

STUDY OF RATES CHARGED BY PUBLIC UTILITIES

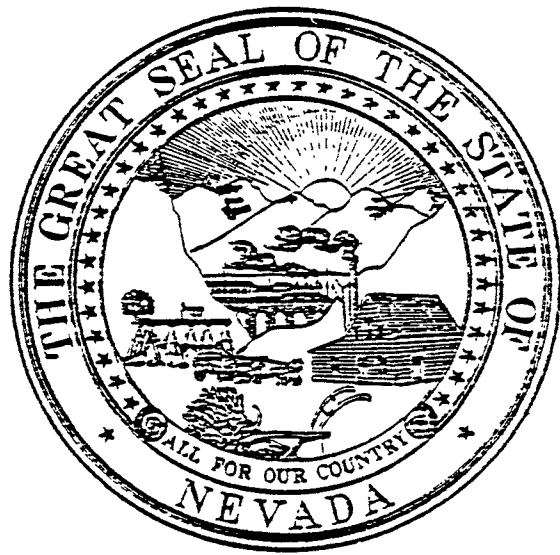


Bulletin No. 83-16

COMMITTEE TO STUDY THE RATES CHARGED
BY PUBLIC UTILITIES
STATE OF NEVADA

April 1983

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SENATE CONCURRENT RESOLUTION—Creating a special joint committee to study the need for and fairness of the rates charged by public utilities and providing for its support.

WHEREAS, The rising costs of heat, light and power have become a prime source of concern and frustration among the citizens of this state; and

WHEREAS, The regulation of these rates is expressly recognized by section 20 of article 4 of the Nevada constitution to be a legislative function; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That a special joint committee is hereby created, to consist of three members appointed by the majority floor leader of the senate and three members appointed by the speaker of the assembly, of whom collectively three must represent districts in Clark County, two in Washoe County, and one in the other counties of the state; and be it further

Resolved, That the committee examine whether the rates now charged by public utilities in the state for gas and electricity are necessary and are fairly apportioned, considering specifically:

1. To what extent the expenses allowed in determining rates are really necessary for the service provided;
2. Whether there is a present need for additional capital which justifies a high rate of return on capital presently invested; and
3. Whether the present structure of the rates charged fairly distributes the necessary expenses among the respective classes of customers; and be it further

Resolved, That the committee report its findings to the legislature within 45 days after the date of adoption of this resolution; and be it further

Resolved, That expenditure of not more than \$2,500 from the legislative fund is authorized to defray the expenses of this committee.

REPORT OF THE COMMITTEE TO STUDY THE RATES
CHARGED BY PUBLIC UTILITIES

TO THE MEMBERS OF THE 62ND SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Senate Concurrent Resolution No. 7 of the 1983 legislative session (File No. 30) which creates a six-member committee to study the rates charged by public utilities and requires the committee to report its findings to the legislature within 45 days after the date of adoption of the resolution. The resolution requires the committee to examine whether the rates now charged by public utilities in Nevada for gas and electricity are necessary and fairly apportioned. Specific consideration is to be given to the following:

1. To what extent the expenses allowed in determining rates are really necessary for the service provided;
2. Whether there is a present need for additional capital presently invested; and
3. Whether the present structure of the rates charged fairly distributes the necessary expenses among the respective classes of customers.

The committee has attempted, in this report, to present its findings and recommendations briefly and concisely. A great deal of information was gathered in the course of the study. The data which bear directly upon recommendations in the report are included, either in the narrative or appendices. The report is intended as a useful guide to busy legislators. All supporting documents and minutes are on file with the legislative counsel bureau and are available to any member.

This report is transmitted to the members of the 1983 legislature for their consideration and appropriate action.

Respectfully submitted,

Committee to Study the Rates
Charged by Public Utilities

Carson City, Nevada
April 1983

COMMITTEE MEMBERS

Senator Floyd R. Lamb, Chairman
Assemblyman Leonard V. Nevin, Vice Chairman

Senator Nicholas J. Horn
Senator Lawrence E. Jacobsen
Assemblyman John W. Marvel
Assemblyman Marvin M. Sedway

SUMMARY OF RECOMMENDATIONS

This summary represents the major conclusions reached by the committee. These conclusions are based upon (1) suggestions which were made to the committee at public hearings by utilities, utility customers, the public service commission of Nevada (PSCN), and the office of advocate for customers of public utilities; (2) written responses to the committee's questions to interested parties; (3) other correspondence to the members and staff of the committee; and (4) the experience and knowledge of the committee members.

The committee suggests that those recommendations requiring legislation be drafted into appropriate form and be considered by the 62nd session of the legislature.

The committee recommends:

UTILITY BILLS - SHORT-TERM

1. The statutes be amended to require utilities to develop energy conservation loan programs for residential consumers which consist of 5 percent, 1-year loans not exceeding \$600, for insulation, weatherization, and heat pump installation.

