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Energy and Telecommunications Interim Committee  
Trevor Graff

**FINAL REPORT TO THE 67<sup>TH</sup> MONTANA LEGISLATURE**

**PUBLIC UTILITY  
REGULATION:  
MONTANA  
CONSIDERATIONS**

# ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE MEMBERS

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the Energy and Telecommunications Interim Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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**This report is a summary of the work of the Energy and Telecommunications Interim Committee**, specific to the Energy and Telecommunications Interim Committee’s 2019-2020 Public Service Commission utility regulation study as outlined in the Energy and Telecommunication Interim Committee’s 2019-20 work plan. Members received additional information and public testimony on the subject, and this report is an effort to highlight key information and the processes followed by the Energy and Telecommunications Interim Committee in reaching its conclusions. To review additional information, including audio minutes, and exhibits, visit the Energy and Telecommunications Interim Committee website: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic).

**A full report** including links to the documents referenced in this print report is available at the Energy and Telecommunications Interim Committee website: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic).

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# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

## INTRODUCTION

The Energy and Telecommunications Committee (ETIC), began its study of public utility regulation by focusing on the composition of the Montana Public Service Commission, the composition of commissions in other states, and the role of stakeholders in the process of public utility regulation. The committee examined commission structures, the role of state advocacy staffs, and the historical role of the Montana Public Service Commission.

## ETIC FINDINGS AND RECOMMENDATIONS

Committee members found that other states enact several different commission structures, including differing roles for consumer advocacy staffs. The committee found the following information helpful in considering future legislative options for structuring the commission and consumer advocacy agencies and voted against drafting legislation on the topic.

Committee members found that regulatory oversight is by nature a complex set of interlocking economic, technical and governmental considerations requiring an organization with leadership and staff capable of assessing both current and future challenges and opportunities.

This study did not identify nor propose explicit outcomes. But the Committee was able to find consensus on Core Values for the PSC that should assist future legislators in the reform of the PSC to strengthen, focus and improve the Commission's ability to provide regulatory leadership and direction.

Committee members suggest focusing on the following Core Values that contribute to an effective and relevant future Public Service Commission:

- **Competence:** the PSC's key responsibility is to balance consumer and utility interests in the design of delivered electric service that is low-cost, reliable, resilient and environmentally sound. The PSC's core competence in technology, economics, and energy regulation – supported by an appropriate level of specialized staff resources -- is essential to the Commission's success in a rapidly changing electric generation and consumption marketplace.
- **Efficiency:** the PSC must be capable of acting knowingly and with authority, and in a timely manner, to ensure a well-functioning and properly regulated state energy sector.
- **Non-partisanship:** the PSC is an essential regulatory body in service to the entire public and whose mission is diminished by organizational dynamics considered to be highly partisan in nature.



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- **Science-driven:** the PSC’s success lies in its insistence of data integrity, open fact-finding and rigorous scientific analysis in all manner of its regulatory responsibility.
- **Transparency:** one of the PSC’s primary asset is the public trust. Organizational reform must prioritize adherence to excellence in all aspects of public processes and communications.

When comparing Montana to other states, one should consider the following:

- Thirty-nine states with the equivalent of Montana’s Public Service Commission (PSC) require the state’s Governor to appoint members. Montana commissioners are elected.
- Of the six western states (Idaho, North Dakota, South Dakota, Oregon, Washington, and Wyoming) where details about PSC equivalents were documented:
  - All six states have only 3 commissioners; Montana has 5 commissioners;
  - In four of the six western states, Governors appoint commissioners; 2 states, plus Montana, hold elections for their commissioners;
  - Three of the six western states, including Montana, do not require bipartisan representation within their PSC equivalent; three states required bipartisan representation.
- Several states require pre-qualification standards for commissioners, including the following:
  - commissioners must be electors of the state (this includes Montana);
  - Specifications related to past professional experience in certain fields (attorney, economics, etc.); and
  - a prohibition on pecuniary interests in regulated businesses.
- Few trends were uncovered. For example, various states had this consumer advocate function organized as an independent office (34 states), under the state Attorney General (11 states), as a public board (1 state), or within the office of the PSC (3 states). Montana’s Consumer Counsel is an independent office organized within the Legislative Branch.
- Although in most states, including Montana, consumer advocates represent all utility customers, several states limit who their consumer advocates represent.
- Although consumer advocates are actively involved in rate cases and other docket issues, states vary in the office’s authority to appear in court proceedings and before federal regulatory agencies. The Montana Consumer Counsel is permitted to advocate for consumers both in court and before federal regulatory agencies.

