



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5061

Introduced 2/8/2024, by Rep. Theresa Mah

SYNOPSIS AS INTRODUCED:

220 ILCS 5/9-224	from Ch. 111 2/3, par. 9-224
220 ILCS 5/9-224.1 new	
220 ILCS 5/9-225	from Ch. 111 2/3, par. 9-225
220 ILCS 5/9-227	from Ch. 111 2/3, par. 9-227
220 ILCS 5/9-229	
220 ILCS 5/9-231 new	

Amends the Public Utilities Act. Provides that the Illinois Commerce Commission shall not consider as an expense of any public utility, for the purpose of determining any rate or charge, any amount expended for contributions or gifts to political candidates, political parties, political or legislative committees, or any committee or organization working to influence referendum petitions or elections or contributions to a trade association, chamber of commerce, or public charity, including, but not limited to, a charity managed by the public utility or affiliated interest. Provides that the Commission shall not consider as an expense of any public utility, for the purpose of determining any rate or charge, any amount expended by the public utility for director and officers liability insurance and fiduciary liability insurance. Provides that in determining whether other types of insurance purchased by the public utility are recoverable, the Commission shall determine whether the insurance is of financial benefit to ratepayers of the public utility or its shareholders. Provides that if the Commission determines the insurance purchased by the public utility is of benefit to its shareholders, then it shall not be a recoverable expense. Provides that, if a gas, electric, water, or sewer utility requests a general rate increase, the Commission shall hold at least one public hearing for the public to provide input on the proposed increase in rates. Provides that the public hearing shall be held in the service area of the public utility that is requesting the general rate increase at a time and location determined by the Commission. Makes changes in provisions definitions; donations made by a public utility for energy assistance; consideration of attorney and expert compensation as an expense; and the Consumer Intervenor Compensation Fund.

LRB103 36074 SPS 66163 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 9-224, 9-225, 9-227, and 9-229 and by adding Sections
6 9-224.1 and 9-231 as follows:

7 (220 ILCS 5/9-224) (from Ch. 111 2/3, par. 9-224)

8 Sec. 9-224. The Commission shall not consider as an
9 expense of any public utility ~~company~~, for the purpose of
10 determining any rate or charge, any amount expended for
11 political activity or lobbying as defined in the "Lobbyist
12 Registration Act". The Commission shall also not consider as
13 an expense of any public utility, for the purpose of
14 determining any rate or charge, any amount expended for
15 contributions or gifts to political candidates, political
16 parties, political or legislative committees, or any committee
17 or organization working to influence referendum petitions or
18 elections or contributions to a trade association, chamber of
19 commerce, or public charity, including, but not limited to, a
20 charity managed by the public utility or affiliated interest.

21 (Source: P.A. 84-617.)

22 (220 ILCS 5/9-224.1 new)

1 Sec. 9-224.1. Insurance expenses. The Commission shall not
2 consider as an expense of any public utility, for the purpose
3 of determining any rate or charge, any amount expended by the
4 public utility for director and officers liability insurance
5 and fiduciary liability insurance. In determining whether
6 other types of insurance purchased by the public utility are
7 recoverable, the Commission shall determine whether the
8 insurance is of financial benefit to ratepayers of the public
9 utility or its shareholders. If the Commission determines the
10 insurance purchased by the public utility is of benefit to its
11 shareholders, then it shall not be a recoverable expense.

12 (220 ILCS 5/9-225) (from Ch. 111 2/3, par. 9-225)

13 Sec. 9-225. (1) For the purposes of this Section:

14 (a) "Advertising" means the commercial use, by an
15 electric, gas, water, or sewer utility, of any media,
16 including newspapers, printed matter, radio and
17 television, in order to transmit a message to a
18 substantial number of members of the public or to such
19 utility's consumers;

20 (b) "Political advertising" means any advertising for
21 the purpose of influencing public opinion with respect to
22 legislative, administrative or electoral matters, or with
23 respect to any controversial issue of public importance;

24 (c) "Promotional advertising" means any advertising
25 for the purpose of encouraging any person to select or use

1 the service or additional service of a utility or the
2 selection or installation of any appliance or equipment
3 designed to use such utility's service; and

4 (d) "Goodwill or institutional advertising" means any
5 advertising either on a local or national basis designed
6 primarily to bring the utility's name before the general
7 public in such a way as to improve the image of the utility
8 or to promote controversial issues for the utility or the
9 industry.

