

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2105

Session of
1986

INTRODUCED BY CAPPABIANCA, MANDERINO, IRVIS, PIEVSKY,
F. E. TAYLOR, SERAFINI, JAROLIN, STABACK, MERRY, CIVERA,
HALUSKA, PRESSMANN, HERSHEY, VAN HORNE, BELFANTI, BLAUM,
BELARDI, DeWEESE, FARGO, COWELL, McCALL, HERMAN, SWEET,
FLICK, CALTAGIRONE, BROUJOS, MORRIS, BOYES, DISTLER,
AFFLERBACH, TRELLO, WOGAN, STEIGHNER, GODSHALL, LANGTRY,
DeLUCA, DOMBROWSKI, MAIALE, YANDRISEVITS, PISTELLA, LINTON,
STUBAN, E. Z. TAYLOR, COHEN, McVERRY, DEAL, JOHNSON, McHALE,
PETRARCA, G. M. SNYDER, GANNON, OLASZ, JOSEPHS, BORTNER,
BALDWIN, DAWIDA, COY, MAYERNIK, VEON AND HARPER,
FEBRUARY 4, 1986

SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, IN
SENATE, AS AMENDED, NOVEMBER 18, 1986

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ <—
2 ~~Consolidated Statutes, providing for the representation of~~
3 ~~small business ratepayers in proceedings involving general~~
4 ~~rate increases; and making an appropriation.~~
5 AMENDING THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), ENTITLED <—
6 "AN ACT PROVIDING FOR AND REORGANIZING THE CONDUCT OF THE
7 EXECUTIVE AND ADMINISTRATIVE WORK OF THE COMMONWEALTH BY THE
8 EXECUTIVE DEPARTMENT THEREOF AND THE ADMINISTRATIVE
9 DEPARTMENTS, BOARDS, COMMISSIONS, AND OFFICERS THEREOF,
10 INCLUDING THE BOARDS OF TRUSTEES OF STATE NORMAL SCHOOLS, OR
11 TEACHERS COLLEGES; ABOLISHING, CREATING, REORGANIZING OR
12 AUTHORIZING THE REORGANIZATION OF CERTAIN ADMINISTRATIVE
13 DEPARTMENTS, BOARDS, AND COMMISSIONS; DEFINING THE POWERS AND
14 DUTIES OF THE GOVERNOR AND OTHER EXECUTIVE AND ADMINISTRATIVE
15 OFFICERS, AND OF THE SEVERAL ADMINISTRATIVE DEPARTMENTS,
16 BOARDS, COMMISSIONS, AND OFFICERS; FIXING THE SALARIES OF THE
17 GOVERNOR, LIEUTENANT GOVERNOR, AND CERTAIN OTHER EXECUTIVE
18 AND ADMINISTRATIVE OFFICERS; PROVIDING FOR THE APPOINTMENT OF
19 CERTAIN ADMINISTRATIVE OFFICERS, AND OF ALL DEPUTIES AND
20 OTHER ASSISTANTS AND EMPLOYES IN CERTAIN DEPARTMENTS, BOARDS,
21 AND COMMISSIONS; AND PRESCRIBING THE MANNER IN WHICH THE
22 NUMBER AND COMPENSATION OF THE DEPUTIES AND ALL OTHER
23 ASSISTANTS AND EMPLOYES OF CERTAIN DEPARTMENTS, BOARDS AND

COMMISSIONS SHALL BE DETERMINED," PROVIDING FOR THE OFFICE OF
SMALL BUSINESS ADVOCATE IN THE OFFICE OF ATTORNEY GENERAL;
IMPOSING POWERS AND DUTIES, AND MAKING A TEMPORARY
APPROPRIATION.

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

~~Section 1. Title 66 of the Pennsylvania Consolidated~~
~~Statutes is amended by adding a section to read:~~

~~§ 308.1. Representation of small businesses.~~

~~(a) General rule. When members of the staff of the~~
~~commission participate in the prosecution of a proceeding~~
~~involving a general rate increase under section 1308 (relating~~
~~to voluntary changes in rates), at least one of those staff~~
~~members shall represent the interests of small business~~
~~ratepayers on issues involving rate structure unless the members~~
~~of the staff determine that representing small business~~
~~ratepayers in the proceeding is not necessary because those~~
~~ratepayers are otherwise adequately represented or that the~~
~~resources available are not adequate.~~