## UTILITY COMMISSIONS: STATE REGULATORY STRUCTURES IN THE WEST

### Montana: History and Jurisdiction

Public utility regulation began in Montana with the founding of the 3-member Board of Railroad Commissioners. The legislature created the board in 1907, before later expanding the jurisdiction of the

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commission to include public utilities. Prior to the legislature's 1974 expansion of the commission, 3 commissioners were elected statewide to 6-year staggered terms. In 1974, the legislature expanded the commission to its current 5-members serving 4-year terms, elected from regional districts. The commissioners elect their own chairman every other year. Today, the PSC regulates the rates and service quality for investor owned electric, natural gas, water, waste-water, and legacy telecommunication companies. The PSC also oversees rail and pipeline safety regulations in the state and certain motor carriers, including garbage trucks and passenger carriers.<sup>1</sup>

## Montana Public Service Commission Structure

The Montana PSC is an elected body of 5-members, serving 4-year terms. Commissioners represent one of five districts in the state. The PSC's enabling legislation can be found in Title 69, Chapter 1, Part 1, MCA, including the following:

### Composition and elections

The following portions of the MCA detail the composition and election process of the PSC:

**69-1-103.** Composition of commission. The commission shall consist of five members, who shall be qualified electors of the district from which they are elected, with each such member elected from a separate district of the state.

**69-1-104.** Public service commission districts. In this state there are five public service commission districts, with one commissioner elected from each district, distributed as follows:

- (1) first district: Blaine, Cascade, Chouteau, Daniels, Dawson, Fergus, Garfield, Hill, Judith Basin, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Toole, Valley, and Wibaux Counties;
- (2) second district: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Treasure, and Yellowstone Counties;
- (3) third district: Beaverhead, Broadwater, Deer Lodge, Gallatin, Golden Valley, Jefferson, Madison, Meagher, Musselshell, Park, Silver Bow, Stillwater, Sweet Grass, and Wheatland Counties;
- (4) fourth district: Granite, Lincoln, Mineral, Missoula, Powell, Ravalli, and Sanders Counties;
- (5) fifth district: Flathead, Glacier, Lake, Lewis and Clark, Pondera, and Teton Counties.

**69-1-105.** Term of office — term limits. (1) A term is for a period of 4 years. A commissioner when elected shall qualify at the time and in the manner provided by law for other state officers and shall take office on the first Monday of January after the election.

- (2) A commissioner shall serve until a successor is elected and qualified.
- (3) The secretary of state or other authorized official may not certify a candidate's nomination or election to the public service commission or print or cause to be printed on any ballot the name of a

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<sup>1</sup> Montana Public Service Commission

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candidate for the public service commission if, at the end of the current term of that office, the candidate will have served in that office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years in a 16-year period.

(4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3) do not apply to time served in terms that ended during or prior to January 1995.

Although Montana code requires commission candidates to be qualified electors, the state does not have pre-qualification requirements for professional experience or former public service. The state doesn't require the commission composition to include a bipartisan group of members.

## Western States Utility Commissions

The Montana PSC is an elected body of 5-members, serving 4-year terms. Commissioners represent one of five districts in the state. The PSC's enabling legislation can be found in Title 69, Chapter 1, Part 1, MCA, including the following:

Utility commissions in the western United States vary widely in structure. When examining the differences in each of these commissions one should consider several key factors including:

1. Commission jurisdiction;
2. Commission size
3. Commissioner selection method;
4. Term lengths and limits
5. Partisan membership requirements; and
6. Commissioner Prequalification requirements.

## Idaho Public Utilities Commission

### Jurisdiction

The Idaho Public Utilities Commission regulates investor-owned or privately-owned utilities that provide gas, water, electricity or some telephone services for profit. The Commission is also responsible for safe operations of the utilities it regulates including inspection of gas pipelines.

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The commission regulates the operation of railroads and enforces state and federal regulations regarding the transportation of hazardous materials by rail. It also inspects railroad crossings for safety and maintenance. The commission also reviews railroad abandonment proposals.<sup>2</sup>

## Commission composition

The Governor appoints three commissioners with confirmation by the Idaho Senate. No more than two commissioners may be of the same political party. The commissioners serve staggered six-year terms. Vacancies that occur when the Idaho Senate is not in session are filled by gubernatorial appointment subject to confirmation by the Senate upon reconvening in regular session.

The Governor may remove a commissioner before his/her term has expired for dereliction of duty, corruption or incompetence.