10 (2) In any general rate increase requested by any gas,
11 electric, water, or sewer utility company under the provisions
12 of this Act, the Commission shall not consider, for the
13 purpose of determining any rate, charge or classification of
14 costs, any direct or indirect expenditures for promotional,
15 political, or institutional advertising ~~or goodwill~~
16 ~~advertising~~, unless the Commission finds the advertising to be
17 in the best interest of the Consumer or authorized as provided
18 pursuant to subsection 3 of this Section.

19 (3) The following categories of advertising shall be
20 considered allowable operating expenses for gas, electric,
21 water, or sewer utilities:

22 (a) Advertising which informs consumers how they can
23 conserve energy or water, reduce peak demand for electric
24 or gas energy, or reduce demand for water;

25 (b) Advertising required by law or regulations,
26 including advertising required under Part I of Title II of

1 the National Energy Conservation Policy Act;

2 (c) Advertising regarding service interruptions,
3 safety measures or emergency conditions;

4 (d) Advertising concerning employment opportunities
5 with such utility;

6 (e) Advertising which promotes the use of energy
7 efficient appliances, equipment or services;

8 (f) Explanations of existing or proposed rate
9 schedules or notifications of hearings thereon;

10 (g) Advertising that identifies the location and
11 operating hours of company business offices;

12 (h) Advertising which promotes the shifting of demand
13 from peak to off-peak hours or which encourages the
14 off-peak usage of the service; and

15 (i) "Other" categories of advertisements not
16 includable in paragraphs (a) through (h), but which are
17 not political, promotional, institutional or goodwill
18 advertisements.

19 (4) Notwithstanding subsections (2) and (3) of this
20 Section, goodwill or institutional advertising is not a
21 recoverable expense.

22 (Source: P.A. 95-814, eff. 8-13-08.)

23 (220 ILCS 5/9-227) (from Ch. 111 2/3, par. 9-227)

24 Sec. 9-227. It shall be proper for the Commission to
25 consider as an operating expense, for the purpose of

1 determining whether a rate or other charge or classification
2 is sufficient, donations made by a public utility for energy
3 assistance. Donations to the public welfare or for charitable
4 scientific, religious or educational purposes shall be
5 nonrecoverable shareholder expenses , ~~provided that such~~
6 ~~donations are reasonable in amount. In determining the~~
7 ~~reasonableness of such donations, the Commission may not~~
8 ~~establish, by rule, a presumption that any particular portion~~
9 ~~of an otherwise reasonable amount may not be considered as an~~
10 ~~operating expense. The Commission shall be prohibited from~~
11 ~~disallowing by rule, as an operating expense, any portion of a~~
12 ~~reasonable donation for public welfare or charitable purposes.~~

13 (Source: P.A. 85-122.)

14 (220 ILCS 5/9-229)

15 Sec. 9-229. Consideration of attorney and expert
16 compensation as an expense and intervenor compensation fund.

17 (a) The Commission shall deem as a nonrecoverable expense
18 by a public utility ~~specifically assess the justness and~~
19 ~~reasonableness of~~ any amount expended by a public utility to
20 compensate attorneys or technical experts to prepare and
21 litigate a general rate case filing. This issue shall be
22 expressly addressed in the Commission's final order.

23 (b) The State of Illinois shall create a Consumer
24 Intervenor Compensation Fund subject to the following:

25 (1) Provision of compensation for Consumer Interest

1 Representatives that intervene in Illinois Commerce
2 Commission proceedings will increase public engagement,
3 encourage additional transparency, expand the information
4 available to the Commission, and improve decision-making.

