

1 House BILL NO. 729
2 INTRODUCED BY Vincent

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A MONTANA
5 RESIDENTIAL UTILITY CONSUMER ACTION GROUP AS A NONPROFIT
6 CORPORATION TO REPRESENT INTERESTS OF RESIDENTIAL UTILITY
7 CONSUMERS BEFORE THE PUBLIC SERVICE COMMISSION."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Short title. This act may be cited as the
11 "Montana Residential Utility Consumer Action Group Act".

12 Section 2. Statement of legislative intent. The
13 purpose of this act is to ensure effective and democratic
14 representation of the interests of residential utility
15 consumers before such bodies by:

16 (1) creation of a permanent nonprofit organization
17 whose sole duty is the representation of the interests of
18 residential utility consumers before such bodies;

19 (2) provision for democratic accountability of the
20 board of directors of the organization to the will of its
21 consumer constituency through open elections of directors
22 with thorough financial disclosure requirements and campaign
23 spending limitations;

24 (3) encouragement of active citizen participation in
25 the regulatory process through involvement in the activities

1 of the organization; and
2 (4) creation of an efficient funding mechanism for the
3 organization, involving no compulsory burden whatsoever on
4 the taxpayers of this state, whereby residential utility
5 consumers and others may voluntarily contribute to the
6 organization by adding a sum to their utility payments.

7 Section 3. Definitions. (1) (a) "Campaign
8 contribution" means:

9 (i) an advance, gift, loan, conveyance, deposit,
10 payment, or distribution of money or anything of value to
11 influence an election;

12 (ii) a transfer of funds between political committees;

13 (iii) the payment by a person other than a candidate or
14 political committee of compensation for the personal
15 services of another person that are rendered to a candidate
16 or political committee.

17 (b) "Campaign contribution" does not mean services
18 provided without compensation by individuals volunteering a
19 portion or all of their time on behalf of a candidate or
20 political committee or meals and lodging provided by
21 individuals in their private residence for a candidate or
22 other individual.

23 (2) "The corporation" means the residential utility
24 consumer action group, incorporated.

25 (3) "Director" means any person serving on the board

1 of directors of the corporation.

2 (4) "District" means any political subdivision from
3 which one member is elected to the public service
4 commission.

5 (5) "Expenditure" means a purchase, payment,
6 distribution, loan, advance, promise, pledge, or gift of
7 money or anything of value made for the purpose of
8 influencing the results of an election, but "expenditure"
9 does not mean:

10 (a) services, food, or lodging provided in such manner
11 that they are not contributions under this act; or

12 (b) payments by a candidate for his personal travel
13 expenses or for food, clothing, lodging, or personal
14 necessities for himself and his family.

15 (6) The "immediate family" of a person means the
16 person and his or her spouse and their parents, children,
17 brothers, and sisters.

18 (7) "Member" means any person who meets the
19 requirements for membership in the corporation set forth in
20 [section 4(2)].

21 (8) "Periodic customer billing" means a demand for
22 payment for utility services by a public utility to a
23 residential utility consumer on a monthly or other regular
24 basis.

25 (9) "Political committee" means any committee, club,

1 association, or other group of persons which makes campaign
2 expenditures or receives campaign contributions during the
3 year before an election of the board of directors.

4 (10) "Proceeding" means any formal meeting of a
5 regulatory agency or subdivision thereof or conducted by a
6 hearing examiner or other agent of the regulatory agency
7 regarding:

8 (a) the establishment or alteration of rates or
9 charges for the provision or sale of utility services within
10 this state;

11 (b) the establishment, abrogation, or amendment of
12 rules concerning residential utility consumers, public
13 utilities, or energy policies affecting this state or
14 concerning the conduct of regulatory agency proceedings
15 themselves; or

16 (c) adjudication of the claims or petitions of
17 residential utility consumers, public utilities, or other
18 persons or groups of persons.

19 (11) "Public utility" means a corporation or other
20 entity engaged in the business of supplying utility services
21 to persons within this state if rates or charges for such
22 utility services have been established or are subject to
23 approval by a local, state, or federal authority.