## Commissioner Pre-qualifications

Commissioners must be a qualified elector of the state. Idaho statutes also include prohibitions on official relationships with corporations or entities regulated by the PUC and on political activity as an appointed public servant.<sup>3</sup>

## North Dakota Public Service Commission

The North Dakota Public Service Commission was established before North Dakota became a state. Dakota Territory established a Board of Railroad Commissioners in 1885 to oversee railroads, sleeping car companies, express companies, and telephone companies. The State's constitution retained the board. In 1940 the Board's name was changed to the Public Service Commission.

## Jurisdiction

The North Dakota commission's authority is granted in the state's constitution. The agency has varying degrees of statutory authority over the following:

- Electric and Gas Utilities;
- Telecommunications Companies;
- Energy Plant and Transmission Siting;
- Railroads;
- Auctioneers and Auction Clerks;
- Weighing and Measuring Devices;

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<sup>2</sup> Idaho Public Utilities Commission

<sup>3</sup> Idaho Statutes, 61-207

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- Pipeline Safety;
- Coal Mine Reclamation and Abandoned Mine Lands; and
- Damage Prevention

## Commission composition

The three members of the North Dakota Commission are elected state-wide to terms of 6-years.

Commissioners must be a qualified elector of the state, who is at least 25 years old and a resident of the state for the five years preceding election. The state does not require a bi-partisan commission membership.

## South Dakota Public Utilities Commission

### Jurisdiction

The South Dakota Public Utilities Commission regulates investor-owned electric, natural gas and telephone utilities. The PUC has authority to issue permits for the construction of energy conversion, AC/DC conversion, wind energy, solar energy, and electric transmission facilities as well as certain pipelines, including those designed to transport coal, gas, liquid hydrocarbon products or carbon dioxide.

The PUC helps resolve disputes between customers and their utilities and operates the South Dakota Do Not Call Registry. The commission also operates the natural gas pipeline safety program and licenses and inspects state public grain warehouses and grain buyers.<sup>4</sup>

### Commission composition

South Dakota elects three commissioners in state-wide elections to terms of six years. The state has no requirement for bipartisan membership on the commission.

### Commissioner Pre-qualifications

The state requires commissioners to be a citizen of the United States, at least 25 years old and a resident of South Dakota for more than two years. State law also prohibits commissioners from owning bonds or stocks in any company under commission regulation.<sup>5</sup>

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<sup>4</sup> South Dakota Public Utilities Commission

<sup>5</sup> SDC 49-1-3

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## Oregon Public Utilities Commission

### Jurisdiction

Utility regulation in Oregon began when the provincial government began regulating mills and millers in 1843. The state's Public Utility act of 1911 expanded regulation from railroads to include all public utilities. Today, the commission's jurisdiction includes regulation of electric, natural gas, telecommunications, and certain water utilities.

### Commission composition

The Governor appoints three commissioners with confirmation by the Oregon Senate. No more than two commissioners may be of the same political party. The commissioners serve staggered four-year terms, with the chairman selected by the Governor. The Governor may remove members of the commission for any cause deemed sufficient by the governor.

### Commissioner Pre-qualifications

Oregon does not have pre-qualifications for commissioners, but does prohibit the following:

- Holding any other office of profit;
- Holding any office or position under any political committee or party;
- Holding any pecuniary interest in any business entity conducting operations which if conducted in this state would be subject to the commission's regulatory jurisdiction; or
- Holding any pecuniary interest in, have any contract of employment with, or have any substantial voluntary transactions with any business or activity subject to the commission's regulatory jurisdiction.

## Washington Utilities and Transportation Commission

### Jurisdiction

The Washington Railroad Commission was created in 1905 with jurisdiction limited to railroad and express companies. The commission was the first three-member board to regulate public companies in the state. In 1911, the Washington Legislature changed the name of the agency to the Washington Public Service Commission, expanding its jurisdiction to include electric and gas service. Regulation was also extended to telephone, telegraph, public water vessels, docks, warehouses, water and public motor carrier rates.

Today, the Washington Utilities and Transportation Commission's jurisdiction includes electric, telecommunications, natural gas, and water. The commission also regulates in-state household movers, solid

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waste carriers, private ferries, and inter-city busses, as well as safety issues affecting charter buses, railroads, limousines, and nonprofit senior/handicapped transportation services.<sup>6</sup>

## Commission composition

The Governor appoints three commissioners with confirmation by the Senate. No more than two commissioners may be of the same political party. The commissioners serve staggered six-year terms. The Governor designates one member the chair of the commission. The governor may fill vacancies by appointment to serve the remainder of the term.

## Commissioner Pre-qualifications

Commissioners must be a qualified elector of the state and provide a \$20,000 bond for the faithful discharge of duties. Washington also prohibits any pecuniary interest or ownership in companies subject to the commission's supervision.