~~(b) Petitions. In determining if and in what way it will~~
~~represent the interests of small business ratepayers in~~
~~accordance with subsection (a), the members of the commission~~
~~staff involved in the prosecution of a proceeding involving a~~
~~general rate increase may consider petitions presented in~~
~~writing by small business ratepayers. Within a reasonable time~~
~~after receipt of a petition, the staff shall notify the~~
~~petitioners, or the principal sponsors of the petition, of the~~
~~action taken or intended to be taken with respect to the matters~~
~~presented in the petition and the reasons for such action.~~

~~(c) Report. The commission shall annually submit a report~~
~~to the General Assembly containing a review of the general rate~~

~~increase proceedings in which small business ratepayers were represented by commission staff as required by this section and of the general rate increase proceedings in which small business ratepayers were not represented by commission staff, including the reasons for not providing representation in those proceedings.~~

~~(d) Repayment of appropriation. Any funds appropriated from the General Fund for the purposes of this section shall be repaid to the General Fund in the next fiscal year from the funds assessed for the operation of the commission under section 510 (relating to assessment for regulatory expenses upon public utilities).~~

~~(e) Definition. As used in this section the term "small business ratepayer" means a commercial or industrial customer which is a sole proprietorship, partnership, corporation, association or other business entity, and which has fewer than 250 employees or a net worth of not more than \$2,000,000.~~

~~Section 2. The sum of \$200,000, or as much thereof as may be necessary, is hereby appropriated from the General Fund to the Pennsylvania Public Utility Commission for the fiscal year July 1, 1986, to June 30, 1987, for providing commission staff and outside experts to carry out the provisions of 66 Pa.C.S. § 308.1.~~

~~Section 3. This act shall take effect July 1, 1986, or immediately, whichever is later.~~

SECTION 1. THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, IS AMENDED BY ADDING AN ARTICLE TO READ:

ARTICLE IX-C

OFFICE OF SMALL BUSINESS ADVOCATE

1 SECTION 901-C. DEFINITIONS.--AS USED IN THIS ARTICLE:

2 "COMMISSION" MEANS THE PENNSYLVANIA PUBLIC UTILITY
3 COMMISSION.

4 "PUBLIC UTILITY" MEANS PUBLIC UTILITY AS DEFINED IN 66
5 PA.C.S. § 102 (RELATING TO DEFINITIONS).

6 "SMALL BUSINESS CONSUMER" MEANS A PERSON, SOLE
7 PROPRIETORSHIP, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER
8 BUSINESS ENTITY WHICH RECEIVES PUBLIC UTILITY SERVICE UNDER A
9 COMMERCIAL RATE CLASSIFICATION.

10 SECTION 902-C. OFFICE OF SMALL BUSINESS ADVOCATE.--(A)
11 THERE IS HEREBY ESTABLISHED WITHIN THE OFFICE OF ATTORNEY
12 GENERAL AN OFFICE OF SMALL BUSINESS ADVOCATE TO REPRESENT THE
13 INTEREST OF SMALL BUSINESS CONSUMERS BEFORE THE COMMISSION.

14 (B) THE SMALL BUSINESS ADVOCATE SHALL BE A PERSON WHO BY
15 REASON OF TRAINING, EXPERIENCE AND ATTAINMENT IS QUALIFIED TO
16 REPRESENT THE INTEREST OF SMALL BUSINESS CONSUMERS. COMPENSATION
17 SHALL BE SET BY THE EXECUTIVE BOARD.

18 (C) NO INDIVIDUAL WHO SERVES AS A SMALL BUSINESS ADVOCATE
19 SHALL, WHILE SERVING IN SUCH POSITION, ENGAGE IN ANY BUSINESS,
20 VOCATION, OTHER EMPLOYMENT, OR HAVE OTHER INTERESTS,
21 INCONSISTENT WITH HIS OFFICIAL RESPONSIBILITIES, NOR SHALL HE
22 SEEK OR ACCEPT EMPLOYMENT NOR RENDER BENEFICIAL SERVICES FOR
23 COMPENSATION WITH ANY "PERSON" OR "CORPORATION," AS DEFINED IN
24 66 PA.C.S. § 102 (RELATING TO DEFINITIONS), SUBJECT TO THE
25 AUTHORITY OF THE COMMISSION DURING THE TENURE OF THE APPOINTMENT
26 AND FOR A PERIOD OF TWO YEARS AFTER THE APPOINTMENT IS SERVED OR
27 TERMINATED.