24 (12) (a) "Regulatory agency" means any local, state, or
25 federal commission or other public body with the legal

1 authority to:

2 (i) establish or alter rates or charges for the
3 provision or sale of utility services within this state;

4 (ii) plan, approve, reject, or modify plans for the
5 construction of facilities for the production or provision
6 of utility services within this state;

7 (iii) formulate or review energy policies affecting
8 this state; or

9 (iv) otherwise regulate the activities of public
10 utilities doing business within this state.

11 (b) Local, state, and federal courts and legislative
12 bodies are not considered to be "regulatory agencies" for
13 the purposes of this act.

14 (13) "Residential utility consumer" means any resident
15 of this state whose residence is furnished with a utility
16 service by a public utility.

17 (14) "Utility services" means electricity, water,
18 natural gas, and telephone services supplied by a public
19 utility.

20 Section 4. Creation of corporation — membership. (1)
21 There is hereby created a nonprofit corporation to be known
22 as the residential utility consumer action group,
23 incorporated, hereinafter referred to as the corporation.

24 (2) The membership of the corporation consists of all
25 residential utility consumers of 16 years of age or older

1 who have contributed to the corporation at least an amount
2 to be set by the board of directors in either its preceding
3 or its current fiscal year.

4 (3) Any person may resign from membership.

5 Section 5. Duties, rights, and powers of corporation.

6 (1) The corporation shall effectively represent and protect
7 the interests of the residential utility consumers of this
8 state. All actions which it undertakes under the provisions
9 of this act shall be directed toward that goal.

10 (2) The corporation has all rights and powers accorded
11 generally to and shall be subject to all duties imposed
12 generally upon nonprofit corporations under the laws of this
13 state.

14 (3) The corporation may seek tax-exempt status under
15 state and federal law.

16 (4) The corporation may conduct, support, and assist
17 research, surveys, investigations, planning activities,
18 conferences, demonstration projects, and public information
19 activities concerning the interests of residential utility
20 consumers. The corporation may accept grants, contributions,
21 and legislative appropriations for such activities.

22 (5) The corporation may contract for services which
23 cannot reasonably be performed by its employees.

24 (6) The corporation may represent the interests of
25 residential utility consumers before regulatory agencies,

1 legislative bodies, and other public authorities, except as
2 this act otherwise provides.

3 (7) The corporation may not sponsor, endorse, or
4 otherwise support or oppose any political party or the
5 candidacy of any person for public office.

6 (8) The corporation may support or oppose initiatives
7 or referenda concerning matters which it determines may
8 affect the interests of residential utility consumers.

9 (9) The corporation, upon receipt of any written
10 complaint regarding a public utility, shall promptly
11 transmit the complaint to the appropriate regulatory agency
12 or other public authority. The agency or authority shall
13 inform the corporation of its response to the complaint.

14 (10) The corporation shall have, in addition to the
15 rights and powers enumerated in this act, such other
16 incidental rights and powers as are reasonably necessary for
17 the effective representation and protection of the interests
18 of residential utility consumers.

19 Section 6. Representation of utility consumers in
20 regulatory agency proceedings.

21 (1) Each regulatory agency of this state as defined
22 in [section 3(12)] shall notify the corporation in advance
23 of the time, place, subject, and names of parties of each
24 proceeding of the agency, unless the agency reasonably
25 determines that the proceeding will not affect the interests

1 of the residential utility consumers of this state. The
2 agency shall so notify the corporation at least 30 days
3 before the scheduled date of the proceeding or within 5 days
4 after such date is fixed, whichever is later.

5 (2) The corporation may intervene as of right as a
6 party or otherwise participate in any regulatory agency
7 proceeding which the corporation reasonably determines may
8 affect the interests of residential utility consumers.

9 (3) The intervention or participation of the
10 corporation in any such proceeding does not affect the
11 obligation of the regulatory agency to operate in the public
12 interest.

13 (4) When the corporation intervenes or participates in
14 a regulatory agency proceeding, it is subject to all laws
15 and rules of procedure of general applicability governing
16 the conduct of the proceeding and the rights of interveners
17 and participants. The corporation has the same rights
18 regarding representation by counsel, participation in
19 prehearing conferences, discovery, requests for issuance of
20 subpoenas by the agency, stipulation of facts, presentation
21 and cross-examination of witnesses, oral and written
22 argument, participation in settlement negotiations, and
23 other aspects of the proceedings as are accorded to other
24 interveners under the laws of this state, except as
25 otherwise provided in this act.