## Wyoming Public Service Commission

### Jurisdiction

The Wyoming PSC was created in 1915. Today the commission has jurisdiction over four investor owned electric utilities operating in Wyoming and some jurisdiction over eighteen retail rural electric cooperatives. The Commission also regulates 11 natural gas utilities that provide retail gas service to Wyoming customers, telephone companies, intrastate pipelines and private water utilities.

### Commission composition

The Governor appoints three commissioners with confirmation by the Senate. No more than two commissioners may be of the same political party. The commissioners serve staggered six-year terms. Members elect their own chair, while the Governor may appoint a commissioner to fill vacancies.

### Commissioner Pre-qualifications

Commissioners must be a qualified elector of the state.<sup>7</sup>

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<sup>6</sup> Washington Utilities Commission

<sup>7</sup> Idaho Statutes, 61-207

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# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

## Other states of interest

Although, Montana’s neighbors exhibit a similar utility commission structure, there are several examples from across the country that take much different approaches to one or several aspects of commission composition.

## Commission composition

Only two utility commissions are made up of more than 3-member or 5-member commissions. Both North and South Carolina have 7-member boards.

The majority of states, 39, require Governor’s appointments for public service commission members. Montana is among 11 states to elect public service commissioners.

## Commissioner Pre-qualifications

Eleven states require some form of pre-qualification professional standards for public service commissioners. The most stringent of these are:

- Ohio – commissioners must have three years of experience in economics, law, finance, accounting, engineering or the sciences;
- Nebraska – requires two attorneys, one accountant and two lay members; and
- Nevada – requires two years of experience in accounting, business, economics, or law.

Other states with pre-qualification requirements include: Arkansas, Connecticut, Florida, Hawaii, Indiana, Massachusetts, Rhode Island, South Carolina, and Tennessee.

## Montana: In Comparison

When considering the structure of Montana’s Public Service Commission, it is important to consider the following:

1. The PSC is among the majority of states to have either a 3-person or 5-person commission;
2. Montana does not limit the number of members from a specific party on the commission;
3. Montana does not require professional standards for pre-qualification on the commission; and
4. The Montana PSC’s jurisdiction is similar to the neighboring western states mentioned above.



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# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

## CONSUMER ADVOCATES AND UTILITY REGULATION: A 50 STATES SURVEY

### Introduction

The regulation of public utilities at the state level most often relies on three distinct groups. The policy makers, utility commissions, and the consumer advocate. As stakeholder groups and policy issues grow in complexity and diversity the role of governmental proxy consumer representatives, often referred to as consumer counsel or advocates, in administrative hearings takes on ever more nuanced roles.

Governmental consumer advocates serve to represent the monopoly utility customers' interest in rate cases and administrative hearings. Although the end goal of these offices is often similar, there are several different approaches to structuring an office of consumer counsel. The main differences lie in the institutional affiliation of the office, the consumer advocate's authority, and the interests that the office represents.

### Where will you find them?

The location of a consumer advocate's office in the web of state government can have some bearing on it's advocacy approach. As noted in Table 1 there are several iterations of advocacy staffs:

1. The independent office;
2. Divisions within states Attorneys' General offices;
3. Public boards; and
4. Offices within public service commissions.

More than a quarter of the states listed in Table 1 have independent consumer counsel offices. Of those two, Montana and Florida are located within the legislative branch. Seventeen states have, to some extent, utility consumer advocate offices within their state's office of the Attorney General. Five states have some form of advocacy board.

Despite the differing locations of consumer advocate offices, the end goal appears similar.

### What do they do?

Consumer advocates protect the public interest by intervening in rate cases and other docket issues at the public service commission in their respective state. States differ on the office's authority to appear before state and federal courts and other agencies such as Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC). Most consumer advocates have the authority to appeal commission decisions to the courts.

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# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

## Who do they serve?

Consumer advocates in most states represent all utility customers, but 10 states limit their consumer advocate to representing all or a combination of residential, agricultural, or small business customers.

## State Case Studies: Montana

Of the states in Table 1, 27 are represented by independent consumer advocate offices.

The Montana Consumer Counsel provides an example of an independent consumer advocacy staff. The Counsel office is independent and housed within the legislative branch. The office is constitutionally founded, and the Consumer Counsel is appointed by the Legislative Consumer Committee.

Counsel and staff participate in the appropriate proceedings before the Montana Public Service Commission, Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC), and federal courts and agencies.<sup>8</sup>

## The Attorneys General: Washington

Washington is one of 17 states with some form of utility consumer involvement in the Office of Attorney General.