The committee recommends further that the public service commission of Nevada pursue other cost-effective programs which can enhance and substitute for the energy conservation assistance program. The committee believes this recommendation should be considered in context with the utility resource planning act provided for by Senate Bill 161 of the 1983 legislative session.

2. A resolution be adopted directing the state office of community services to provide utility bill assistance to the needy from fuel overcharge rebate funds when such funds become available.

The committee recommends further that as a condition of receiving utility bill assistance, persons receiving such funds be provided information on energy saving practices. As an option, energy assistance funds may be used to provide direct grants for the installation of energy conservation measures.

3. A resolution be adopted encouraging the PSCN to authorize utilities to give 2 cents per kilowatt hour rate reductions to customers who conserve energy as determined by the Nevada department of energy (NDOE).
4. The statutes be amended to permit the PSCN to adopt separate utility rates for elderly persons over 62 years of age whose household incomes are not more than \$12,000 annually.
5. The statutes be amended to eliminate duplication of millage taxes imposed on electric customers.
6. The statutes be amended to require the PSCN to cause any regulated utility earning a rate of return in any 12-month period, that is greater than the rate of return authorized by the PSCN in the last rate proceeding, to credit the earnings in excess of its authorized rate of return to a deferred energy account or otherwise refund such amounts to its customers.
7. A resolution be adopted directing the PSCN to establish regulations providing for utilities to establish incentives for residential customers who voluntarily use less power during peak energy demand periods.
8. The statutes be amended to require utilities to disclose to potential tenants or homeowners historical records of the unit's energy costs, and the unit's energy consumption rating as determined by the NDOE, and to require landlords to inform potential tenants of the availability of such information.
9. A resolution be adopted directing the PSCN to provide for automatic budget payment plans when high bills occur because of short abnormal weather periods.

UTILITY BILLS - LONG-TERM

10. Utility resource planning provisions, similar to those contained in S.B. 161 of the 1983 legislative session, be added to the law.
11. A resolution be adopted directing the NDOE to revise the state's energy conservation standards to adhere to principles of cost-effectiveness. The committee recommends further that such standards require local building

construction codes to provide for enhanced insulation and other standards which ensure that buildings are constructed in as energy-efficient manner as current technology and life-cycle economics can provide.

12. The statutes be amended to permit the PSCN to require utility company subsidiaries with valuations over \$1 million to establish separate subsidiaries with their own capital structures and their own sources of funding. The committee recommends further that utility parent companies be allowed to provide only equity to such subsidiaries.
13. The statutes be amended to provide that the PSCN require utility companies to demonstrate at rate hearings that the companies have adhered to sound management practices, and that the operating and maintenance expenses of the utility companies have been held to reasonable minimum levels.
14. A resolution be adopted directing the PSCN to restrict the filing of rate increase requests to no more than one per 180-day period unless an emergency exists.
15. The statutes be amended to prohibit the installation of electric resistance heating systems as a primary residential heating source. The restriction against the installation of electric resistance heaters should not be applied when:
 - a. The resistance heating system is being used to supplement a primary alternative energy system;
 - b. Prohibiting the use of electric resistance heating systems would not promote energy conservation; and
 - c. Non-electric resistance heating systems are not a practical alternative to electric resistance heating systems.

PUBLIC SERVICE COMMISSION

16. The statutes be amended to expand the public service commission of Nevada from three to five members. The committee recommends further that commissioners continue to serve 4-year staggered terms.

17. The statutory provision requiring that no more than two PSCN commissioners may be members of the same political party be repealed.
18. A resolution be adopted recommending that one of the initial actions taken by the newly comprised public service commission of Nevada be to review the maximum permissible levels of rates of return allowed to utilities to determine if lower capped rates would be feasible.
19. A resolution be adopted directing the PSCN to act on consumer complaints about utilities within 30 calendar days.
20. A resolution be adopted directing the PSCN to provide agendas for hearings of the commission to persons who request them.

LOCAL FRANCHISE TAXES

21. The statutes be amended to require that any utility franchise tax be approved by the Nevada tax commission. This requirement should apply to existing utility franchise taxes. The committee recommends further that any increase in such taxes be approved by the commission.

REPEAL OF THE PUBLIC UTILITIES REGULATORY POLICIES ACT OF 1978

22. A resolution be adopted and forwarded to Congress requesting the repeal of the Public Utilities Regulatory Policies Act of 1978.

MISUSE OF MASTER METERS IN MOBILE HOME PARKS

23. Local governments assist in the enforcement of statutory provisions relating to utility rates in mobile home parks with master utility meters.