28 (D) ANY INDIVIDUAL WHO IS APPOINTED TO THE POSITION OF SMALL
29 BUSINESS ADVOCATE SHALL NOT SEEK ELECTION NOR ACCEPT APPOINTMENT
30 TO ANY POLITICAL OFFICE DURING THE TENURE AS SMALL BUSINESS

1 ADVOCATE AND FOR A PERIOD OF TWO YEARS AFTER THE APPOINTMENT IS
2 SERVED OR TERMINATED.

3 SECTION 903-C. ASSISTANT ADVOCATES; EMPLOYES.--THE SMALL
4 BUSINESS ADVOCATE WITH THE APPROVAL OF THE ATTORNEY GENERAL,
5 SHALL APPOINT ATTORNEYS AS ASSISTANT SMALL BUSINESS ADVOCATES,
6 AND SUCH ADDITIONAL CLERICAL, TECHNICAL AND PROFESSIONAL STAFF
7 AS MAY BE APPROPRIATE, AND MAY CONTRACT FOR SUCH ADDITIONAL
8 SERVICES AS SHALL BE NECESSARY FOR THE PERFORMANCE OF HIS
9 FUNCTION. THE COMPENSATION OF ASSISTANT SMALL BUSINESS ADVOCATES
10 AND SUCH CLERICAL, TECHNICAL AND PROFESSIONAL STAFF SHALL BE SET
11 BY THE EXECUTIVE BOARD. NO ASSISTANT SMALL BUSINESS ADVOCATE OR
12 OTHER STAFF EMPLOYEE SHALL, WHILE SERVING IN SUCH POSITION,
13 ENGAGE IN ANY BUSINESS, VOCATION, OTHER EMPLOYMENT, OR HAVE
14 OTHER INTERESTS, INCONSISTENT WITH HIS OFFICIAL
15 RESPONSIBILITIES.

16 SECTION 904-C. POWERS AND DUTIES OF THE SMALL BUSINESS
17 ADVOCATE.--(A) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED
18 UPON HIM BY THIS ACT, THE SMALL BUSINESS ADVOCATE IS AUTHORIZED,
19 AND IT SHALL BE HIS DUTY IN CARRYING OUT HIS RESPONSIBILITIES
20 UNDER THIS ACT, TO REPRESENT THE INTEREST OF SMALL BUSINESS
21 CONSUMERS AS A PARTY, OR OTHERWISE PARTICIPATE FOR THE PURPOSE
22 OF REPRESENTING AN INTEREST OF SMALL BUSINESS CONSUMERS BEFORE
23 THE COMMISSION IN ANY MATTER PROPERLY BEFORE THE COMMISSION, AND
24 BEFORE ANY COURT, OR AGENCY, INITIATING PROCEEDINGS IF IN HIS
25 JUDGMENT SUCH MAY BE NECESSARY, IN CONNECTION WITH ANY MATTER
26 INVOLVING REGULATION BY THE COMMISSION OR THE CORRESPONDING
27 REGULATORY AGENCY OF THE UNITED STATES WHETHER ON APPEAL OR
28 OTHERWISE INITIATED.

29 (B) THE SMALL BUSINESS ADVOCATE MAY MONITOR ALL CASES BEFORE
30 CORRESPONDING REGULATORY AGENCIES OF THE UNITED STATES,

1 INCLUDING THE FEDERAL COMMUNICATIONS COMMISSION AND THE FEDERAL
2 ENERGY REGULATORY COMMISSION, WHICH IMPACT UPON THE INTERESTS OF
3 PENNSYLVANIA SMALL BUSINESS CONSUMERS, AND MAY FORMALLY
4 PARTICIPATE IN THOSE PROCEEDINGS WHICH IN HIS JUDGMENT WARRANT
5 SUCH PARTICIPATION.

6 (C) THE SMALL BUSINESS ADVOCATE MAY EXERCISE DISCRETION IN
7 DETERMINING THE INTERESTS WHICH WILL BE ADVOCATED IN ANY
8 PARTICULAR PROCEEDING AND IN DETERMINING WHETHER OR NOT TO
9 PARTICIPATE IN OR INITIATE ANY PARTICULAR PROCEEDING AND, IN SO
10 DETERMINING, SHALL CONSIDER THE PUBLIC INTEREST, THE RESOURCES
11 AVAILABLE AND THE SUBSTANTIALITY OF THE EFFECT OF THE PROCEEDING
12 ON THE INTEREST OF SMALL BUSINESS CONSUMERS. THE SMALL BUSINESS
13 ADVOCATE MAY REFRAIN FROM INTERVENING WHEN IN THE JUDGMENT OF
14 THE SMALL BUSINESS ADVOCATE SUCH IS NOT NECESSARY TO REPRESENT
15 ADEQUATELY THE INTEREST OF SMALL BUSINESS CONSUMERS.