1 Section 7. Judicial review of regulatory agency
 2 decisions — enforcement actions. The corporation has an
 3 interest sufficient to maintain, intervene as of right in,
 4 or otherwise participate in any civil action for the review
 5 or enforcement of any regulatory agency decision which the
 6 corporation reasonably determines would adversely affect the
 7 interests of residential utility consumers.

8 Section 8. Funding. (1) The corporation may prepare
 9 and furnish to each public utility in this state, not less
 10 than 14 calendar days and not more than 1 year in advance of
 11 the date of each of the public utility's periodic customer
 12 billings, the following materials:

13 (a) a statement, not to exceed the folded size of
 14 3 1/2 by 4 1/2 inches and 1/4 ounce, concerning the
 15 organization and activities of the corporation and other
 16 matters which the corporation determines may affect the
 17 interests of residential utility consumers; and

18 (b) a card, leaflet, or similar enclosure, not to
 19 exceed 3 1/2 by 4 1/2 inches and 1/4 ounce, or a statement
 20 to be printed upon the face of the billing in 8 point or
 21 larger type:

22 (i) indicating that the utility consumer billed and
 23 others in his household may contribute money to the
 24 corporation by a payment to the public utility in excess of
 25 his payment for utility services and that such excess

1 payment will be transferred to the corporation;

2 (ii) containing a box of 1/8 by 1/8 inch and a
 3 statement next to it indicating that if the utility consumer
 4 billed checks the box and adds 50 cents or such amount as
 5 the corporation may determine to his payment, the excess
 6 payment will be transferred automatically to the corporation
 7 as a contribution from the utility consumer billed;

8 (iii) containing a box of 1/8 by 1/8 inch and a
 9 statement next to it indicating that, if the utility
 10 consumer billed checks the box, such amount as the
 11 corporation may determine will be added automatically to his
 12 next periodic billing and that such amount when paid will be
 13 transferred automatically to the corporation as a
 14 contribution from the utility consumer billed; and

15 (iv) containing a space in which the utility consumer
 16 may enter the names of contributors in his household 16
 17 years of age or older and the amount each contributes to the
 18 corporation.

19 (2) Each public utility furnished with such statements
 20 or other enclosures in accordance with the provisions of
 21 subsection (1) of this section shall print or otherwise
 22 include or enclose such statements or enclosures within,
 23 upon, or attached to each periodic customer billing which
 24 the public utility mails or delivers to any residential
 25 consumer.

1 Section 9. Utility account. (1) There is hereby
 2 created in each public utility's system of accounts an
 3 account to be called the residential utility consumer action
 4 group account. All contributions to the corporation
 5 received by the public utility and all other moneys due the
 6 corporation under the control of the public utility shall be
 7 deposited in this account immediately upon receipt of such
 8 contributions or when such moneys become due. Interest,
 9 calculated at the current prime rate, shall be added daily
 10 to this account.

11 (2) Each public utility which receives contributions
 12 to the corporation shall transfer to the corporation by the
 13 15th day of each month:

14 (a) the entire contents of the residential utility
 15 consumer action group account as of the date of transfer;

16 (b) the name and address of each contributor and the
 17 amount he contributed during the previous month, in the
 18 following manner:

19 (i) a contribution made by checking the box described
 20 in [section 8(1)(b)(ii)] shall be attributed to the consumer
 21 billed;

22 (ii) each contribution made by entering the name of the
 23 contributor and the amount he contributes in the space
 24 described in [section 8(1)(b)(iv)] shall be attributed to
 25 such contributor; provided that:

1 (A) if the actual amount the consumer billed adds to
 2 his payment as a contribution to the corporation is
 3 inconsistent with the amount the consumer states that the
 4 members of his household are contributing, the actual
 5 amount contributed shall be attributed entirely to the
 6 consumer billed;

7 (B) if a consumer neither checks the box described in
 8 [section 8(1)(b)(ii) or 8(1)(b)(iii)] nor enters the name of
 9 any contributor in the space described in [section
 10 8(1)(b)(iv)], any payment by the consumer in excess of the
 11 amount demanded in the periodic customer billing may not be
 12 considered a contribution to the corporation;

13 (C) if the public utility operates its billings and
 14 customer accounts on a computerized basis, a statement of
 15 the cumulative amount contributed by each contributor during
 16 the corporation's current fiscal year shall be mailed to the
 17 customer at the end of the fiscal year.