REPORT TO THE 62ND SESSION OF THE NEVADA LEGISLATURE
FROM THE COMMITTEE TO STUDY THE RATES
CHARGED BY PUBLIC UTILITIES

I. INTRODUCTION

The study of rates charged by public utilities had its origin in residential ratepayers' concerns about recent rapid increases in the cost of utility services in Nevada. Southern Nevada utility customers have indicated that they have been especially affected by large increases in the costs of heating and lighting their homes.

Several reasons have been suggested for the appearance of higher monthly gas and electric utility bills in the state. They include utility company rate increases, poor weather conditions, insufficient insulation in many homes, alleged improper and insensitive decisions by the public service commission of Nevada (PSCN) and the cost effects of expensive utility building projects needed to accommodate the state's high population growth rate.

An example might be in order. Nevada Power Company, which serves the southern portion of the state, was granted a rate increase by the public service commission of Nevada in November of 1982, which caused an approximate 14 percent average increase in utility customers' power bills. The cost effect to southern Nevada's residential utility customers of that rate increase was exacerbated by the need for high energy use because of the effects of an unusually cold winter. Moreover, there are many poorly insulated homes in the southern portion of the state which rely on expensive electric heat sources. Those factors also added to the high utility costs. Then there was the expense compounding effect of the need for utility companies to borrow money at high interest levels for construction of new generation, transmission and distribution facilities to meet the demand of the state's growing population. All of these things equate to higher utility bills.

Members of the 62nd session of the Nevada legislature took note of rising utility costs and the general concern about utility company operations, which have spawned over 42 measures relating to utility companies and their regulation as of this writing, and adopted Senate Concurrent Resolution No. 7 (File No. 30) on February 28, 1983. That measure

calls for the creation of a committee to study the rates charged by public utilities and requires the committee to report its findings back to the 62nd session of the legislature.

Appendix A is a listing of all the measures introduced as of April 26, 1983, dealing with public utility companies or their regulation.

It should be noted that a study of this nature, conducted while the legislature is in session, is unique and offers the same legislature which adopts a study resolution the opportunity of considering the recommendations emanating from the study. The committee hopes that the legislature will act favorably upon its recommended legislation.

The committee, within the time frame allowed for its study, attempted to perform a comprehensive review of the rates charged by public utilities. It held public meetings in Carson City (on March 8, March 10, March 15, March 22, March 24, March 29, April 5, and April 7) and in Las Vegas, on April 1, 1983. The committee held a work session in Carson City on April 12, 1983. A listing of those persons who appeared before the committee is contained in the "Credits" section of this report.

The committee prepared a list of topics for the electric and gas utility companies, the PSCN, the office of advocate for customers of public utilities (occasionally referred to in this report as the consumer's advocate), and other interested parties to address during its hearings. That list is contained as appendix B to this report. As can be seen, the list covers such areas as earnings analysis of utilities, regulation and the PSCN, utility resource planning, utility operational practices and procedures, comparisons of various utility customer data, and possible legislative actions.

Recommendations to be considered during the committee's work session were also solicited by letter to several parties, including the PSCN, the Nevada department of energy, utility companies, the consumer's advocate, and public interest groups. A copy of the request, including a listing of the persons to whom it was sent, is contained in appendix C. Copies of the responses to it are contained in appendix D.

The committee received a copious amount of information and material. Much of this material was provided by the utility companies. All information and material received by the committee, including correspondence, are retained with the

committee's minutes which are on file in the research division library of the legislative counsel bureau.

This report is, by design, brief. It is the opinion of the committee that a lengthy document, containing technical jargon and explanations, would serve primarily to belabor the findings and dissuade readership.

II. FINDINGS AND RECOMMENDATIONS

The following sections of this report represent the committee's recommendations and legislative proposals for changes in the Nevada Revised Statutes (NRS), the Nevada Administrative Code (NAC), and in-state agency and utility company operations to reduce monthly utility bills, both in the short-term and the long-term. They also represent changes which the committee believes are needed to improve the regulation of gas and electric utility companies.

A. UTILITY BILLS - SHORT-TERM

1. Energy Conservation Assistance Programs

It has been demonstrated that utility companies can assist residential utility customers in their energy conservation efforts and concomitant utility bill reduction efforts through providing low-cost loans for the installation of energy conservation equipment and insulation. Several utility companies, including New England Electric, Pacific Gas and Electric Company, Portland (Oregon) Power and Light, and the Tennessee Valley Authority (TVA), have taken notable actions in this regard. The TVA, for example, instituted a program to insulate 400,000 homes at a cost of \$200 million as a conscious effort to avoid building a nuclear power plant which was projected to cost as much as \$1.5 billion. The New England Electric Company is conducting a 15-year energy conservation effort which it hopes will reduce the need for oil imports, reduce the company's capital construction needs by up to \$1.5 billion, reduce the United States balance of payments deficit, and save the company's customers approximately \$1.2 billion on their utility bills over the next 22 years. As is well-known, no-interest loan programs have been used in California to encourage the use of energy conservation measures in residences.