16 (D) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED UPON HIM BY
17 THIS ARTICLE, THE SMALL BUSINESS ADVOCATE IS AUTHORIZED TO
18 REPRESENT AN INTEREST OF SMALL BUSINESS CONSUMERS WHICH IS
19 PRESENTED TO HIM FOR HIS CONSIDERATION UPON PETITION IN WRITING
20 BY A SUBSTANTIAL NUMBER OF SMALL BUSINESS CONSUMERS. THE SMALL
21 BUSINESS ADVOCATE SHALL NOTIFY THE PRINCIPAL SPONSORS OF ANY
22 SUCH PETITION OF THE ACTION TAKEN OR INTENDED TO BE TAKEN BY HIM
23 WITH RESPECT TO THE INTEREST OF CONSUMERS PRESENTED IN SUCH
24 PETITION. IF THE SMALL BUSINESS ADVOCATE DECLINES OR IS UNABLE
25 TO REPRESENT SUCH INTEREST, HE SHALL NOTIFY SUCH SPONSORS AND
26 SHALL STATE HIS REASONS.

27 (E) ANY ACTION BROUGHT BY THE SMALL BUSINESS ADVOCATE BEFORE
28 A COURT OR ANY AGENCY OF THIS COMMONWEALTH SHALL BE BROUGHT IN
29 THE NAME OF THE SMALL BUSINESS ADVOCATE. THE SMALL BUSINESS
30 ADVOCATE MAY NAME A SMALL BUSINESS CONSUMER OR GROUP OF SMALL

1 BUSINESS CONSUMERS IN WHOSE NAME THE ACTION MAY BE BROUGHT OR
2 MAY JOIN CONSUMERS IN BRINGING SUCH ACTION.

3 (F) AT SUCH TIME AS THE SMALL BUSINESS ADVOCATE DETERMINES,
4 IN ACCORDANCE WITH APPLICABLE TIME LIMITATIONS, TO INITIATE,
5 INTERVENE OR OTHERWISE PARTICIPATE IN ANY COMMISSION, AGENCY OR
6 COURT PROCEEDING, HE SHALL ISSUE PUBLICLY A WRITTEN STATEMENT, A
7 COPY OF WHICH HE SHALL FILE IN THE PROCEEDING IN ADDITION TO ANY
8 REQUIRED ENTRY OF HIS APPEARANCE, STATING CONCISELY THE SPECIFIC
9 INTEREST OF SMALL BUSINESS CONSUMERS TO BE PROTECTED.

10 SECTION 905-C. ASSESSMENT UPON PUBLIC UTILITIES;
11 DISPOSITION, APPROPRIATION AND DISBURSEMENT OF SUCH
12 ASSESSMENTS.--(A) BEFORE NOVEMBER 1 OF EACH YEAR, THE SMALL
13 BUSINESS ADVOCATE SHALL ESTIMATE THE TOTAL EXPENDITURES FOR THE
14 OFFICE OF SMALL BUSINESS ADVOCATE AND SUBMIT THE ESTIMATE TO THE
15 GOVERNOR IN ACCORDANCE WITH SECTION 610 OF THIS ACT. AT THE SAME
16 TIME THE SMALL BUSINESS ADVOCATE SUBMITS HIS ESTIMATE TO THE
17 GOVERNOR, THE SMALL BUSINESS ADVOCATE SHALL ALSO SUBMIT THE
18 ESTIMATE TO THE GENERAL ASSEMBLY. SUCH ESTIMATE SHALL NOT EXCEED
19 FIVE ONE HUNDREDTHS OF ONE PER CENTUM (.05%) OF THE TOTAL GROSS
20 INTRASTATE OPERATING REVENUES OF ALL PUBLIC UTILITIES SUBJECT TO
21 THE JURISDICTION OF THE COMMISSION FOR THE PRECEDING CALENDAR
22 YEAR. THE SMALL BUSINESS ADVOCATE, OR HIS DESIGNATED
23 REPRESENTATIVES, SHALL BE AFFORDED AN OPPORTUNITY TO APPEAR
24 BEFORE THE GOVERNOR AND THE SENATE AND HOUSE APPROPRIATIONS
25 COMMITTEES REGARDING HIS ESTIMATE. IF THE GENERAL ASSEMBLY FAILS
26 TO APPROVE THE SMALL BUSINESS ADVOCATE'S BUDGET FOR THE PURPOSES
27 OF THIS SECTION BY MARCH 20, THE COMMISSION SHALL ASSESS PUBLIC
28 UTILITIES ON THE BASIS OF THE LAST APPROVED ALLOCATION. AT SUCH
29 TIME AS THE GENERAL ASSEMBLY APPROVES THE PROPOSED BUDGET, THE
30 SMALL BUSINESS ADVOCATE AND THE COMMISSION SHALL MAKE AN

