--Upon receipt of a member's
18 nominating petition and confirmation of the current membership
19 of the individuals who have signed the petition, the board of
20 directors shall certify that the member is a nominated candidate
21 for the board of directors.

22 § 3512. Statement of financial interests.

23 A candidate for election to the board of directors whose
24 nomination is certified shall submit to the board of directors,
25 not later than 60 days prior to the election, a statement of
26 financial interests upon a form provided by the board of
27 directors. The statement of financial interests, which shall be
28 open for public inspection, shall include the following
29 information.

30 (1) The occupation, employer and position at place of

1 employment of the candidate and immediate family members of
2 the candidate.

3 (2) A list of all financial interests, corporate and
4 organizational directorships or other offices and of
5 fiduciary relationships held in the past three years by the
6 candidate and immediate family members of the candidate.

7 (3) The name of any creditor to whom the candidate or a
8 member of the candidate's immediate family owes \$3,000 or
9 more, and the amount owed.

10 (4) The name of any corporation in which the candidate
11 holds a security, the current market value of which is \$3,000
12 or more, and the dollar value of the security.

13 (5) An affirmation, subject to penalty of perjury, that
14 the information contained in the statement of financial
15 interests is true and complete.

16 § 3513. Statement of personal background and positions.

17 A candidate for election to the board of directors shall
18 submit to the board of directors, not later than 60 days prior
19 to the election, on a form to be provided by the board of
20 directors, a statement concerning his personal background and
21 positions on issues relating to regulated public utilities or
22 the operations of the corporation. The statement shall contain
23 an affirmation, subject to penalty of perjury, that the
24 information contained in the statement of personal background is
25 true and complete and that the candidate meets the
26 qualifications prescribed for directors.

27 § 3514. Restrictions on and reporting of campaign contributions
28 and expenditures.

29 (a) Expenditures.--No candidate may incur more than \$1,000
30 in campaign expenditures from the time he commences the

1 circulation of a petition for nomination or from four months
2 prior to the election, whichever is earlier, through the date of
3 the election.

4 (b) Contributions.--No candidate may accept more than \$250
5 in campaign contributions from any one contributor during the
6 year preceding the date of the election.

7 (c) Records.--Each candidate for election to the board of
8 directors shall keep complete records of all contributions to
9 his campaign of \$50 or more made during the year preceding the
10 date of the election. The records shall be available for
11 inspection by the public.

12 (d) Statements.--No earlier than the day following the
13 election and no later than 30 days after the election, each
14 candidate shall submit to the board of directors, on a form
15 provided by the board of directors, an accurate statement of his
16 campaign contributions accepted and campaign expenses incurred,
17 and shall affirm to the board of directors, subject to penalty
18 of perjury, that he has fully complied with the requirements of
19 this section.

20 (e) Disqualifications.--If the board of directors determines
21 that the candidate's campaign expenses have exceeded the limits
22 contained in this section, the candidate shall be disqualified
23 and may be required to pay the expenses incurred by the
24 corporation in mailing that candidate's statement of personal
25 background and position. The corporation may pursue all civil
26 remedies to recover the cost of mailing that candidate's
27 statement of personal background and position. In the event of
28 disqualification, the board of directors shall call a special
29 election to be held not fewer than four months and not more than
30 six months after the determination of disqualification.

(f) Restrictions.--No candidate may use any campaign contribution for any purpose except for campaign expenditures.

§ 3515. Election procedures.

(a) Mailings.--The board of directors shall send or have sent to each member, to be postmarked no later than 20 days before the date fixed for a special or general election, the following:

(1) An official ballot listing all candidates for the board of directors from their district who have complied with the requirements of this chapter.

(2) Each candidate's statement of financial interests.

(3) Each candidate's statement of personal background and position.

(b) Voting.--Each residential utility consumer who is a member of the corporation on the 30th day preceding a special or general election may cast a vote in the election by returning his official ballot, properly marked, to the principal office of the corporation by 8 p.m. of the date fixed for the election. Voting shall be by secret ballot. The candidate receiving the greatest number of votes in each district shall be declared elected.

(c) Rules.--The board of directors may prescribe rules for the conduct of elections and election campaigns not inconsistent with this chapter.

§ 3516. Installation of elected candidates.

The president of the board of directors shall install into office, within 30 days after the election, all elected candidates who meet the qualifications prescribed in this chapter.

§ 3517. Recall of directors.

1 Upon receipt by the president of the board of directors of a
2 petition to recall any director, with the valid signatures of at
3 least 40% of the members of the utility district the director
4 represents, the board of directors shall call a special election
5 to be held not fewer than four months and not more than six
6 months after receipt of the petition for the purpose of electing
7 a director to serve out the term.

8 § 3518. Vacancies.

9 When a director dies, resigns, is disqualified or otherwise
10 vacates his office, except as provided in section 3517 (relating
11 to recall of directors), the board of directors shall select,
12 within three months, a successor from the same district as the
13 director for the remainder of the director's term of office. Any
14 director may nominate any qualified person as successor. The
15 board of directors shall select the successor from among those
16 nominated, by a two-thirds majority of the remaining directors
17 present and voting. The successor shall be installed in office
18 by the president of the board of directors.

19 § 3519. Duties of public utility.

20 (a) General rule.--Except as provided in subsections (b) and
21 (c), any public utility, furnished with a statement or
22 enclosure, shall print or otherwise include or enclose the
23 statement within, upon or attached to the periodic customer
24 billing which the public utility mails or delivers to any
25 residential ratepayer.

26 (b) Limitation on frequency of mailings.--Except for the
27 solicitation of members by the board, no public utility may be
28 required to include a statement or enclosure in its periodic
29 billing more than a total of four times a year.

30 (c) Transfer of funds.--

1 (1) All moneys collected by a public utility pursuant to
2 section 3507 (relating to duties of board of directors) shall
3 be transmitted to the Citizens Utility Board within 30 days
4 of collection. All moneys collected by a public utility
5 pursuant to section 3507 shall be transmitted to the regional
6 citizens utility board within 30 days of collection. Ten
7 percent of all funds received by a regional citizens utility
8 board pursuant to section 3507 shall be remitted to the
9 Citizens Utility Board for administrative expenses.

10 (2) Failure to comply with the provisions of this
11 subsection shall result in the imposition on the utility of a
12 penalty of \$1,000 a day for each day's failure to transmit
13 the funds.

14 Section 2. This act shall take effect in 90 days.