Alternate energy resource systems, such as solar hot water heaters and geothermal space heating, can also lower energy consumption, thereby reducing utility customers' costs. Utility company assistance programs have been effectuated to financially contribute to the placement of such alternate energy systems in residences.

The committee believes that utilities in Nevada should provide financial assistance for energy conservation to their customers. Certain companies already do this. According to representatives of Nevada Power Company, who made presentations to the committee, the average cost of residential energy conservation work in Nevada ranges between \$300 and \$500, plus interest charges. The representatives advised that Nevada Power Company assists its customers financially for such work through contract arrangements.

The committee believes this concept should be expanded and recommends:

- The statutes be amended to require utilities to develop energy conservation loan programs for residential consumers which consist of 5 percent, 1-year loans not exceeding \$600, for insulation, weatherization, and heat pump installation.

The committee recommends further that the public service commission of Nevada pursue other cost-effective programs which can enhance and substitute for the energy conservation assistance program. The committee believes this recommendation should be considered in context with the utility resource planning act provided for by Senate Bill 161 of the 1983 legislative session.

2. Energy Assistance for the Needy

An ongoing concern facing public officials is the effect of ever-increasing utility bills on the poor. Those persons on low fixed incomes, those persons on public financial assistance, and those persons whose incomes barely meet the demands of day-to-day survival are having increasingly difficult times in paying their utility bills. The news media occasionally offers up a dramatic example

of some poor person who must make the difficult choice between heating his home, eating or providing himself with some other essential of life.

The committee feels that further steps should be taken to assist the poor in paying the high cost of their utility bills. One state office, the state office of community services, currently administers various programs with federal funds, including those relating to energy assistance, to assist the needy.

The committee believes that the functions of the office of community services could be expanded to provide further energy cost assistance to the needy. A potential source of funding for this assistance is from overcharges by oil companies. The Federal Government is currently attempting to recover a portion of this overcharge money and to distribute it to the states in proportion to the amount that persons in those states were overcharged. When those funds become available to Nevada, the governor can recommend that they be used for energy assistance. This is what should be done.

The committee notes, however, that although utility bill assistance is the major short-term concern, a longer term benefit might be to decrease the energy use needs of the residences of those needy persons requiring utility bill assistance. It feels, therefore, that as a condition of receiving utility bill assistance, persons should be provided information on energy saving practices by the Nevada department of energy. Another possibility is that energy assistance grants be used to insulate needy persons' homes, thereby decreasing energy consumption and the need for future utility bill assistance.

The committee, therefore, recommends:

- A resolution be adopted directing the state office of community services to provide utility bill assistance to the needy from fuel overcharge rebate funds when such funds become available.

The committee recommends further that as a condition of receiving utility bill assistance, persons receiving such funds be provided information on energy saving practices. As an option, energy

assistance funds may be used to provide direct grants for the installation of energy conservation measures.

3. Electricity Conservation Incentives

It was well-demonstrated to the committee that one of the more cost-effective ways of dealing with the energy demand needs of utility customers is through conservation. As noted in the section of this report dealing with energy conservation assistance programs, increased conservation efforts can diminish the need for construction of costly energy production, transmission and distribution facilities. The costs of those facilities become even more important when one considers that they are partially borne by utility customers even before they go into operation.

The committee believes there should be rewards and incentives for those utility customers who conserve energy in the heating and lighting of their homes. The Nevada department of energy should determine what level of reduction from standard usage should be considered as significant conservation.

The committee, therefore, recommends:

- A resolution be adopted encouraging the PSCN to authorize utilities to give 2 cents per kilowatt hour rate reductions to customers who conserve energy as determined by the Nevada department of energy.

4. Energy Assistance for the Elderly

Many older persons live on limited retirement incomes which provide little or no leeway for dealing with rising utility costs. The legislature has recognized the hardship placed on senior citizens living on limited retirement incomes which remain fixed and has provided them with tax assistance and other forms of relief.

The committee recognizes the efforts of our senior citizens who have worked all their lives to meet their financial and social obligations while looking forward to retirement. The prospects of that

retirement are dimmed, indeed, when the payment of a utility bill becomes a major financial obstacle, if not an impossibility.

Elderly persons who have worked diligently all their lives should not be forced to face this dilemma which has been caused by forces beyond their control. The committee believes that the pool of utility ratepayers is large enough to assist financially needy elderly people in paying their utility bills.

The committee, therefore, recommends:

- The statutes be amended to permit the PSCN to adopt separate utility rates for elderly persons over 62 years of age whose household incomes are not more than \$12,000 annually.

5. Elimination of Duplicate Mill Assessments

The committee was advised that utility customers are assessed a millage tax on natural gas purchased for generation and then assessed a millage tax on the same gas when it is converted to electricity.

