116TH CONGRESS  
1ST SESSION

S.

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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Engagement at FERC Act”.

SEC. 2. OFFICE OF PUBLIC PARTICIPATION AND CONSUMER ADVOCACY.

Section 319 of the Federal Power Act (16 U.S.C. 825q–1) is amended to read as follows:
"SEC. 319. OFFICE OF PUBLIC PARTICIPATION AND CONSUMER ADVOCACY.

"(a) DEFINITIONS.—In this section:

"(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Public and Consumer Advocacy Advisory Committee established under subsection (f)(1).

"(2) DIRECTOR.—The term 'Director' means the Director of the Office appointed under subsection (c)(1).

"(3) ENERGY CUSTOMER.—The term 'energy customer' means a residential customer or a small commercial customer that receives products or services from—

"(A) a public utility or natural gas company under the jurisdiction of the Commission; or

"(B) an electric cooperative.

"(4) NATURAL GAS COMPANY.—The term 'natural gas company' has the meaning given the term 'natural-gas company' in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a)(1)(C) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)(1)(C)).
“(5) OFFICE.—The term ‘Office’ means the Office of Public Participation and Consumer Advocacy established by subsection (b).

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

“(c) DIRECTOR.—

“(1) IN GENERAL.—The Office shall be headed by a Director, to be appointed by the Secretary of Energy from among individuals who—

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

“(i) any State; or

“(ii) the District of Columbia; and

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

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

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

“(B) individuals and entities intervening or participating, or proposing to intervene or participate, in proceedings before the Commission.

“(3) COMPENSATION AND POWERS.—
"(A) Compensation.—The Director shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed 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—

"(I) 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 natural gas siting and infrastructure development under the jurisdiction of the Commission or the rates, charges, prices, tariffs, or service of public
utilities and natural gas companies under the jurisdiction of the Commission by representing the interests of the energy customers—

"(A) on any matter before the Commission concerning rates or service of such a public utility or natural gas company; or

"(B) as amicus curiae in—

"(i) a review in any United States court of a ruling by the Commission in such a matter; or

"(ii) a hearing or proceeding in any other Federal regulatory agency or commission relating to such a matter;

"(2) support public participation in the siting and permitting of natural gas storage and distribution infrastructure under the jurisdiction of the Commission;

"(3) monitor and review energy customer complaints and grievances on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission;

"(4) employ means, such as public dissemination of information, consultative services, and technical assistance, to ensure, to the maximum extent practicable, that the interests of energy customers
are adequately represented in the course of any
hearing or proceeding described in paragraph (1);

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

"(6) prepare and issue reports and rec-
ommendations; and

"(7) take such other actions as the Director de-
determines to be necessary to ensure just and reason-
able rates for energy customers.

"(e) INFORMATION FROM FEDERAL DEPARTMENTS
AND AGENCIES.—

"(1) IN GENERAL.—The Director may secure
directly from a Federal department or agency such
information as the Director considers to be neces-
sary to carry out this section.

"(2) PROVISION OF INFORMATION.—On request
of the Director under paragraph (1), the head of a
Federal department or agency shall, to the extent
practicable and authorized by law, provide the infor-
mation to the Office.

"(f) PUBLIC AND CONSUMER ADVOCACY ADVISORY
COMMITTEE.—

"(1) ESTABLISHMENT.—The Director shall es-
tablish an advisory committee, to be known as the:
’Public and Consumer Advocacy Advisory Committee’—

"(A) to review rates, services, and disputes; and

"(B) to make recommendations to the Director.

"(2) COMPOSITION.—The Advisory Committee shall—

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

"(B) include not fewer than—

"(i) 2 individuals representing State utility consumer advocates; and

"(ii) 1 individual representing a non-governmental organization that represents consumers.

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

"(4) REPORTS.—The Director shall publish the recommendations of the Advisory Committee on the public internet website established for the Office.

"(5) DURATION.—Notwithstanding any other provision of law, the Advisory Committee shall con-
continue in operation during the period for which the
Office exists.

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

"(g) REPORTS AND GUIDANCE.—As the Director de-
determines to be appropriate, the Office shall issue to the
Commission and entities subject to regulation by the Com-
mission reports and guidance—

"(1) regarding market practices;

"(2) proposing improvements in Commission
monitoring of market practices; and

"(3) addressing potential improvements to in-
dustry and Commission practices.

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

"(1) improved compliance with Commission
rules and orders; and

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

"(i) COMPENSATION TO ELIGIBLE RECIPIENTS FOR
INTERVENTION OR PARTICIPATION.—
"(1) Definition of eligible recipient.—In this subsection, the term 'eligible recipient' means an individual or entity—

"(A) that intervenes or participates in any proceeding before the Commission;

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

"(C) that is—

"(i) an individual;

"(ii) an energy customer; or

"(iii) a representative of the interests of energy customers.

"(2) Compensation.—Subject to paragraph (3), the Commission, in accordance with regulations promulgated by the Commission, may provide to any eligible recipient compensation for reasonable attorney fees, expert witness fees, and other costs of intervening or participating in the applicable proceeding before the Commission.

"(3) Requirement.—The Commission may only provide compensation under paragraph (2) if the Commission determines that—
“(A) the applicable proceeding is significant;

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

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

“(j) SAVINGS CLAUSE.—Nothing in this section restricts or otherwise affects—

“(1) any right or obligation of an intervenor, participant, State utility consumer advocate, energy customer, or group of energy customers under any other applicable provision of law (including regulations); or

“(2) the work of Commission trial staff in representing the public interest and pursuing appropriate resolutions in contested matters before the Commission,

“(k) FUNDING.—Of the amounts received by the Commission for fiscal year 2020 and each fiscal year thereafter as a result of any fee imposed by the Commission, the Commission shall use such sums as are necessary to establish and provide for the operation of the Office under this section.”