

Amend CSHB 409 by adding the following appropriately numbered sections and renumbering subsequent sections accordingly:

SECTION \_\_. Section 5.273(a), Water Code, is amended to read as follows:

(a) The counsel shall represent the public interest and be a party to all proceedings before the commission, other than a proceeding under Chapter 13.

SECTION \_\_. Subchapter B, Chapter 13, Water Code, is amended by adding Section 13.017 to read as follows:

Sec. 13.017. OFFICE OF PUBLIC UTILITY COUNSEL. (a) In this section, "counselor" and "office" have the meanings assigned by Section 11.003, Utilities Code.

(b) The office shall represent the interests of residential and small commercial consumers under this chapter.

(c) The office:

(1) shall assess the effect of utility rate changes and other regulatory actions on residential consumers in this state;

(2) shall advocate in the office's own name a position determined by the counselor to be most advantageous to a substantial number of residential consumers;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of:

(A) residential consumers, as a class, in any proceeding before the commission, including an alternative dispute resolution proceeding; and

(B) small commercial consumers, as a class, in any proceeding in which the counselor determines that small commercial consumers are in need of representation, including an alternative dispute resolution proceeding;

(4) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding:

(A) that involves an action taken by an administrative agency in a proceeding, including an alternative dispute resolution proceeding, in which the counselor is authorized to appear; or

(B) in which the counselor determines that

residential consumers or small commercial consumers are in need of representation;

(5) is entitled to the same access as a party, other than commission staff, to records gathered by the commission under Section 13.133;

(6) is entitled to discovery of any nonprivileged matter that is relevant to the subject matter of a proceeding or petition before the commission;

(7) may represent an individual residential or small commercial consumer with respect to the consumer's disputed complaint concerning retail services that is unresolved before the commission; and

(8) may recommend legislation to the legislature that the office determines would positively affect the interests of residential and small commercial consumers.

(d) This section does not limit the authority of the commission to represent residential or small commercial consumers.

(e) The appearance of the counselor in a proceeding does not preclude the appearance of other parties on behalf of residential or small commercial consumers. The counselor may not be grouped with any other party.

SECTION \_\_\_\_ (a) Not later than January 1, 2006, the following are transferred from the Office of Public Interest Counsel to the Office of Public Utility Counsel:

(1) the powers, duties, functions, programs, and activities of the Office of Public Interest Counsel relating to water and sewer services regulated under Chapter 13, Water Code;

(2) all obligations and contracts of the Office of Public Interest Counsel that are related to a power, duty, function, program, or activity transferred under this subsection; and

(3) all property and records in the custody of the Office of Public Interest Counsel that are related to a power, duty, function, program, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) A rule or form adopted by the Office of Public Interest

Counsel that relates to a power, duty, function, program, or activity transferred under Subsection (a) of this section is a rule or form of the Office of Public Utility Counsel and remains in effect until altered by the Office of Public Utility Counsel.

(c) A reference in law to the Office of Public Interest Counsel that relates to a power, duty, function, program, or activity transferred under Subsection (a) of this section means the Office of Public Utility Counsel.