The committee believes this form of double taxation is improper and, therefore, recommends:

- The statutes be amended to eliminate duplication of millage taxes imposed on electric customers.

6. Excess Earnings to Offset Fuel Costs

A utility customer's bill represents several items including consumption, the cost of energy, the utility company's cost of operation, and the rate of return on equity which the public service commission of Nevada allows the utility company to receive. In many instances, the authorized rates of return for utility companies have not been met. There have been instances, however, during the last several years when the earned returns of utility companies have exceeded the authorized rate. For example, Nevada Power Company briefly exceeded its authorized rate of return in December of 1977, 1979, and 1981.

Utility companies' authorized rates of return are determined during rate hearings and reflect several

considerations including the cost of borrowing money for future construction projects and difficulty in attracting investors. It is appropriate, therefore, that utility companies be allowed to earn the amount authorized by the public service commission of Nevada, assuming that the rate was properly set. On the other hand, any excess over the allowed rate should not be considered profit but should be used to reduce the utilities' fuel cost and thus directly benefit ratepayers.

The committee, therefore, recommends:

- The statutes be amended to require the PSCN to cause any regulated utility earning a rate of return in any 12-month period, that is greater than the rate of return authorized by the PSCN in the last rate proceeding, to credit the earnings in excess of its authorized rate of return to a deferred energy account or otherwise refund such amounts to its customers.

7. Peak Pricing

One factor that can greatly affect utility companies' costs is supplying electricity during high or so-called "peak" demand periods. During peak demand periods, utility companies' operating costs rise because of, in part, the need to use all generating units including those which are less efficient. An increasing frequency of peak demand periods also adds to the potential for future costly utility construction projects.

Conversely, if the intensity of high use periods is lessened, or the frequency of those periods is diminished, utility costs will be reduced. This will cause lower residential utility bills.

It follows, therefore, that efforts should be made to reduce use of electricity during high demand periods, such as hot summer days. The committee believes that incentives can be an effective way to accomplish this reduction. It, therefore, recommends:

- A resolution be adopted directing the PSCN to establish regulations providing for utilities to establish incentives for residential customers to voluntarily use less power during peak energy demand periods.

8. Energy Consumption Ratings for Residential Dwellings

One of the suggestions made to the committee by the consumer's advocate and Southwest Gas Corporation is that persons be made aware of the potential energy costs of a house or apartment they plan to rent. The committee believes this recommendation has merit. Many potential tenants of residential dwellings are unaware of the utility costs associated with renting the dwellings. Those costs can vary greatly, depending upon use. They can also reflect poor insulation and weatherization which can unnecessarily increase a tenant's housing cost.

Utility companies have the ability to provide tenants with information about housing units' energy consumption and utility bill costs. The Nevada department of energy, moreover, can prepare consumption ratings which at some point could be standardized for specific classes of residential dwellings. A high average bill may indicate that the tenant might well seek other housing to avoid excessive utility bill costs. This, in turn, might provide the incentive to landlords of residences with insufficient insulation or weatherization to install energy conservation materials.

The committee, therefore, recommends:

- The statutes be amended to require utilities to disclose to potential tenants or homeowners historical records of the unit's energy costs, and the unit's energy consumption rating as determined by the NDOE, and to require landlords to inform potential tenants of the availability of such information.

9. Deferred Payment Plans

The consumer's advocate presented information to the committee pertaining to the effect that abnormal weather periods can have on residential utility bills. That effect, as anyone who has ever paid a utility bill in the dead of winter or the heat of summer realizes, can be substantial and play havoc with a household budget. The advocate suggests that utility companies should automatically provide for deferred payments of unusually high utility bills if such is desired by the customers.

Many utility companies offer deferred payment plans to assuage the effects of seasonal weather patterns on utility bills. These are usually long-term efforts. The committee believes that a deferred payment plan should go one step further and deal with short-term vagaries in utility bills caused by unusual weather patterns.

The committee was advised that utility companies have the technology and ability to identify quickly and accurately unusually high energy consumption patterns and to carry out a deferred payment budget plan. The committee, therefore, recommends:

- A resolution be adopted directing the PSCN to provide for automatic budget payment plans when high bills occur because of short abnormal weather periods.

B. UTILITY BILLS - LONG-TERM

1. Utility Resource Planning

One of the measures being considered currently by the 62nd session of the Nevada legislature is Senate Bill 161 which requires utilities, which supply electricity, to submit plans containing predictions of future demands for their services and appropriate measures for acquiring resources to meet or reduce those demands.