5 (2) As used in this Section, "Consumer interest
6 representative" means:

7 (A) a residential utility customer or group of
8 residential utility customers represented by a
9 not-for-profit group or organization registered with
10 the Illinois Attorney General under the Solicitation
11 for ~~of~~ Charity Act;

12 (B) representatives of not-for-profit groups or
13 organizations whose membership is limited to
14 residential utility customers; or

15 (C) representatives of not-for-profit groups or
16 organizations whose membership includes Illinois
17 residents and that address the community, economic,
18 environmental, or social welfare of Illinois
19 residents, except government agencies ~~or intervenors~~
20 specifically authorized by Illinois law to participate
21 in Commission proceedings on behalf of Illinois
22 consumers.

23 (3) A consumer interest representative is eligible to
24 receive compensation from the consumer intervenor
25 compensation fund if its participation included lay or
26 expert testimony or legal briefing and argument concerning

1 the expenses, investments, rate design, rate impact, or
2 other matters affecting the pricing, rates, costs or other
3 charges associated with utility service, the Commission
4 adopts a material recommendation related to a significant
5 issue in the docket, and participation caused a
6 significant financial hardship to the participant;
7 however, no consumer interest representative shall be
8 eligible to receive an award pursuant to this Section if
9 the consumer interest representative receives any
10 compensation, funding, or donations, directly or
11 indirectly, from parties that have a financial interest in
12 the outcome of the proceeding.

13 (4) Within 30 days after the effective date of this
14 amendatory Act of the 102nd General Assembly, each utility
15 that files a request for an increase in rates under
16 Article IX or Article XVI shall deposit an amount equal to
17 one half of the rate case attorney and expert expense
18 reported to ~~allowed by~~ the Commission, but not to exceed
19 \$500,000, into the fund within 35 days of the date of the
20 Commission's final Order in the rate case or 20 days after
21 the denial of rehearing under Section 10-113 of this Act,
22 whichever is later. The Consumer Intervenor Compensation
23 Fund shall be used to provide payment to consumer interest
24 representatives as described in this Section and shall not
25 be a recoverable expense by the public utility.

26 (5) An electric public utility with 3,000,000 or more

1 retail customers shall contribute \$450,000 to the Consumer
2 Intervenor Compensation Fund within 60 days after the
3 effective date of this amendatory Act of the 102nd General
4 Assembly. A combined electric and gas public utility
5 serving fewer than 3,000,000 but more than 500,000 retail
6 customers shall contribute \$225,000 to the Consumer
7 Intervenor Compensation Fund within 60 days after the
8 effective date of this amendatory Act of the 102nd General
9 Assembly. A gas public utility with 1,500,000 or more
10 retail customers that is not a combined electric and gas
11 public utility shall contribute \$225,000 to the Consumer
12 Intervenor Compensation Fund within 60 days after the
13 effective date of this amendatory Act of the 102nd General
14 Assembly. A gas public utility with fewer than 1,500,000
15 retail customers but more than 300,000 retail customers
16 that is not a combined electric and gas public utility
17 shall contribute \$80,000 to the Consumer Intervenor
18 Compensation Fund within 60 days after the effective date
19 of this amendatory Act of the 102nd General Assembly. A
20 gas public utility with fewer than 300,000 retail
21 customers that is not a combined electric and gas public
22 utility shall contribute \$20,000 to the Consumer
23 Intervenor Compensation Fund within 60 days after the
24 effective date of this amendatory Act of the 102nd General
25 Assembly. A combined electric and gas public utility
26 serving fewer than 500,000 retail customers shall

1 contribute \$20,000 to the Consumer Intervenor Compensation
2 Fund within 60 days after the effective date of this
3 amendatory Act of the 102nd General Assembly. A water or
4 sewer public utility serving more than 100,000 retail
5 customers shall contribute \$80,000, and a water or sewer
6 public utility serving fewer than 100,000 but more than
7 10,000 retail customers shall contribute \$20,000.

8 (6) (A) Prior to the entry of a Final Order in a
9 docketed case, the Commission Administrator shall provide
10 a payment to a consumer interest representative that
11 demonstrates through a verified application for funding
12 that the consumer interest representative's participation
13 or intervention without an award of fees or costs imposes
14 a significant financial hardship based on a schedule to be
15 developed by the Commission. The Administrator may require
16 verification of costs incurred, including statements of
17 hours spent, as a condition to paying the consumer
18 interest representative prior to the entry of a Final
19 Order in a docketed case.