18 (3) The corporation shall promptly reimburse each
 19 public utility for all reasonable costs incurred by the
 20 public utility, above the utility's normal billing costs, in
 21 complying with this section, provided that:

22 (a) all postage costs of mailings pursuant to [section
 23 8] shall be borne by the utility; and

24 (b) the corporation may postpone reimbursement of the
 25 public utilities for costs incurred through the first

1 election of directors until 12 months after such directors
2 are installed.

3 (4) Any disputes arising from the operation of this
4 section shall be resolved by negotiations between the
5 corporation and the public utility if possible or by a civil
6 proceeding in the courts of this state. Neither the public
7 utility nor the corporation may fail to comply with the
8 provisions of this act by reason of the existence of such a
9 dispute.

10 Section 10. Prohibited activities — penalty. (1) No
11 public utility or officer, employee, or agent of a public
12 utility may interfere or threaten to interfere with or cause
13 any interference with the utility service of or penalize or
14 threaten to penalize or cause to be penalized any person who
15 contributes to the corporation or participates in any of its
16 activities, in retribution for such contribution or
17 participation.

18 (2) No public utility or officer, employee, or agent
19 of a public utility may prevent, interfere with, or hinder
20 the activities described in [section 8(2)] or subsection (1)
21 or (2) of [section 9].

22 (3) No person may use any list of contributors to the
23 corporation or any part of such list for purposes other than
24 the conduct of the activities described in [sections 8 or 9]
25 or the conduct of other business of the corporation as

1 prescribed in this act. No person may disclose any such list
2 or part thereof to any other who the person has substantial
3 reason to believe does not intend to use it for the lawful
4 purposes described in this subsection. A person who
5 violates this subsection shall be subject to a civil
6 penalty of not more than \$5,000.

7 (4) A person who violates subsection (1) or (2) of
8 this section is subject to a civil penalty of not more than
9 \$5,000. Each violation constitutes a separate and continuing
10 violation of the act. A person who knowingly and willfully
11 violates subsection (1) or (2) of this section is guilty of
12 a misdemeanor.

13 Section 11. Board of directors. (1) The affairs of the
14 corporation shall be managed by a board of directors.

15 (2) The term of office of elected directors shall be 3
16 years, with the exception of directors drawing shortened
17 terms under the provisions of subsection (3) of this
18 section. The term of office of directors appointed pursuant
19 to [section 12] of this section shall end when the first
20 elected directors are installed in office. No director may
21 serve more than two consecutive terms.

22 (3) Two of the directors first elected to the board
23 shall serve for a 1-year term, two of the directors shall
24 serve for a 2-year term, and one of the directors shall
25 serve for a full 3-year term. The directors shall draw lots

1 upon their installation in office to determine the length of
2 their first terms.

3 (4) Directors shall be residents of this state who are
4 members of the corporation. No officer, employee,
5 consultant, attorney, accountant, real estate agent,
6 shareholder, bondholder, or member of the immediate family
7 of an officer, employee, consultant, attorney, accountant,
8 real estate agent, shareholder, or bondholder of any public
9 utility doing business in this state is eligible to become a
10 director.

11 Section 12. Appointed directors. (1) Within 60 days
12 after this act becomes effective, the attorney general, the
13 speaker of the house, the president of the senate, the
14 majority leader of the house, and the majority leader of the
15 senate of this state shall each appoint one director of the
16 corporation to serve until the first elected directors are
17 installed in office. The appointed directors shall be
18 installed in office by the governor.

19 (2) The appointed directors shall:

20 (a) inform the residential utility consumers of this
21 state, by the means provided for in this act, of the
22 existence, nature, and purposes of the corporation and
23 encourage residential utility consumers to participate in
24 the corporation's activities and contribute to its operating
25 funds;

1 (b) elect officers;

2 (c) employ such staff as the directors consider
3 necessary to carry out the purposes of this act;

4 (d) make all necessary preparations for the first
5 election of directors, oversee the election campaign, and
6 tally the votes; and

7 (e) carry out all other duties and exercise all other
8 powers accorded to the board of directors in this act.