Under the provisions of the third reprint of the measure, a utility which supplies electricity in Nevada is required to submit a report to the public service commission of Nevada in July of each even-numbered year, containing a plan to increase its supply of electricity or decrease a demand made on its system by customers. The commission is required by the bill to prescribe the contents of the plan including the methods or formulas used by the utility to: (1) forecast the future demands, and (2) determine the best combination of sources of supply to meet the demands or the best method to reduce them.

The bill also requires the public service commission of Nevada to hold a public hearing on the adequacy of the plan to determine, among other things, if the utility's plan shows an adequate consideration of the

following possible measures and sources of supply: conservation; load management; pooling of power; purchases of power from neighboring states or countries; facilities which operate on solar or geothermal energy or wind; and facilities which operate on the principle of cogeneration or hydro generation. Under the measure, within 105 days after a utility has filed its plan, the commission is required to issue an order accepting the plan as filed or specifying any portions of the plan which it deems to be inadequate.

The concept embodied in S.B. 161 is not unique. According to information provided to the committee, several states require energy use forecasting and utility resource planning.

A regional approach to utility resource planning is being conducted in the northwest by the Northwest Power Planning Council which was created in April 1981 in accordance with the provisions of the Pacific Northwest Electric Power Planning and Conservation Act. (See Public Law 96-501.) The council is an interstate agency made up of eight members, two each from the states of Idaho, Montana, Oregon, and Washington, who are appointed by the governors of those states and confirmed by their legislatures.

The council's major responsibilities, under the Pacific Northwest Electric Power Planning and Conservation Act, fall into three categories: developing a regional conservation and electric power plan, oversight of the carrying out of the plan, and oversight of the Columbia River Basin Fish and Wildlife Program. Among the several required elements of the plan is the development of a 20-year forecast of electric energy demand and the preparation of a 20-year power resources forecast, including the proportion of demand to be met by resources in four priority categories. These categories are conservation, renewable resources, high efficiency resources and thermal resources.

In his message to the Nevada legislature on January 19, 1983, the governor identified the need for utility planning for new demand and new sources of energy. He said:

I recommend passage of a bill to require all major electric and gas utilities in the state to develop utility resource plans. The utility customer pays the cost of unnecessary capital construction in the form of higher utility rates. This requirement will prevent the building of unneeded facilities.

The committee agrees with the governor and believes energy and resource planning is imperative, especially in Nevada with its fast growing population and increasing demands for electric energy. It, therefore, recommends:

- Utility resource planning provisions, similar to those contained in S.B. 161 of the 1983 legislative session, be added to the law.

2. Improved Building Construction Standards

As discussed in the introduction, one of the principal factors causing high utility bills in many residences is insufficient insulation. The effect of poor insulation on energy costs was dramatically illustrated by this winter's weather on many Clark County ratepayers' utility bills. Several recommendations in this report, therefore, are directed at improving the level of insulation in existing residences.

New construction of residential property must also, however, be addressed. Nevada Power Company provided the information contained in table 1 which shows the energy used and saved at different insulation levels. As can be seen, the effect that proper insulation can have on residential energy use can be dramatic.

TABLE 1

NEVADA POWER COMPANY

Energy Used & Saved at Different Insulation Levels

KWH CONSUMPTION

Attic Insulation Level	Residential Heating			Heat Pump		
	Heat	Cool	Annl.	Heat	Cool	Annl.
No Insulation	31,800	6,657	38,457	13,894	6,657	20,551
R-11	16,522	4,669	21,191	6,274	4,669	10,943
R-19	15,353	4,444	19,797	5,833	4,444	10,277
R-30	15,070	4,222	19,292	5,721	4,222	9,943

KWH SAVINGS*

Upgrading	Residential Heating			Heat Pump		
	Heat	Cool	Annl.	Heat	Cool	Annl.
R-0 to R-11	15,278	1,988	17,266	7,620	1,988	9,608
R-0 to R-19	16,447	2,213	18,660	8,061	2,213	10,274
R-0 to R-30	16,730	2,435	19,165	8,173	2,435	10,608
R-11 to R-19	1,169	225	1,394	341	225	566
R-11 to R-30	1,452	447	1,899	553	447	1,000
R-19 to R-30	283	222	505	112	222	334

*For a 1,500 square foot house with a 4-ton air conditioning unit.

The committee believes new houses and apartments should be constructed to keep the need for energy use to a minimum. This will help slow the growth of utility bill costs and tend to reduce the need for construction of expensive new energy generating facilities.

The committee, therefore, recommends:

- A resolution be adopted directing the NDOE to revise the state's energy conservation standards to adhere to principles of cost-effectiveness. The committee recommends further that such standards require local building construction codes to provide for enhanced insulation and other standards which ensure that buildings are

constructed in as energy-efficient manner as current technology and life-cycle economics can provide.

