

1 H.343

2 Introduced by Representative Poirier of Barre City

3 Referred to Committee on

4 Date:

5 Subject: Utilities; Ratepayer Advocate; office

6 Statement of purpose: This bill proposes to create an independent office to  
7 advocate on behalf of Vermont ratepayers in regulatory utility matters.

8 An act relating to the creation of an Office of the Ratepayer Advocate

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 \* \* \* Ratepayer Advocate \* \* \*

11 Sec. 1. 30 V.S.A. part 1, chapter 16 is added to read:

12 CHAPTER 16. RATEPAYER ADVOCATE

13 § 651. FINDINGS; INTENT

14 (a) Many Vermonters believe there is a need for additional independent  
15 advocacy within proceedings before the Public Service Board on behalf of  
16 ratepayers, many of whom do not have the financial resources or expertise to  
17 fully participate in and advance their interests in its proceedings.

18 (b) It is the intent of the General Assembly to create an independent office  
19 to advocate for the lowest reasonable rates for Vermont ratepayers, consistent  
20 with an equitable distribution of rates among all classes of ratepayers and the

1 maintenance of adequate service provided by Vermont companies subject to  
2 the jurisdiction of the Public Service Board.

3 § 652. DEFINITIONS

4 As used in this chapter:

5 (1) “Advocate” means the Ratepayer Advocate established under section  
6 653 of this chapter.

7 (2) “Board” means the Public Service Board established under section 3  
8 of this title.

9 (3) “Committee” means the Committee on Public Service Oversight  
10 established under 2 V.S.A. chapter 29.

11 (4) “Department” means the Department of Public Service established  
12 under 3 V.S.A. § 212.

13 (5) “Office” means the Office of the Ratepayer Advocate established by  
14 section 653 of this chapter.

15 (6) “Ratepayer” means a person who purchases or contracts for the  
16 purchase of a service provided by a public service company subject to  
17 regulation by the Public Service Board under section 203 of this title or who  
18 purchases or contracts for the purchase of propane from a retail distributor of  
19 propane.

1        § 653. OFFICE; RATEPAYER ADVOCATE; APPOINTMENT

2            (a) There is created an independent Office of the Ratepayer Advocate to  
3        consist of a Ratepayer Advocate and such other persons as the Advocate deems  
4        necessary to conduct the business of the Office, pursuant to the terms of this  
5        chapter.

6            (b) The Committee shall appoint a Ratepayer Advocate, an exempt  
7        position, to represent the interests of ratepayers before the Public Service  
8        Board.

9        § 654. QUALIFICATIONS; TERM

10          (a) The Advocate shall be an attorney admitted to practice before the  
11        Vermont Supreme Court and shall perform his or her duties independently.

12          (b) The Advocate shall satisfy the qualifications established under section 4  
13        (qualifications of the Members and Clerk of the Public Service Board and  
14        Commissioner of Public Service) of this title.

15          (c) The Advocate or any full-time employee of the Office shall not actively  
16        engage in any other business or profession; serve as the representative of any  
17        political party or on any executive committee or other governing body thereof;  
18        serve as an executive, officer, or employee of any political party, committee,  
19        organization, or association; receive remuneration for activities on behalf of  
20        any candidate for public office; or engage on behalf of any candidate for public  
21        office in the solicitation of votes or other activities on behalf of such

1 candidacy. The Advocate or any employee of the Office shall not become a  
2 candidate for election to public office unless he or she first resigns from his or  
3 her office or employment.

4 (d) The term of the Advocate shall be six years. Any appointment to fill a  
5 vacancy shall be for the unexpired portion of the term vacated. An Advocate  
6 wishing to succeed himself or herself in office may seek reappointment under  
7 the terms of this section. The Advocate may be removed from office only by a  
8 three-quarters' majority vote of the Committee.

9 § 655. DUTIES AND POWERS

10 It shall be the duty of the Advocate to provide legal representation for  
11 Vermont ratepayers in proceedings before the Board, and to assist ratepayers  
12 with resolving disputes with public service companies and retail distributors of  
13 propane. The Advocate shall have the powers necessary to carry out the duties  
14 of his or her office, including the following specific powers:

15 (1) to recommend to the Board by petition the commencement of any  
16 proceeding or action or to appear, in the name of ratepayers, in any proceeding  
17 or action before the Board and urge therein any position which he or she deems  
18 to be in the interest of ratepayers, and use therein all forms of discovery  
19 available to attorneys in civil actions generally;

1           (2) to have access to and use of all files, records, and data of the Board  
2           and the Department available to any other attorney representing a party in a  
3           proceeding before the Board;

4           (3) in any proceeding in which he or she has participated as a party, to  
5           seek review of any determination, finding, or order of the Board, or of any  
6           hearing examiner designated by the Board, in the name of ratepayers;

7           (4) to prepare and issue reports, recommendations, and proposed orders  
8           to the Board, the Governor, and the General Assembly on any matter or subject  
9           within the jurisdiction of the Board, and to make recommendations as he or she  
10          deems appropriate for legislation relative to Board or Department procedures,  
11          rules, jurisdiction, personnel, and functions;

12          (5) to appear in the name of Vermont ratepayers before other state  
13          agencies, federal agencies, and state and federal courts in connection with  
14          matters under the jurisdiction of the Board or otherwise involving Vermont  
15          utilities and which may affect the interests of Vermont ratepayers;

16          (6) subject to Committee approval, to establish eligibility criteria and  
17          resource allocation for parties seeking independent representation;

18          (7) to establish a mechanism for receiving, tracking, and if possible,  
19          resolving ratepayer complaints and disputes with public service companies and  
20          retail distributors of propane;

1           (8) to receive funds appropriated to the Office by the General Assembly  
2           or allocated to it by the Board under section 658 of this chapter; and to receive  
3           grants, gifts, loans, or contributions from any other source, with the approval  
4           of the Committee;

5           (9) to submit an annual budget to the Public Service Oversight  
6           Committee established under 2 V.S.A. chapter 29; and

7           (10) subject to the criteria and requirements established under  
8           sections 20 and 21 of this title, to retain additional personnel in particular  
9           proceedings and, with Board approval, allocate expenses incurred to the public  
10           service company or companies involved in those proceedings.