9 Section 13. Elected directors. (1) One director shall
10 be elected, pursuant to the procedures set down in [section
11 22], from each district in the state. Each director shall
12 represent the interests of the residential utility consumers
13 of his district and of the state. Each director has one vote
14 in the board of directors. Elected directors shall be
15 installed in office by the president of the outgoing board
16 of directors.

17 Section 14. Recall of directors. (1) Upon receipt by
18 the president of the board of directors of a petition to
19 recall any director with the valid signatures of at least
20 40% of the members from such director's district, the
21 president shall call an election for the district, to be
22 held not less than 4 months and not more than 6 months after
23 receipt of the petition, for the purpose of electing a
24 director to serve out the term of the recalled director. No
25 petition to recall a director may be filed within 6 months

1 of the director's election. An election following recall
 2 shall be conducted in accordance with the provisions of
 3 [section 22]. A director may become a candidate in an
 4 election following the director's own recall. The director
 5 recalled shall continue to serve until the installment in
 6 office of a successor.

7 Section 15. Vacancies. When a director dies, resigns,
 8 is disqualified, or otherwise vacates office, except as
 9 provided in [section 14], the board of directors shall
 10 select within 3 months a successor from the same district as
 11 such director for the remainder of the director's term of
 12 office. Any director may nominate any qualified person as
 13 successor. The board of directors shall select the successor
 14 from among those nominated by a majority of the remaining
 15 directors present and voting. The successor shall be
 16 installed in office by the president of the board of
 17 directors.

18 Section 16. Duties of board of directors. The board of
 19 directors shall:

20 (1) maintain up-to-date membership rolls and keep them
 21 in confidence to the extent required by the provisions of
 22 [section 10(3)];

23 (2) keep minutes, books, and records which reflect all
 24 the acts and transactions of the board of directors and
 25 which shall be open to examination by any member during

1 regular business hours;

2 (3) make all reports, studies, and other information
 3 compiled by the corporation and all data pertaining to the
 4 finances of the corporation available for public inspection
 5 during regular business hours;

6 (4) prepare quarterly statements of the financial and
 7 substantive operations of the corporation and make copies of
 8 such statements available to the general public;

9 (5) cause the corporation's books to be audited by a
 10 certified public accountant at least once each fiscal year
 11 and make the audit available to the general public;

12 (6) prepare and mail, as soon as practicable after the
 13 close of the corporation's fiscal year, an annual report of
 14 the corporation's financial and substantive operations to
 15 each member and to each public library in the state;

16 (7) report to the membership at the annual membership
 17 meeting on the past and projected activities and policies of
 18 the corporation;

19 (8) employ an executive director and direct and
 20 supervise his activities; and

21 (9) carry out all other duties and responsibilities
 22 imposed upon the corporation and the board of directors by
 23 this act.

24 Section 17. Meetings of the board of directors. (1)
 25 The board of directors shall hold regular meetings at least

1 once every 3 months on such dates and at such places as it
 2 may determine. Special meetings may be called by the
 3 president or by any three directors upon at least 5 days'
 4 notice. Three of the directors constitute a quorum.

5 (2) All meetings of the board of directors and of its
 6 committees and subdivisions shall be open to the public.
 7 Complete minutes of the meetings shall be kept and
 8 distributed to all public libraries in the state.

9 (3) The treasurer shall reimburse directors only for
 10 actual expenses necessarily incurred by them in the
 11 performance of their duties.

12 Section 18. Bonding of directors and employees. The
 13 directors and employees eligible to disburse funds shall be
 14 bonded at the expense of the corporation.

15 Section 19. Election of directors — qualifications.

16 (1) When the membership of the corporation has reached 1,000
 17 persons and the corporation has received \$10,000 in
 18 contributions, the appointed directors shall promptly fix a
 19 date for the first election of directors. The election shall
 20 be held not less than 4 months or more than 6 months after
 21 the membership and contributions have both reached the
 22 prescribed levels.

23 (2) Subsequent elections of directors shall be held at
 24 approximately yearly intervals after the first election. The
 25 dates of such elections shall be fixed not less than 4

1 months in advance by the board of directors.

