

Act 56 Initial Staff Recommendations

Statutory Clarification of the Public Advocate's Mission

“new legislative language could plainly identify the intended beneficiary of the work of the public advocacy function of the Department, and, if so intended, the Legislature can distinguish that duty from the duty to represent the more general and varied interests of the State or its Governor. For example, legislation can plainly state that the intended direct beneficiary of the work of the public advocate, is the consuming public, as already appears to be the case with respect to cases involving a change of rates.”

Greater Insulation of the Director of Public Advocacy

“Enhanced independence, if so desired, can be further achieved by relatively simple changes such as insulation of the Director of the Public Advocacy Division, by assigning to him or her a term of years and/or other elements of employment protection, such as prohibiting termination during his/her term, except for cause.”

Governance by Board of Directors

“As an alternative to typical accountability to elected or appointed officials such as the governor or the attorney general, at least three states have chosen the mechanism of governing the utility consumer advocate by means of a diverse board of directors.”

Alternative Means of Accountability, Along with Greater Independence

1. annual reports from the Department, that are concise and understandable to the public – and widely communicated -- which outline the positions taken, specific accomplishments, and monetary savings achieved by the public advocate each year.
2. A given term in years for the public advocate, to be varied from the term of the Governor
3. A comparison of the rates in Vermont with rates in similarly situated states and a requirement for a plan to reduce rates in Vermont toward the level of the lowest rates found in similarly situated states (if not already accomplished).

4. Increased public meetings in geographically diverse parts of the State in order to provide the public with better access to information about the work being done on its behalf, and an enhanced process allowing for public input to the Department and its public advocacy division.
5. A provision that prevents the termination of the public advocacy director, except for cause.
6. A requirement that the public advocate regularly meet, or collaborate with, diverse interest groups, including representatives of various customer classes, those representing low-income and elderly populations, environmental advocates, business interests, and any other groups who desire to participate in proceedings before the Public Service Board.

New Requirements for Open Processes That May Lead to MOUs or other Settlements

“One potential means of addressing the public perception that MOUs are generally not consistent with a fair public process might be to allow a process whereby all parties can potentially participate in discussions that may lead to an MOU, and thereby see it as a more transparent process. [This section specifically referenced a rule enacted by the Maine PUC]

Is the Department the Right Agency to Intervene in Each Case Involving Siting of Small Electric Generation Facilities?

“Therefore, if that class of cases [248s] – or the aesthetics issues in particular -- were to be removed from the purview of the Department, it would appear likely that the Division of Public Advocacy would have more resources to pursue other types of cases in the course of representing the public interest, including rate proceedings and, perhaps, more investigations of utilities’ financial and operating performance.”

Intervenor Funding

“One potential means of addressing obstacles to more public participation in Board proceedings, would be to create a program of intervenor funding, so that a more diverse universe of intervenors could rely upon resources necessary to present a technical case to the Board, including independent expert assistance likely to produce persuasive record evidence.”