1 ADJUSTMENT IN THE ASSESSMENT TO REFLECT THE APPROVED BUDGET. THE
2 OFFICE OF SMALL BUSINESS ADVOCATE SHALL SUBTRACT FROM THE BUDGET
3 FINALLY APPROVED BY THE GENERAL ASSEMBLY ANY BALANCE OF THE
4 APPROPRIATION TO BE CARRIED OVER INTO SUCH FISCAL YEAR FROM THE
5 PRECEDING ONE. THE REMAINDER SO DETERMINED SHALL CONSTITUTE THE
6 TOTAL ASSESSMENT, AND SHALL BE ALLOCATED TO, AND PAID BY, PUBLIC
7 UTILITIES IN THE MANNER HEREAFTER PRESCRIBED.

8 (B) FOR EACH FISCAL YEAR THE ALLOCATION SHALL BE MADE AS
9 FOLLOWS:

10 (1) THE OFFICE OF SMALL BUSINESS ADVOCATE SHALL DETERMINE
11 FOR THE PRECEDING CALENDAR YEAR THE AMOUNT OF ITS EXPENDITURES
12 DIRECTLY ATTRIBUTABLE, OR IN ITS JUDGMENT PROPERLY ALLOCABLE, TO
13 ITS ACTIVITIES IN CONNECTION WITH EACH GROUP OF UTILITIES
14 FURNISHING THE SAME KIND OF SERVICE AND DEBIT THE AMOUNT SO
15 DETERMINED TO SUCH GROUP.

16 (2) THE OFFICE OF SMALL BUSINESS ADVOCATE SHALL THEN
17 ALLOCATE THE TOTAL ASSESSMENT PRESCRIBED IN SUBSECTION (A) TO
18 EACH GROUP IN THE PROPORTION WHICH THE SUM OF THE DEBITS MADE TO
19 IT BEARS TO THE SUM OF THE DEBITS MADE TO ALL GROUPS. THE OFFICE
20 OF SMALL BUSINESS ADVOCATE SHALL TRANSMIT TO THE COMMISSION THE
21 RESULT OF THE AFORESAID ALLOCATION.

22 (C) THE COMMISSION SHALL THEREAFTER COMPLETE THE ASSESSMENT
23 PROCEDURE AND COLLECT THE ASSESSMENTS AS FOLLOWS: EACH PUBLIC
24 UTILITY WITHIN A GROUP SHALL THEN BE ASSESSED FOR AND SHALL PAY
25 TO THE COMMISSION SUCH PROPORTION OF THE AMOUNT ALLOCATED TO ITS
26 GROUP AS THE GROSS INTRASTATE OPERATING REVENUES OF THE PUBLIC
27 UTILITY FOR THE PRECEDING CALENDAR YEAR BEAR TO THE TOTAL GROSS
28 INTRASTATE OPERATING REVENUES OF ITS GROUP FOR THAT YEAR. THE
29 COMMISSION SHALL GIVE NOTICE BY REGISTERED OR CERTIFIED MAIL TO
30 EACH PUBLIC UTILITY OF THE AMOUNT LAWFULLY CHARGED AGAINST IT

