

1 *House* BILL NO. *328*  
 2 INTRODUCED BY *Palmer* *Harper Johnson*  
 3 *Johnson* *Nussbaum* *VINCENT*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE PUBLIC  
 5 SERVICE COMMISSION TO ORDER UTILITY SERVICE TO A CONSUMER  
 6 PENDING HEARING ON A COMPLAINT; AMENDING SECTION 70-119,  
 7 R.C.M. 1947; AMENDING SECTIONS 70-707 AND 93-4215, R.C.M.  
 8 1947, TO AUTHORIZE THE CONSUMER COUNSEL TO APPLY FOR, AND  
 9 THE COURTS TO GRANT, RESTRAINING ORDERS."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 70-119, R.C.M. 1947, is amended to  
13 read as follows:

14 "70-119. Complaints against public utility--hearing.  
 15 Upon a complaint made against any public utility by any  
 16 mercantile, agricultural, or manufacturing society or club,  
 17 or by any body politic or municipal organization, or  
 18 association or associations, the same being interested, or  
 19 by any person or persons, firm or firms, corporation or  
 20 corporations, provided such persons, firms, or corporations  
 21 are directly affected thereby that any of the rates, tolls,  
 22 charges, or schedule, or any joint rate or rates, are in any  
 23 way unreasonable or unjustly discriminatory, or that any  
 24 regulations, measurements, practices, or act whatsoever  
 25 affecting or relating to the production, transmission, or

1 delivery or furnishing of heat, light, water, or power, or  
 2 any service in connection therewith, or the conveyance of  
 3 any telegraph or telephone message, or any service in  
 4 connection therewith, is in any respect unreasonable,  
 5 insufficient, or unjustly discriminatory, or that any  
 6 service is inadequate, the commission shall proceed, with or  
 7 without notice, to make such investigation as it may deem  
 8 necessary. But no order affecting such rates, tolls,  
 9 charges, schedules, regulations, measurements, practice or  
 10 act complained of, shall be entered without a formal  
 11 hearing, except the commission may issue an order to  
 12 provide service to a consumer pending a hearing on a  
 13 complaint by such consumer or by the consumer counsel on  
 14 behalf of such consumer against a public utility.

15 The commission shall give the public utility and the  
 16 complainant or complainants at least ten days' notice of the  
 17 time when and the place where such hearing will be held, at  
 18 which hearing both the complainant and the public utility  
 19 shall have the right to appear by counsel or otherwise, and  
 20 be fully heard. Either party shall be entitled to an order  
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 22 production of books, papers, and documents containing  
 23 material testimony. Witnesses appearing upon the order of  
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1 state, and the same shall be paid out of the state treasury  
 2 in the same manner as other claims against the state are  
 3 paid; but no fees or mileage shall be allowed, unless the  
 4 chairman of the commission shall certify to the correctness  
 5 of the claim."

6 Section 2. Section 70-707, R.C.M. 1947, is amended to  
 7 read as follows:

8 "70-707. Powers and duties of consumer counsel--annual  
 9 report. The consumer counsel:

10 (1) may appear at public hearings conducted by the  
 11 commission, as the representative of the consuming public,  
 12 on all matters which come before the commission which in any  
 13 way affect the consuming public, and shall have all the  
 14 rights and powers of any party in interest appearing before  
 15 the commission regarding examination and cross-examination  
 16 of witnesses, presentation of evidence and other matters;

17 (2) may institute proceedings before the commission  
 18 against regulated companies;

19 (3) has all the investigatory powers necessary to  
 20 perform his duties as provided herein and all discovery  
 21 powers sanctioned by the Montana Rules of Civil Procedure  
 22 and the Montana Administrative Procedure Act;

23 (4) may examine in any commission proceedings under  
 24 oath any officer, director, manager, or employee of any  
 25 regulated company and inspect the business and corporate

1 records of any regulated company in accordance with the law  
 2 to aid in the exercise of his duties;

3 (5) may institute, intervene in, or otherwise  
 4 participate in appropriate proceedings in the state and  
 5 federal courts and administrative agencies in the name of  
 6 and on behalf of the ~~utility--and--transportation~~ consuming  
 7 public of the state of Montana or substantial elements  
 8 thereof ~~including--review--of--decisions--rendered--by--or~~  
 9 ~~failure-to-act-by-the-commission;~~

10 (a) for review of decisions rendered by the  
 11 commission, and

12 (b) for restraining orders pending the investigation  
 13 of and decision upon a matter by the commission, pursuant to  
 14 section 93-4215;

15 (6) shall meet and confer with members or  
 16 representatives of the consuming public at such times and  
 17 places as he determines appropriate;

18 (7) shall prepare and submit a yearly report and such  
 19 other interim reports he determines advisable concerning his  
 20 activities during the year and may recommend appropriate  
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22 (8) has such other powers necessary to fully represent  
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2 Section 3. Section 93-4215, R.C.M. 1947, is amended to  
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4 "93-4215. Injunction against price fixing or consumer  
5 abuses. (1) Whenever any action, either civil or criminal,  
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8 ~~or domestic,~~ for price fixing or regulating the production  
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11 action is pending, ~~if it be a court of record, or if not,~~  
12 ~~then any court of record in this state, shall be and it is~~ is  
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15 ~~or domestic,~~ from doing business in this state pending the  
16 final determination of said action so instituted.

17 (2) When the public service commission is conducting  
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Approved by Committee  
on Business and Industry

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17 UNLESS FURTHER DELAYED BY CONSENT OF ALL PARTIES.

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3 LEGAL REPRESENTATIVE; a district court may, upon the  
4 application of the consumer counsel, OR THE INTERESTED  
5 PERSON OR HIS LEGAL REPRESENTATIVE, enter a restraining  
6 order against any person respondent in the adjudicatory  
7 proceeding or investigation. Such a restraining order may  
8 prohibit the respondent, his agents, employees, licensees,  
9 and assignees, from acting in the manner complained of in  
10 the proceeding before the commission until the commission  
11 has rendered its decision in the matter. The restraining  
12 order may include an order to show cause why the order  
13 should not become an injunction for the duration of the  
14 proceeding before the commission."

-End-