11           § 656. EMPLOYEES

12           The Committee may authorize the Advocate to employ legal, technical, and  
13           clerical assistants whose qualifications, duties, responsibilities, salaries,  
14           expenses, and status, whether exempt or classified, the Committee shall  
15           prescribe.

16           § 657. RECEIPT OF PLEADINGS

17           The Board shall furnish the Advocate with copies of the initial pleadings in  
18           all proceedings before the Board.

19           § 658. FINANCING OF THE OFFICE

20           Based on a budget approved by the Public Service Oversight Committee,  
21           and in a manner determined by the Board, the Board shall annually allocate a

1 portion of the revenue generated from the taxes imposed under sections 22  
2 (gross operating revenue tax) and 23 (public service reserve fund) of this title  
3 for the purpose of maintaining and financing the Office. In addition, the Board  
4 shall allocate expenses incurred in particular proceedings to the public service  
5 company or companies involved in the proceedings as provided in sections 20  
6 and 21 of this title.

7 § 659. LEGISLATIVE CONTROL

8 (a) The Advocate is under the Legislative Branch of government. Neither  
9 the Governor nor any executive agency has the authority to withhold funds  
10 appropriated to the Office by the General Assembly or allocated to it by the  
11 Board.

12 (b) Neither the Governor nor any executive agency shall have the authority  
13 to determine the number, or fix the compensation, of the employees of the  
14 Office or to exercise any manner of control over them.

15 \* \* \* Public Service Oversight Committee \* \* \*

16 Sec. 2. 2 V.S.A. chapter 29 is added to read:

17 CHAPTER 29. PUBLIC SERVICE OVERSIGHT COMMITTEE

18 § 981. PUBLIC SERVICE OVERSIGHT COMMITTEE

19 (a) A joint legislative Public Service Oversight Committee is created. The  
20 Committee shall be appointed biennially and consist of eight members: four  
21 members of the House appointed by the Speaker, not all from the same

1 political party, and four members of the Senate appointed by the Senate  
2 Committee on Committees, not all from the same political party.

3 (b) The Committee shall elect a chair, vice chair, and clerk from among its  
4 members. The chair shall alternate biennially between the House and Senate  
5 members. A quorum shall consist of six members.

6 (c) Committee action shall be taken only if there is a quorum and the  
7 proposed action is approved by majority vote of those members physically  
8 present and voting.

9 (d) The Committee may adopt rules of procedure to carry out its duties.

10 § 982. FUNCTIONS AND DUTIES

11 (a) The Public Service Oversight Committee shall appoint the Ratepayer  
12 Advocate described in 30 V.S.A. chapter 16. The Committee shall assess  
13 candidates using the following criteria:

14 (1) commitment to the interests of Vermont ratepayers;

15 (2) knowledge of or expertise in regulatory matters within the  
16 jurisdiction of the Public Service Board;

17 (3) possession of desirable personal characteristics, including integrity,  
18 diligence, administrative and communication skills, and regard for the public  
19 good; and

1           (4) impartiality and the ability to remain free from undue influence by a  
2 personal, political, business, or professional relationship with any company or  
3 matter subject to regulation by the Public Service Board.

4           (b) The Public Service Oversight Committee shall carry on a continuing  
5 review of the functions and performance of the Office of the Ratepayer  
6 Advocate, the Public Service Board, and the Department of Public Service.  
7 The purpose of this review is to assess whether these entities are functioning in  
8 a manner that best serves the interests of ratepayers, as well as the general  
9 good of the State, as appropriate.

10           (c) In conducting its review and in order to fulfill its duties, the Committee  
11 shall consult the following:

12           (1) the Ratepayer Advocate;

13           (2) the Public Service Board;

14           (3) the Commissioner of Public Service;

15           (4) ratepayers and advocacy groups regarding their satisfaction,  
16 complaints, and recommendations;

17           (5) public service companies subject to regulation by the Public Service  
18 Board; and

19           (6) any other person or entity as determined by the Committee.

20           (d) The Committee shall work with, assist, and advise other committees of  
21 the General Assembly, members of the Executive Branch, and the public on

1 matters relating to state utility regulation. Annually, on or before  
2 December 15, the Committee shall report its activities, together with  
3 recommendations, if any, to the Governor and the House Committees on  
4 Commerce and Economic Development and on Natural Resources and Energy  
5 and the Senate Committees on Finance, on Natural Resources and Energy, and  
6 on Economic Development, Housing and General Affairs.

7 § 983. MEETINGS AND STAFF SUPPORT

8 (a) The Committee may meet during a session of the General Assembly at  
9 the call of the Chair or by majority of the members of the Committee. The  
10 Committee may meet during adjournment subject to the approval of the  
11 Speaker of the House and the President Pro Tempore of the Senate.

12 (b) For attendance at meetings which are held when the General Assembly  
13 is not in session, the members of the Committee shall be entitled to the same  
14 per diem compensation and reimbursement for necessary expenses as those  
15 provided to members of standing committees under section 406 of this title.

16 (c) The Legislative Council and the Joint Fiscal Office shall provide  
17 professional and administrative support to the Committee. The Department of  
18 Public Service and other agencies of the State shall provide information,  
19 assistance, and support upon request of the Committee.