The Washington Office of the Attorney General Public Counsel Section represents customers of state-regulated, investor-owned utilities before the Washington Utilities and Transportation Commission (WUTC). The unit is also authorized to participate in water, transportation and pipeline issues.

The Public Counsel Unit represents residential and small business customers of state-regulated electric, natural gas, and telecommunications utilities operating in Washington. Public Counsel does not participate in matters involving publicly-owned utilities, such as Seattle City Light or the Snohomish Public Utility District. It represents residential and small-business classes and is not staffed to respond to individual complaints.<sup>9</sup>

## In-House Advocacy Staff: Wyoming

Five states provide for advocacy staff within the Public Service Commission organization. States exhibit differing degrees of detachment from administration within the commission structure.

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<sup>8</sup> Montana Consumer Counsel

<https://leg.mt.gov/content/Committees/Administration/Consumer%20Counsel/MCCGoalsandObjectives.pdf>

<sup>9</sup>Washington Office of the Attorney General

<https://www.atg.wa.gov/about-public-counsel>

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# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

Wyoming is one example of a firewalled advocacy staff. The Wyoming Office of the Consumer Advocate (OCA) is an independent division within the Wyoming Public Service Commission created in March 2003. The OCA represents Wyoming citizens and all classes of utility customers in matters involving public utilities. The office is housed within, but not administratively tied to the commission.

The Administrator is appointed by and reports to the Governor. The OCA's other five employees are hired by and report to the OCA's Administrator. The technical experience of the staff includes legal, economic, and accounting expertise.

## Consumer Boards: Kansas

Consumer boards represent another advocacy option. The Kansas Corporation Commission (KCC) established the Kansas Consumer Utilities Ratepayer Board in 1988 to serve as the state's consumer advocate. The CURB is separate from the KCC for budgetary purposes and the legislature established it as an independent agency.

The CURB has a five-member volunteer board that is appointed by the Governor. There is one member from each congressional district with the fifth member serving as an at-large appointee. Each member of the board serves a four-year term.

CURB employs a consumer counsel, two supporting attorneys, two technical positions, and two administrative staff.<sup>10</sup>

## Nebraska

Nebraska is unique in that the state privately sources its consumer advocacy duties. Nebraska statutes authorize the States Public Service Commission to outsource its consumer counsel position. Nebraska's status as a public power electricity state means that electricity is not regulated by the PSC. The advocate's role only concerns natural gas.

Nebraska is the only state in the nation that's entire electric load is served by publicly owned utilities such as municipal utilities, electric cooperatives, or public power districts. Such entities are not regulated by public service commissions.<sup>11</sup>

The state's consumer advocate is appointed by the executive director of the PSC for a four-year term and is statutorily-required to be an attorney.<sup>12</sup>

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<sup>10</sup> Kansas Citizens Utility Ratepayer Board, <http://curb.kansas.gov/about.htm>

<sup>11</sup> Nebraska Public Power District

<sup>12</sup> *MEEA's Guide to Utility Consumer Advocates in the Midwest*, Midwest Energy Efficiency Alliance

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## North Dakota

North Dakota has no utility consumer advocate; however, The Consumer Protection office of the North Dakota Attorney General investigates consumer fraud cases. The AG and staff are prohibited by law from providing legal services, advice or interpretation to the public. The North Dakota Corporation Commission does include a Consumer Affairs Division that compiles and works to resolve consumer complaints.<sup>13</sup>

### TABLE 1. STATE ADVOCACY STAFF STRUCTURES

Consumer Representative	Affiliation	Enabling Statute	Forums	Interests Represented	Commission appeal authority
<b>Alabama Attorney General's Office-General Civil Division Utilities Section</b>	Attorney General's Office	Code of Alabama §36-15-1 et seq. (statutory authority for AG)	Public Service Commission and Courts	General public & ratepayers	Yes
<b>Alaska Public Advocacy Section</b>	Independent agency; governor appoints counsel w/ the advice & consent of either house of the general assembly	A.S. §42.04.150	Public Service Commission hearings at the direction of the PSC chairman	N/A	No
<b>Arizona Residential Utility Consumer Office</b>	Independent agency; governor appoints the director of the office	A.R.S. 40-461 et seq.	Public Service Commission hearings	Residential utility customers	Yes