1 UNDER THE PROVISIONS OF THIS SECTION, WHICH AMOUNT SHALL BE PAID
2 BY THE PUBLIC UTILITY WITHIN THIRTY (30) DAYS OF RECEIPT OF SUCH
3 NOTICE, UNLESS THE COMMISSION SPECIFIES ON THE NOTICES SENT TO
4 ALL PUBLIC UTILITIES AN INSTALLMENT PLAN OF PAYMENT, IN WHICH
5 CASE EACH PUBLIC UTILITY SHALL PAY EACH INSTALLMENT ON OR BEFORE
6 THE DATE SPECIFIED THEREFORE BY THE COMMISSION. WITHIN FIFTEEN
7 (15) DAYS AFTER RECEIPT OF SUCH NOTICE, THE PUBLIC UTILITY
8 AGAINST WHICH SUCH ASSESSMENT HAS BEEN MADE MAY FILE WITH THE
9 COMMISSION OBJECTIONS SETTING OUT IN DETAIL THE GROUNDS UPON
10 WHICH THE OBJECTOR REGARDS SUCH ASSESSMENT TO BE EXCESSIVE,
11 ERRONEOUS, UNLAWFUL OR INVALID. THE COMMISSION, AFTER NOTICE TO
12 THE OBJECTOR, SHALL HOLD HEARING UPON SUCH OBJECTIONS. AFTER
13 SUCH HEARING, THE COMMISSION SHALL RECORD UPON ITS MINUTES, ITS
14 FINDINGS ON THE OBJECTIONS AND SHALL TRANSMIT TO THE OBJECTOR,
15 BY REGISTERED OR CERTIFIED MAIL, NOTICE OF THE AMOUNT, IF ANY,
16 CHARGED AGAINST IT IN ACCORDANCE WITH SUCH FINDINGS, WHICH
17 AMOUNT, OR ANY INSTALLMENT THEREOF, THEN DUE SHALL BE PAID BY
18 THE OBJECTOR WITHIN TEN (10) DAYS AFTER RECEIPT OF THE NOTICE OF
19 THE FINDINGS OF THE COMMISSION WITH RESPECT TO SUCH OBJECTIONS.
20 IF ANY PAYMENT PRESCRIBED BY THIS SUBSECTION IS NOT MADE AS
21 AFORESAID, THE COMMISSION MAY SUSPEND OR REVOKE CERTIFICATES OF
22 PUBLIC CONVENIENCE, CERTIFY AUTOMOBILE REGISTRATIONS TO THE
23 SECRETARY OF TRANSPORTATION FOR SUSPENSION OR REVOCATION OR,
24 THROUGH THE OFFICE OF ATTORNEY GENERAL, MAY INSTITUTE AN
25 APPROPRIATE ACTION AT LAW FOR THE AMOUNT LAWFULLY ASSESSED,
26 TOGETHER WITH ANY ADDITIONAL COST INCURRED BY THE COMMISSION OR
27 THE OFFICE OF ATTORNEY GENERAL BY VIRTUE OF SUCH FAILURE TO PAY.

28 (D) NO SUIT OR PROCEEDING SHALL BE MAINTAINED IN ANY COURT
29 FOR THE PURPOSE OF RESTRAINING OR IN ANY WAY DELAYING THE
30 COLLECTION OR PAYMENT OF ANY ASSESSMENT MADE UNDER SUBSECTIONS

1 (A), (B) AND (C), BUT EVERY PUBLIC UTILITY AGAINST WHICH AN
2 ASSESSMENT IS MADE SHALL PAY THE SAME AS PROVIDED IN SUBSECTION
3 (C). ANY PUBLIC UTILITY MAKING ANY SUCH PAYMENT MAY, AT ANY TIME
4 WITHIN TWO (2) YEARS FROM THE DATE OF PAYMENT, SUE THE
5 COMMONWEALTH IN AN ACTION AT LAW TO RECOVER THE AMOUNT PAID, OR
6 ANY PART THEREOF, UPON THE GROUND THAT THE ASSESSMENT WAS
7 EXCESSIVE, ERRONEOUS, UNLAWFUL OR INVALID, IN WHOLE OR IN PART,
8 PROVIDED OBJECTIONS, AS HEREINBEFORE PROVIDED, WERE FILED WITH
9 THE COMMISSION, AND PAYMENT OF THE ASSESSMENT WAS MADE UNDER
10 PROTEST EITHER AS TO ALL OR PART THEREOF. IN ANY ACTION FOR
11 RECOVERY OF ANY PAYMENTS MADE UNDER THIS SECTION, THE CLAIMANT
12 SHALL BE ENTITLED TO RAISE EVERY RELEVANT ISSUE OF LAW, BUT THE
13 FINDINGS OF ACT MADE BY THE COMMISSION, PURSUANT TO THIS
14 SECTION, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS THEREIN
15 STATED. ANY RECORDS, BOOKS, DATA, DOCUMENTS AND MEMORANDA
16 RELATING TO THE EXPENSES OF THE OFFICE OF SMALL BUSINESS
17 ADVOCATE SHALL BE ADMISSIBLE IN EVIDENCE IN ANY COURT AND SHALL
18 BE PRIMA FACIE EVIDENCE OF THE TRUTH OF THEIR CONTENTS. IF IT IS
19 FINALLY DETERMINED IN ANY SUCH ACTION THAT ALL OR ANY PART OF
20 THE ASSESSMENT FOR WHICH PAYMENT WAS MADE UNDER PROTEST WAS
21 EXCESSIVE, ERRONEOUS, UNLAWFUL OR INVALID, THE OFFICE OF SMALL
22 BUSINESS ADVOCATE SHALL MAKE A REFUND TO THE CLAIMANT OUT OF THE
23 APPROPRIATION SPECIFIED HEREIN AS DIRECTED BY THE COURT.

