

1-1 By: Duncan S.B. No. 855
1-2 (In the Senate - Filed February 22, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 22, 2011, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 22, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to assistance provided by the Office of Public Utility
1-9 Counsel to interested parties on certain electricity matters
1-10 involving certificates of convenience and necessity.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (a), Section 13.003, Utilities Code,
1-13 is amended to read as follows:

1-14 (a) The office:

1-15 (1) shall assess the effect of utility rate changes
1-16 and other regulatory actions on residential consumers in this
1-17 state;

1-18 (2) shall advocate in the office's own name a position
1-19 determined by the counsellor to be most advantageous to a
1-20 substantial number of residential consumers;

1-21 (3) may appear or intervene, as a party or otherwise,
1-22 as a matter of right on behalf of:

1-23 (A) residential consumers, as a class, in any
1-24 proceeding before the commission, including an alternative dispute
1-25 resolution proceeding; and

1-26 (B) small commercial consumers, as a class, in
1-27 any proceeding in which the counsellor determines that small
1-28 commercial consumers are in need of representation, including an
1-29 alternative dispute resolution proceeding;

1-30 (4) may initiate or intervene as a matter of right or
1-31 otherwise appear in a judicial proceeding:

1-32 (A) that involves an action taken by an
1-33 administrative agency in a proceeding, including an alternative
1-34 dispute resolution proceeding, in which the counsellor is
1-35 authorized to appear; or

1-36 (B) in which the counsellor determines that
1-37 residential electricity consumers or small commercial electricity
1-38 consumers are in need of representation;

1-39 (5) is entitled to the same access as a party, other
1-40 than commission staff, to records gathered by the commission under
1-41 Section 14.204;

1-42 (6) is entitled to discovery of any nonprivileged
1-43 matter that is relevant to the subject matter of a proceeding or
1-44 petition before the commission;

1-45 (7) may represent an individual residential or small
1-46 commercial consumer with respect to the consumer's disputed
1-47 complaint concerning utility services that is unresolved before the
1-48 commission; ~~and~~

1-49 (8) may recommend legislation to the legislature that
1-50 the office determines would positively affect the interests of
1-51 residential and small commercial consumers; and

1-52 (9) may advise persons who are interested parties for
1-53 purposes of Section 37.054 on procedural matters related to
1-54 proceedings before the commission on an application for a
1-55 certificate of convenience and necessity filed under Section
1-56 37.053.

1-57 SECTION 2. Subsection (a), Section 37.054, Utilities Code,
1-58 is amended to read as follows:

1-59 (a) When an application for a certificate is filed, the
1-60 commission shall:

1-61 (1) give notice of the application to interested
1-62 parties and to the office; and

1-63 (2) if requested:

1-64 (A) set a time and place for a hearing; and

2-1 (B) give notice of the hearing.
2-2 SECTION 3. The change in law made by this Act to Section
2-3 37.054, Utilities Code, applies only to an application for a
2-4 certificate of convenience and necessity filed on or after the
2-5 effective date of this Act. An application for a certificate of
2-6 convenience and necessity filed before the effective date of this
2-7 Act is governed by the law in effect at the time the application was
2-8 filed, and the former law is continued in effect for that purpose.

2-9 SECTION 4. This Act takes effect immediately if it receives
2-10 a vote of two-thirds of all the members elected to each house, as
2-11 provided by Section 39, Article III, Texas Constitution. If this
2-12 Act does not receive the vote necessary for immediate effect, this
2-13 Act takes effect September 1, 2011.

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