<sup>13</sup> North Dakota Public Service Commission

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<b>Arkansas Consumer Utilities Rate Advocacy Division</b>	Independent Agency	AC §23-4-301 et seq	Public Service Commission, Courts, and other agencies	All classes of state utility ratepayers	Yes
<b>California Public Utilities Commission Office of Ratepayer Advocate</b>	Division of the Public Utilities Commission; director appointed by the governor w/ advice & consent of the senate; commission assigns personnel to the division	Cal. Codes §309.5	Public Service Commission	Public utility ratepayers	no
<b>Colorado Office of Consumer Counsel</b>	Independent agency; legal representation through the dept. of law; 11-member board appointed by the governor gives policy guidance to the OCC	C.R.S. §40-6.5-101 et seq.	Public Service Commission, federal agencies, and courts	Residential, small business, and agricultural customer classes	Yes
<b>Connecticut Office of Consumer Counsel</b>	Independent agency; governor appoints counsel w/ the advice & consent of either house of	General Statutes of Connecticut §16-2a	All state and federal administrative and judicial forums	Utility consumer interests	Yes

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	the general assembly				
<b>Delaware Division of the Public Advocate</b>	Independent agency; public advocate is appointed by the governor with the advice and consent of the majority of the senate	29 Del. C. §8808	Public Service Commission, courts, and federal agencies	Residential and small business ratepayers	Yes
<b>Florida Public Counsel</b>	Independent agency w/n the legislative branch; counsel appointed by the joint legislative auditing committee	Fla. Statutes §350.061	Federal and state agencies, courts	Provides legal representation for citizens	Yes
<b>Georgia Consumers' Utilities Counsel</b>	Independent agency w/n the governor's office of consumer affairs, which appoints the director	GC §46-10-1, et seq.	Federal and state courts and agencies	Appears on behalf of utility consumers	Yes
<b>Hawaii Division of Consumer Advocacy</b>	Independent agency; director of commerce & consumer affairs is the consumer advocate; the responsibilities of consumer	H.R.S. §269-51	Federal and state agencies	All utility consumers	Yes

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	advocacy are distinct from those of the commission				
<b>Idaho Public Service Commission</b>	No independent consumer advocate; complaints vs. utilities may be brought by the commission or by any person	N/A	N/A	N/A	N/A
<b>Public Utilities Bureau, Office of the Illinois Attorney General</b>	Division of the Attorney General's Office	AG's office authorized by Article V, Section 1 of the Illinois Constitution; established 1818	Public Service Commission	Consumer Interests	Yes
<b>Illinois Citizens Utility Board</b>	Independent nonprofit public body corporate and politic; any consumer who submits a membership form & dues is a member; the board is managed via elected directors	220 ILCS 10	Illinois Commerce Commission, FERC, FCC and courts	Residential utility customers	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<p><b>Indiana Office of the Utility Consumer Counselor</b></p>	<p>Independent agency; governor appoints the counsel and approves staff w/ the budget agency; governor also appoints a 10-member advisory board; and may appoint a deputy consumer counsel for Washington affairs</p>	<p>IC 8-1-1.1 et seq.</p>	<p>Federal and State agencies and courts</p>	<p>All ratepayers, consumers and the public</p>	<p>Yes</p>
<p><b>Iowa Consumer Advocate</b></p>	<p>Independent agency w/n the dept. of justice; the attorney general appoints an attorney as consumer advocate, subject to confirmation by the senate; administrative support may be provided by the dept. of commerce</p>	<p>Iowa Code §475A.1 et seq.</p>	<p>Iowa Utilities Board, federal and state agencies and courts</p>	<p>Consumers before the commission</p>	<p>Yes</p>



# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<b>Kansas Citizens' Utility Ratepayer Board</b>	Independent agency w/n the corporation commission; the governor appoints the 5 members of the board; the board employs an attorney as consumer counsel; the commission provides technical & clerical staff	Kansas Statutes §66-1222 et seq	State Corporation Commission	Residential and small business ratepayers	Yes
<b>Kentucky Office of Rate Intervention</b>	w/n the division consumer protection, office of the attorney general	KRS §367.150	Ratemaking agencies	Consumer interests	Yes
<b>Louisiana Public Service Commission</b>	No independent consumer advocate; consumer issues are handled by the commission, which has an obligation pursuant to LRS §1176 to investigate the reasonableness of rates	N/A	N/A	N/A	N/A