24 (E) THE PROCEDURE IN THIS SECTION PROVIDING FOR THE
25 DETERMINATION OF THE LAWFULNESS OF ASSESSMENTS AND THE RECOVERY
26 BACK OF PAYMENTS MADE PURSUANT TO SUCH ASSESSMENTS SHALL BE
27 EXCLUSIVE OF ALL OTHER REMEDIES AND PROCEDURES.

28 (F) IT IS THE INTENT AND PURPOSE OF THIS SECTION THAT EACH
29 PUBLIC UTILITY SHALL ADVANCE TO THE OFFICE OF SMALL BUSINESS
30 ADVOCATE ITS REASONABLE SHARE OF THE COST OF ADMINISTERING THIS

1 ACT. THE OFFICE OF SMALL BUSINESS ADVOCATE SHALL KEEP RECORDS OF
2 THE COSTS INCURRED IN CONNECTION WITH THE ADMINISTRATION AND
3 ENFORCEMENT OF THIS ACT OR ANY OTHER ACT. THE OFFICE OF SMALL
4 BUSINESS ADVOCATE AND THE COMMISSION SHALL ALSO KEEP A RECORD OF
5 THE MANNER IN WHICH IT SHALL HAVE COMPUTED THE AMOUNT ASSESSED
6 AGAINST EVERY PUBLIC UTILITY. SUCH RECORDS SHALL BE OPEN TO
7 INSPECTION BY ALL INTERESTED PARTIES. THE DETERMINATION OF SUCH
8 COSTS AND ASSESSMENTS BY THE OFFICE OF SMALL BUSINESS ADVOCATE
9 AND THE COMMISSION, AND THE RECORDS AND DATA UPON WHICH THE SAME
10 ARE MADE, SHALL BE CONSIDERED PRIMA FACIE CORRECT. IN ANY
11 PROCEEDING INSTITUTED TO CHALLENGE THE REASONABLENESS OR
12 CORRECTNESS OF ANY ASSESSMENT UNDER THIS SECTION, THE PARTY
13 CHALLENGING THE SAME SHALL HAVE THE BURDEN OF PROOF.

14 (G) ALL ASSESSMENTS RECEIVED, COLLECTED OR RECOVERED UNDER
15 THIS ARTICLE SHALL BE PAID BY THE COMMISSION INTO THE GENERAL
16 FUND OF THE STATE TREASURY THROUGH THE DEPARTMENT OF REVENUE.

17 (H) ALL SUCH ASSESSMENTS, ALLOCATED TO AND PAID BY PUBLIC
18 UTILITIES, SHALL BE HELD IN TRUST SOLELY FOR THE PURPOSE OF
19 DEFRAYING THE COST OF THE ADMINISTRATION AND PERFORMANCE OF THE
20 DUTIES OF THE OFFICE OF SMALL BUSINESS ADVOCATE RELATING TO
21 PROCEEDINGS BEFORE THE COMMISSION, THE CORRESPONDING REGULATORY
22 AGENCIES OF THE UNITED STATES, RELATED JUDICIAL PROCEEDINGS, AND
23 OTHER SUCH MATTERS WITHIN THE JURISDICTION OF THE OFFICE OF
24 SMALL BUSINESS ADVOCATE, AND SHALL BE EARMARKED FOR THE USE OF,
25 AND ANNUALLY APPROPRIATED TO, THE OFFICE OF SMALL BUSINESS
26 ADVOCATE FOR DISBURSEMENT SOLELY FOR THAT PURPOSE.

27 (I) ALL REQUISITIONS UPON SUCH APPROPRIATION SHALL BE SIGNED
28 BY THE SMALL BUSINESS ADVOCATE OR SUCH DEPUTIES AS HE MAY
29 DESIGNATE IN WRITING TO THE STATE TREASURER AND SHALL BE
30 PRESENTED TO THE STATE TREASURER AND DEALT WITH BY HIM AND THE

1 TREASURY DEPARTMENT IN THE MANNER PRESCRIBED BY THE ACT OF APRIL
2 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE."