2 (3) To be eligible for election to the board of
 3 directors, a candidate must:

4 (a) meet the qualifications for directors prescribed
 5 in [section 11(4)];

6 (b) be a resident of the district which he seeks to
 7 represent;

8 (c) have his nomination certified by the board of
 9 directors pursuant to subsection (4) of this section; and

10 (d) submit to the board of directors a statement of
 11 financial interests and personal background and positions in
 12 accordance with [section 20].

13 (4) A candidate for election to the board of directors
 14 shall submit to the board not later than 60 days prior to
 15 the election a petition for nomination signed by at least 5%
 16 of the members residing in the candidate's district. The
 17 board of directors shall verify the validity of the
 18 signatures. Upon determination that a sufficient number are
 19 valid, the board shall certify the nomination of the
 20 candidate.

21 Section 20. Statement of financial interests and
 22 personal background. (1) A candidate for election to the
 23 board of directors shall submit to the board not later than
 24 60 days prior to the election a statement of financial
 25 interests upon a form approved by the board of directors.

1 (2) The statement of financial interests shall include
2 the following information:

3 (a) the occupation, employer, and position at place of
4 employment of the candidate and the candidate's immediate
5 family members;

6 (b) a description of all significant personal or
7 professional transactions by the candidate and the
8 candidate's immediate family members with any public utility
9 during the previous 3 years;

10 (c) a list of all corporate and organizational
11 directorships or other offices and of all fiduciary
12 relationships held in the past 3 years by the candidate and
13 the candidate's immediate family members; and

14 (d) an affirmation, subject to penalty of perjury,
15 that the information contained in the statement of financial
16 interests is true and complete.

17 (3) A candidate for election to the board of directors
18 shall submit to the board not later than 60 days prior to
19 the election a statement concerning his personal background
20 and positions on issues relating to public utilities or the
21 operations of the corporation.

22 Section 21. Restrictions on and reporting of campaign
23 contributions and expenditures. (1) Each candidate may
24 accept no more than \$50 in campaign contributions from any
25 person or political committee for 1 year before the date of

1 an election through the date of the election.

2 (2) Each candidate shall keep complete records of all
3 contributions to his campaign of \$5 or more made from 1 year
4 before the date of an election through the date of the
5 election.

6 (3) Each candidate may incur no more than \$2 per
7 member of the corporation residing in the candidate's
8 district as of 60 days prior to the election in campaign
9 expenditures from the time the candidate commences
10 circulation of petitions for nomination or from 4 months
11 prior to the election, whichever is earlier, through the
12 date of the election.

13 (4) Each candidate shall keep complete records of
14 campaign expenditures and shall make such records available
15 for inspection during normal business hours to any member or
16 employee of the corporation.

17 (5) Each candidate, within 21 days after the election,
18 shall submit to the board of directors an accurate statement
19 of campaign contributions accepted and campaign expenditures
20 incurred to the board of directors and shall affirm to the
21 board, subject to penalty of perjury, that he has fully
22 complied with the requirements of subsections (1) through
23 (4) of this section.

24 Section 22. Election procedures -- installation of
25 directors. (1) The board of directors shall send or have

1 sent by first-class mail to each member, not sooner than 21
2 and not later than 14 days before the date fixed for the
3 election:

4 (a) an official ballot listing all candidates for
5 director from the member's district whose nominations the
6 board has certified and who have complied with the
7 requirements of [section 20];

8 (b) each candidate's statement of financial interests;
9 and

10 (c) each candidate's statement of personal background
11 and positions.

12 (2) Each member may cast a vote in the election by
13 returning an official ballot, properly marked, to the head
14 office of the corporation by 8 p.m. of the date fixed for
15 the election.

16 (3) Voting shall be by secret ballot.

17 (4) The board of directors shall tally votes with all
18 reasonable speed and shall inform the membership promptly of
19 the names of the candidates elected.

20 (5) In each district, the candidate with the most
21 votes shall be declared elected.

22 (6) The president of the board of directors shall
23 install in office within 30 days after the election all
24 elected candidates.

25 (7) The board of directors may prescribe rules for the

1 conduct of elections and election campaigns not inconsistent
2 with this act.