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<b>Maine Public Advocate Office</b>	Independent agency; public advocate appointed by the governor, subject to review by the legislature; the public advocate is not subject to the supervision or control of the commission; AG retains authority to intervene or appeal	35-A M.R.S.A. §1702 et seq.	Public Service Commission, state and federal agencies, and courts	Consumer interests	Yes
<b>Maryland Office of Peoples' Counsel</b>	Independent agency; governor appoints the counsel w/ the advice & consent of the senate	Maryland Code §2- 204 et seq.	Public Service Commission, Federal and State Agencies	Residential and noncommercial ratepayers	Yes
<b>Massachusetts Attorney General's Office-Utilities Division</b>	Division w/n the office of the attorney general	M.G.L. c. 12, §11E	Administrative & court proceedings, and in informal complaint mediation/ negotiation	Consumer Interests	Yes
<b>Michigan Department of</b>	Office of the attorney general;	MCL §460.61	State and federal administrative	Consumer interests	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<b>Attorney General</b>	intervenes on behalf of consumers in cooperation w/ the utility consumer participation board (w/n dept. of commerce); the board may not act directly in the interest of consumers, only via managing funds for the AG's intervention		and judicial hearings		
<b>Michigan Utility Consumer Participation Board</b>	Independent board; Five members appointed by the governor; under the department of licensing and regulatory affairs	Created by PA 304 of 1982; activities governed by §MCL460.6l and MCL460.6m of the Michigan Compiled Laws	Public Service Commission	Public Interest	Yes
<b>Minnesota Office of the Attorney General Consumer Protection Division</b>	Division w/n the attorney general's office	Minn. Stat. §8.33	Public Service Commission, federal proceedings, & courts	Consumer and Small Business interests	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<b>Mississippi Public Utilities Staff</b>	Independent agency; deals with many consumer issues, but because of the other interests it represents, does not advocate for consumers	M.C. §77.2.1 et seq.	N/A	N/A	N/A
<b>Missouri Office of the Public Counsel</b>	Independent agency w/n the Department of Economic Development; structurally separate w/ its own budget & staff; counsel appointed by the director of the dept. of econ. development	M.R.S. §386.710	Public Service Commission and courts	Public interest in Commission proceedings	Yes
<b>Montana Consumer Counsel</b>	Independent office w/n the legislative branch; counsel appointed by the legislative consumer committee	Art XIII, § 2 1972 Montana Constitution; M.C.A. 5- 15- 201; M.C.A. 69— 221 et seq.	Public Service Commission proceedings, appropriate federal and state courts and agencies	Consumer interests	Yes
<b>Nebraska Public Service Commission</b>	Private firm; appointed by the Nebraska Public Service Commission;	Nebraska Rev. Statute 66-1830	Public Service Commission	Advocate's role only concerns Natural Gas	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

	statutorily required to be an attorney				
<b>Nevada Utilities Consumer Advocate</b>	w/n the Nevada attorney general's office, bureau of consumer protection; consumer advocate is a deputy AG	NRS 228.300 et seq	Public Service Commission, agencies, and courts	Residential and small business consumers	Yes
<b>New Hampshire Office of the Consumer Advocate</b>	Independent agency attached to the public utilities commission; the advocate is appointed by the governor	NHS §363:28	Agencies and courts	Residential utility customers	Yes
<b>New Jersey Division of Ratepayer Advocate</b>	Independent agency; the director is appointed by the governor	N.J.P.S. 48:2-21.24	Public Service Commission and courts	Consumer Interests	Yes
<b>New Mexico Attorney General Consumer Protection Division</b>	W/N the office of the attorney general	NMSA §8- 5-1 et seq	Public Service Commission, New Mexico Supreme Courts, FERC and FCC	Residential and small business customers	Yes
<b>New York Consumer</b>	Independent agency w/n the state executive dept.; the board	NYSCl §550 et seq.	Public Service Commission, Federal, State,	Utility Customers	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<b>Protection Board</b>	consists of the chairman of the public service commission & other executive agency heads; the director of the board is appointed by the governor; the AG coordinates the enforcement powers of her office w/ that of the board		and Local Agencies		
<b>North Carolina Utilities Unit, Consumer Protection Division, Office of the Attorney General</b>	Office of the attorney general; the AG is elected; the assistant AGs are appointed by the AG	NCGS §62-20	State and federal courts and agencies	Consumer Interests	Yes
<b>North Dakota Public Service Commission</b>	No independent consumer advocate; commission handles consumer complaints and may bring actions vs. utilities	N/A	N/A	N/A	N/A
<b>Ohio Consumers' Counsel</b>	Independent agency; the AG w/ the advice &	ORC §4911 et seq.	Public Service Commission, State and	Residential Consumers	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