3 SECTION 906-C. DUTIES OF THE COMMISSION.--IN DEALING WITH
4 ANY PROPOSED ACTION WHICH MAY SUBSTANTIALLY AFFECT THE INTEREST
5 OF SMALL BUSINESS CONSUMERS, INCLUDING, BUT NOT LIMITED TO, A
6 PROPOSED CHANGE OF RATES AND THE ADOPTION OF RULES, REGULATIONS,
7 GUIDELINES, ORDERS, STANDARDS OR FINAL POLICY DECISIONS, THE
8 COMMISSION SHALL:

9 (1) NOTIFY THE SMALL BUSINESS ADVOCATE WHEN NOTICE OF THE
10 PROPOSED ACTION IS GIVEN TO THE PUBLIC OR AT A TIME FIXED BY
11 AGREEMENT BETWEEN THE SMALL BUSINESS ADVOCATE AND THE COMMISSION
12 IN A MANNER TO ASSURE THE SMALL BUSINESS ADVOCATE REASONABLE
13 NOTICE AND ADEQUATE TIME TO DETERMINE WHETHER TO INTERVENE IN
14 SUCH MATTER.

15 (2) CONSISTENT WITH ITS OTHER STATUTORY RESPONSIBILITIES,
16 TAKE SUCH ACTION WITH DUE CONSIDERATION TO THE INTEREST OF SMALL
17 BUSINESS CONSUMERS.

18 SECTION 907-C. SAVINGS PROVISION; CONSTRUCTION.--(A)
19 NOTHING CONTAINED IN THIS ARTICLE SHALL IN ANY WAY LIMIT THE
20 RIGHT OF ANY SMALL BUSINESS CONSUMER TO BRING A PROCEEDING
21 BEFORE EITHER THE COMMISSION OR COURT.

22 (B) NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO
23 IMPAIR THE STATUTORY AUTHORITY OR RESPONSIBILITY OF THE
24 COMMISSION TO REGULATE PUBLIC UTILITIES IN THE PUBLIC INTEREST.

25 SECTION 908-C. REPORTS.--THE SMALL BUSINESS ADVOCATE SHALL
26 ANNUALLY TRANSMIT TO THE GOVERNOR AND THE ATTORNEY GENERAL AND
27 TO THE GENERAL ASSEMBLY, AND SHALL MAKE AVAILABLE TO THE PUBLIC,
28 AN ANNUAL REPORT ON THE CONDUCT OF THE OFFICE OF SMALL BUSINESS
29 ADVOCATE. THE SMALL BUSINESS ADVOCATE SHALL MAKE RECOMMENDATIONS
30 AS MAY FROM TIME TO TIME BE NECESSARY OR DESIRABLE TO PROTECT

1 THE INTEREST OF SMALL BUSINESS CONSUMERS.

2 SECTION 909-C. SUNSET.--(A) THE OFFICE OF SMALL BUSINESS
3 ADVOCATE SHALL CONTINUE TOGETHER WITH ITS STATUTORY FUNCTIONS
4 AND DUTIES UNTIL DECEMBER 31, 1992, WHEN IT SHALL TERMINATE AND
5 GO OUT OF EXISTENCE UNLESS REESTABLISHED OR CONTINUED BY THE
6 GENERAL ASSEMBLY.

7 (B) EVALUATION AND REVIEW, TERMINATION, REESTABLISHMENT AND
8 CONTINUATION OF THE AGENCY SHALL BE CONDUCTED PURSUANT TO THE
9 PROVISIONS OF THE ACT OF DECEMBER 22, 1981 (P.L.508, NO.142),
10 KNOWN AS THE "SUNSET ACT."

11 SECTION 2. FOR THE PERIOD JANUARY 1, 1987, TO JUNE 30, 1988,
12 THE SUM OF \$250,000, OR AS MUCH THEREOF AS MAY BE NECESSARY, IS
13 HEREBY APPROPRIATED FROM THE GENERAL FUND TO THE OFFICE OF SMALL
14 BUSINESS ADVOCATE TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.
15 ALL SUCH MONEYS APPROPRIATED FROM THE GENERAL FUND SHALL BE
16 REPAID TO THE GENERAL FUND IN THE NEXT FISCAL YEAR FROM THE
17 FUNDS ASSESSED FOR THE OPERATION OF THE OFFICE OF SMALL BUSINESS
18 ADVOCATE UNDER THIS ACT.

19 SECTION 3. THIS ACT SHALL TAKE EFFECT JANUARY 1, 1987.