3 Section 23. Officers — election, terms, removal, and
4 duties. (1) At the first regular meeting of the board of
5 directors at which a quorum is present, subsequent to the
6 initial appointments of directors, and at the first regular
7 meeting of the board at which a quorum is present,
8 subsequent to the installation of new directors following
9 each annual election, the board shall elect by majority vote
10 of members present and voting, from among the directors, a
11 president, a vice-president, a secretary, and a treasurer.
12 The board may also elect a comptroller and such other
13 officers as it considers necessary.

14 (2) Officers shall be installed by the president
15 immediately upon their election. The term of office of
16 officers shall be 1 year. An officer may resign or may be
17 removed from office by a three-fifths vote of all the
18 directors. After an officer's term of office has expired,
19 the officer shall continue to serve until his successor is
20 installed.

21 (3) When an officer dies, resigns, is removed, or
22 otherwise vacates office, the board of directors shall elect
23 a successor to serve out such officer's term of office.

24 (4) The officers shall exercise such powers and
25 perform such duties as are prescribed by this act or are

1 delegated to them by the board of directors.

2 Section 24. Executive director. (1) The board of
3 directors shall employ an executive director.

4 (2) The executive director shall, subject to the
5 direction and supervision of the board of directors:

6 (a) decide upon the course of action of the
7 corporation regarding appearances before regulatory
8 agencies, legislative bodies, and other public authorities
9 and regarding other activities which the corporation has the
10 authority to perform under this act;

11 (b) employ and discharge employees of the corporation;

12 (c) supervise the offices, facilities, and work of the
13 employees of the corporation;

14 (d) have custody of and maintain the books, records,
15 and membership rolls of the corporation in accordance with
16 the provisions of this act;

17 (e) prepare and submit to the board of directors
18 annual and quarterly statements of the financial and
19 substantive operations of the corporation and financial
20 estimates for the future operations of the corporation;

21 (f) attend and participate in meetings of the board of
22 directors as a nonvoting director; and

23 (g) exercise such other powers and perform such other
24 duties as the board of directors delegates.

25 (3) The executive director may be discharged by

1 three-fifths vote of all the directors.

2 Section 25. Annual membership meeting. (1) An annual
3 meeting of the membership shall be held at a time and in a
4 place within the state to be determined by the board of
5 directors.

6 (2) All members shall be eligible to attend,
7 participate in, and vote in the annual membership meeting.

8 (3) The form of the annual membership meeting shall be
9 as provided in the law of this state regarding a nonprofit
10 corporation.

11 (4) The annual membership meeting shall be open to the
12 public.

13 Section 26. Corrupt practices and conflicts of
14 interest. (1) Neither the corporation nor its directors,
15 employees, or agents may offer anything of monetary value
16 to or accept anything of monetary value from any public
17 official or official or employee of any public utility or
18 agent thereof, except as otherwise provided in this act.

19 (2) No director may personally or through any partner
20 or agent render any professional service or make or perform
21 any business contract with or for any public utility.

22 (3) No public official or official or employee of any
23 public utility or agent thereof may offer anything of
24 monetary value to or accept anything of monetary value from
25 the corporation or its directors, employees, or agents,

1 except as otherwise provided in this act.

2 (4) Any person who violates subsection (1), (2), or
3 (3) of this section shall upon conviction be fined not more
4 than \$5,000 or imprisoned for a term not to exceed 5 years,
5 or both.

6 (5) The office of a director found in violation of
7 subsection (1) or (2) of this section shall be declared
8 vacant.

9 Section 27. Construction of the act. (1) The
10 provisions of this act shall be construed in such a manner
11 as best to enable the corporation effectively to represent
12 and protect the interests of the residential utility
13 consumers of this state.

14 (2) Nothing in this act:

15 (a) limits the right of any person to initiate,
16 intervene in, or otherwise participate in any regulatory
17 agency proceeding or court action;

18 (b) requires any petition or notification to the
19 corporation as a condition precedent to the exercise of such
20 right; or

21 (c) relieves any regulatory agency or court of any
22 obligation or affects its discretion to permit intervention
23 or participation by any person in any proceeding or action.

24 Section 28. Severability. If a part of this act is
25 invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.