3. Divestiture of Utility Subsidiaries

The office of advocate for customers of public utilities and certain other persons making presentations to the committee suggested that utility company subsidiaries be separated for financial purposes to avoid liability to the parent companies. According to information provided to the committee by the consumer's advocate, subsidiary operations can create financial burdens and cash drains on utility companies. Examples of how that drain can occur were shown for two subsidiaries, Lands of Sierra and Sierra Energy Company, of the Sierra Pacific Power Company (SPPC). This burden can be avoided if a subsidiary has its own capitalization.

According to the consumer's advocate, if the two subsidiaries noted above were self-sustaining, Sierra Pacific Power Company's financial situation would improve. Its annual investment would be reduced by \$7 million, and its net annual income would increase by approximately \$1.1 million because of the avoidance of operating losses. The company's stockholders' and bond investors' positions would also improve because interest and dividend payments would be more secure, and less external financing would be needed. The long-term benefit to the company of the separation of the subsidiaries from Sierra Pacific Power Company would be the elimination of the expected substantial losses for the subsidiaries during the 1984-86 time frame.

The committee believes that utility company subsidiaries should not cause a drain on a utility which can affect the company's cost of capital. It, therefore, recommends:

- The statutes be amended to permit the PSCN to require utility company subsidiaries with valuations over \$1 million to establish separate subsidiaries with their own capital structures and their own sources of funding. The committee recommends further that utility parent companies be allowed to provide only equity to such subsidiaries.

4. Utility Management and Operations

Poor management practices by utility companies can lead to excessive costs which are passed on to consumers. This, of course, is true of any company's poor management practices. Purchasers of other consumer items have the ability to shop around and to ensure that they are getting the best price for their purchase. For the most part, however, utility company customers are captive. They are limited in their ability to buy power from other sources. It is imperative, therefore, that utility companies operate efficiently and that operating and maintenance expenses be held to reasonable levels.

The consumer's advocate suggested legislation to the committee which would permit the public service commission of Nevada to disallow imprudent utility expenditures and reduce the utility company's authorized rate of return when the commission believes such would be appropriate to counteract improper management decisions and to provide incentives to utility companies to improve their standard operations. The suggested legislation of the consumer's advocate also mandates that the commission adopt rules establishing procedures for analyzing the efficiency of utility company management.

The committee agrees with the suggested legislation of the consumer's advocate and, therefore, recommends:

- The statutes be amended to provide that the PSCN require utility companies to demonstrate at rate hearings that the companies have adhered to sound management practices, and that the operating and maintenance expenses of the utility companies have been held to reasonable minimum levels.

5. Frequency of General Rate Requests

Chapter 704 of NRS places various restrictions on the filing of rate increase requests including the provision that the public utility not submit a new application until all pending applications for rate increases submitted by that utility have been decided unless, after application and hearing, the PSCN determines that a substantial financial emergency would exist if the other application is

not permitted to be submitted sooner. Under the law, the commission has up to 180 days to make a determination on a rate increase request.

According to the consumer's advocate, the PSCN has permitted utilities to submit new rate increase requests at shorter intervals than the permitted 6-month review period. Utility customers are faced with frequent enough rate increases without the commission expediting the process. The committee, therefore, recommends:

- A resolution be adopted directing the PSCN to restrict the filing of rate increase requests to no more than one per 180-day period unless an emergency exists.

6. Prohibition of Electric Resistance Heating

Several persons appearing before the committee, including representatives of Nevada Power Company, Southwest Gas Corporation, and the public service commission of Nevada, suggested that electric resistance heaters be prohibited as a primary heating source. This suggestion is based on the fact that electric resistance heating is an extremely inefficient method of providing heat for residences. The opinion was expressed that new building construction standards should include prohibitions against the installation of electric resistance heating, particularly in multiple dwelling units. It was noted that heat pumps, instead of resistance heaters, can save residential utility company customers up to two-thirds of their monthly heating bills. For example, see table 1, on page 13.

The committee believes the concerns about using electric resistance heating devices as a primary heating source are valid and, therefore, recommends:

- The statutes be amended to prohibit the installation of electric resistance heating systems as a primary residential heating source. The restriction against the installation of electric resistance heaters should not be applied when:

- a. The resistance heating system is being used to supplement a primary alternative energy system;
- b. Prohibiting the use of electric resistance heating systems would not promote energy conservation; and
- c. Non-electric resistance heating systems are not a practical alternative to electric resistance heating systems.

C. PUBLIC SERVICE COMMISSION OF NEVADA

The public service commission of Nevada has come under attack for many of its practices by the general public, the consumer's advocate, and the governor. It was expected, therefore, that it would be the focus of numerous suggestions made to the committee. The range of those suggestions includes changing the composition of the commission, requiring the commissioners to serve at the pleasure of the governor, terminating the terms of the existing commissioners and requiring that new commissioners not be involved in any ratemaking decisions until they have certain experience on the job.