	consent of the senate appoints the 9 members of the consumers' counsel governing board, which appoints the counsel		Federal courts and agencies		
<b>Oklahoma Attorney General, Public Utility Unit</b>	Division of the Attorney General's Office	Oklahoma Statutes Title 74 §18b	Courts and agencies	Consumer interests	Yes
<b>Oregon Citizens' Utility Board</b>	Independent nonprofit public corporation; each member is entitled to vote for the board of governors; the board manages the CUB, and may delegate authority to an executive committee of at least 5 members	ORS §774.010 et seq.	Legislative, administrative, and Judicial bodies	Utility customers	Yes
<b>Pennsylvania Office of Consumer Advocate</b>	Independent office w/n the PA office of the attorney general; the consumer advocate is appointed by	71 P.S. §309-1 et seq.	Public Service Commission, federal agencies, and courts	Consumer Interests	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

	the AG w/ the approval of the governor; the AG appoints assistants & other staff				
<b>Rhode Island Division of Public Utilities and Carriers</b>	No independent consumer representative; complaints are handled by the consumer section of the commission	N/A	N/A	N/A	No
<b>South Carolina Dept. of Consumer Affairs Consumer Advocacy Division</b>	Independent agency; the advocate may be the administrator of the dept. of consumer affairs or may be appointed by the administrator	S.C. Code Ann. §37- 6-601 et seq.	Public Service Commission, FERC, FCC, and the courts	Provides legal representation for the consumer interest; any proceedings must be initiated on behalf of the public at large	Yes
<b>South Dakota Public Utilities Commission, Complaints and Consumer Affairs</b>	No independent consumer representative; the commission handles consumer complaints & rate hearings; persons may intervene but	N/A	N/A	N/A	No



# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

	are not given party status				
<b>Tennessee Office of the Attorney General, Consumer Advocate Division</b>	Office of the attorney general; the AG is appointed by the justices of the state supreme court	T.C. §65- 4-118	Public Service Commission, all administrative, legislative, or judicial bodies	Consumer Interests	Yes
<b>Texas Office of Public Utility Counsel</b>	Independent agency; the counselor is appointed by the governor w/ advice & consent of the senate; N.B.— the office is subject to the Texas sunshine act	Tex. Util. Code Ann. §13.001 et seq.	Judicial and administrative hearings	Residential Consumers	Yes
<b>Utah Committee of Consumer Services</b>	Independent agency; committee has 6 members appointed by the governor w/ the advice & consent of the senate, w/ a full staff to assist the committee; the AG appoints at least 1 attorney to represent the committee	Utah Code Ann. §54-10-1 et seq	Public Service Commission, and courts	Residential, small business, and agricultural customers	Yes

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<p><b>Vermont Department of Public Service</b></p>	<p>Independent agency w/n the dept. of public service, which consists of the commissioner of public service, a director for regulated utility planning, a director for public advocacy, &amp; a director for energy efficiency; the commissioner is appointed by the governor w/ the advice &amp; consent of the senate; the director for public advocacy is appointed by the commissioner</p>	<p>30 VSA §1</p>	<p>Public Service Commission, Courts, and Federal Agencies</p>	<p>Consumer Interests</p>	<p>Yes</p>
<p><b>Virginia Office of the Attorney General, Insurance &amp; Utilities Section</b></p>	<p>Division of the Attorney General's office</p>	<p>Code of Virginia §56-592</p>	<p>Governmental commissions, agencies, and departments</p>	<p>Interests of utilities &amp; insurance consumers; upon referral from the commission, the AG may bring an action vs. a utility</p>	<p>Yes</p>

# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

<b>Washington Office of the Attorney General, Public Counsel Section</b>	Division of the Attorney General's office	RCW §§43.10 et seq.; 80.10.100; 80.40.510	Public Service Commission and courts	Consumer interests	Yes
<b>West Virginia Consumer Advocate Division</b>	Independent & administratively separate division of the public utilities commission (separation); the commission appoints a director	Established by WV PSC General Order No. 195.2, as required by W.V.C. §24- 1- 1(f)(2) & (3)	Public Service Commission	Residential Customers	Yes
<b>Wisconsin Citizens' Utility Board</b>	Independent nonprofit public body corporate & politic; any resident who has contributed \$3-\$100 in membership fees annually is a member; the corporation is managed by an elected board	Wis. Stats. 199.01 et seq.	Any proceeding that affects constituency	Residential, small business, and agricultural ratepayers	Yes
<b>Wyoming Office of Consumer Advocate</b>	Independent division w/n the public service commission; the administrator is appointed by the governor;	Wyoming Statutes §37- 2-401 et seq.	Public Service Commission	All classes of utility customers	Yes

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# PUBLIC UTILITY REGULATION: MONTANA CONSIDERATIONS

	the employees of the OCA are not supervised or directed by the commission				
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*Sources: National Regulatory Research Institute and NARUC*