20 (B) If ~~the Commission adopts a material recommendation~~
21 ~~related to a significant issue in the docket and~~
22 participation caused a financial hardship to the
23 participant, then the consumer interest representative
24 shall be allowed payment for some or all of the consumer
25 interest representative's reasonable attorney's or
26 advocate's fees, reasonable expert witness fees, and other

1 reasonable costs of preparation for and participation in a
2 hearing or proceeding. Expenses related to travel or meals
3 shall not be compensable.

4 (C) The consumer interest representative shall submit
5 an itemized request for compensation to the Consumer
6 Intervenor Compensation Fund, including the advocate's or
7 attorney's reasonable fee rate, the number of hours
8 expended, reasonable expert and expert witness fees, and
9 other reasonable costs for the preparation for and
10 participation in the hearing and briefing within 30 days
11 of the Commission's final order after denial or decision
12 on rehearing, if any.

13 (7) Administration of the Fund.

14 (A) The Consumer Intervenor Compensation Fund is
15 created as a special fund in the State treasury. All
16 disbursements from the Consumer Intervenor Compensation
17 Fund shall be made only upon warrants of the Comptroller
18 drawn upon the Treasurer as custodian of the Fund upon
19 vouchers signed by the Executive Director of the
20 Commission or by the person or persons designated by the
21 Director for that purpose. The Comptroller is authorized
22 to draw the warrant upon vouchers so signed. The Treasurer
23 shall accept all warrants so signed and shall be released
24 from liability for all payments made on those warrants.
25 The Consumer Intervenor Compensation Fund shall be
26 administered by an Administrator that is a person or

1 entity that is independent of the Commission. The
2 administrator will be responsible for the prudent
3 management of the Consumer Intervenor Compensation Fund
4 and for recommendations for the award of consumer
5 intervenor compensation from the Consumer Intervenor
6 Compensation Fund. The Commission shall issue a request
7 for qualifications for a third-party program administrator
8 to administer the Consumer Intervenor Compensation Fund.
9 The third-party administrator shall be chosen through a
10 competitive bid process based on selection criteria and
11 requirements developed by the Commission. The Illinois
12 Procurement Code does not apply to the hiring or payment
13 of the Administrator. All Administrator costs may be paid
14 for using monies from the Consumer Intervenor Compensation
15 Fund, but the Program Administrator shall strive to
16 minimize costs in the implementation of the program.

17 (B) The computation of compensation awarded from the
18 fund shall take into consideration the market rates paid
19 to persons of comparable training and experience who offer
20 similar services, but may not exceed the comparable market
21 rate for services paid by the public utility as part of its
22 nonrecoverable rate case expense reported to the
23 Commission.

24 (C) (1) Recommendations on the award of compensation by
25 the administrator shall include ~~consideration of whether~~
26 ~~the Commission adopted a material recommendation related~~

1 ~~to a significant issue in the docket~~ and whether
2 participation caused a financial hardship to the
3 participant and the payment of compensation is fair, just
4 and reasonable.

5 (2) Recommendations on the award of compensation by
6 the administrator shall be submitted to the Commission for
7 approval. Unless the Commission initiates an investigation
8 within 45 days after the notice to the Commission, the
9 award of compensation shall be allowed 45 days after
10 notice to the Commission. Such notice shall be given by
11 filing with the Commission on the Commission's e-docket
12 system, and keeping open for public inspection the award
13 for compensation proposed by the Administrator. The
14 Commission shall have power, and it is hereby given
15 authority, either upon complaint or upon its own
16 initiative without complaint, at once, and if it so
17 orders, without answer or other formal pleadings, but upon
18 reasonable notice, to enter upon a hearing concerning the
19 propriety of the award.

20 (c) The Commission may adopt rules to implement this
21 Section.

22 (Source: P.A. 102-662, eff. 9-15-21.)

23 (220 ILCS 5/9-231 new)

24 Sec. 9-231. Public hearings. If a gas, electric, water, or
25 sewer utility requests a general rate increase, the Commission

1 shall hold at least one public hearing for the public to
2 provide input on the proposed increase in rates. The public
3 hearing shall be held in the service area of the public utility
4 that is requesting the general rate increase at a time and
5 location determined by the Commission.