The committee feels that the law should provide general precepts and policies to be carried out by administrators who use sound judgment. It chose, therefore, not to provide a litany of specific operating practices for the commission. Commission members should use good judgment, understanding, and exercise compassion in administering the law. The committee hopes future commissioners will be selected on the basis of these traits.

The committee also believes that the commission should be expanded to operate more effectively. Under current law, the committee was advised, discussion between two commissioners constitutes a meeting which must be noticed. This may inhibit discussion which helps provide a clear understanding of the pertinent issues and factors relating to utility company operations and regulation.

The committee feels that experience, integrity, ability, education and other qualities outweigh political affiliation when it comes to determining criteria for membership on the commission. It thinks the law restricting membership on the commission by political affiliation should be changed.

The committee believes that a newly comprised commission should reconsider the level of rates of return currently authorized for utility companies. For example, Nevada Power Company has an authorized rate of return of 16.5 percent upon equity. That high a level may be unnecessary in today's market and impose an undue burden on the ratepayers.

Finally, in response to suggestions made by representatives of consumer groups, the committee decided that the public service commission of Nevada should provide agendas of its meetings to interested persons. Apparently, such requests have been denied. The committee also believes that the commission should take action on consumer complaints within 30 days.

The committee, therefore, recommends:

- The statutes be amended to expand the public service commission of Nevada from three to five members. The committee recommends further that commissioners continue to serve 4-year staggered terms.
- The statutory provision requiring that no more than two PSCN commissioners may be members of the same political party be repealed.
- A resolution be adopted recommending that one of the initial actions taken by the newly comprised public service commission of Nevada be to review the maximum permissible levels of rates of return allowed to utilities to determine if lower capped rates would be feasible.
- A resolution be adopted directing the PSCN to act on consumer complaints about utilities within 30 calendar days.
- A resolution be adopted directing the PSCN to provide agendas for hearings of the commission to persons who request them.

D. LOCAL FRANCHISE TAXES

The committee received several recommendations relating to local business license fees and franchise taxes including that:

1. Local franchise taxes be uniformly established at the lowest rate charged in the utility service area;
2. Utilities show local franchise taxes and the public service commission of Nevada mill assessment as separate line items on bills to customers; and
3. The legislature not enact legislation prohibiting cities from collecting the franchise taxes.

According to Nevada Power Company, the cost of local government taxes can be substantial. Table 2 illustrates franchise and business license taxes paid by the company during calendar year 1982.

TABLE 2

TAXES PAID BY NEVADA POWER COMPANY
DURING CALENDAR YEAR 1982

<u>Local Government Entity</u>	<u>Combined Franchise and Business License Costs</u>
City of Las Vegas	\$ 4,278,000
Clark County Franchise	634,000
Clark County Business License	618,000
City of North Las Vegas	597,000
City of Henderson	465,000
Nye County	22,000

Representatives of the City of Las Vegas told the committee that business license fees are imposed uniformly on all businesses. It is the public service commission of Nevada, and not the City of Las Vegas, they advised, which has permitted utility companies to pass the cost of their business license fees on to their customers by way of surcharges on the customers' billings.

Local governments indicated to the committee that the franchise taxes and business license fees are necessary to pay for the costs of essential local government services. Elimination of the taxes would necessitate raising other taxes, they said.

The committee feels that local franchise taxes may be necessary to help pay the cost of local government. They should, however, be closely scrutinized. It, therefore, recommends:

- The statutes be amended to require that any utility franchise tax be approved by the Nevada tax commission. This requirement should apply to existing utility franchise taxes. The committee recommends further that any increase in such taxes be approved by the commission.

E. REPEAL OF THE PUBLIC UTILITIES REGULATORY POLICIES ACT OF 1978

The Public Utilities Regulatory Policies Act of 1978 requires states to conduct special hearings to determine whether a variety of utility regulatory policies should be carried out. The committee believes that matters affecting local utility services should be left to the jurisdiction of the public service commission of Nevada, where such matters properly belong.

The committee, therefore, recommends:

- A resolution be adopted and forwarded to Congress requesting the repeal of the Public Utilities Regulatory Policies Act of 1978.

F. MISUSE OF MASTER METERS IN MOBILE HOME PARKS

During the 1979-80 legislative interim, a legislative study committee found several abuses relating to the use of master meters in mobile home parks and recommended legislation which was passed by the 1981 legislature and codified in the Nevada Revised Statutes as NRS 704.265.

According to representatives of consumer groups which appeared before the committee, certain abuses relating to the master meters, including overcharges for utility costs by landlords in mobile home parks, are still prevalent. The law gives primary enforcement responsibilities to the PSCN. The commission should enforce the law. The committee believes, however, that local governments should assist in the enforcement efforts and recommends:

- Local governments assist in the enforcement of statutory provisions relating to utility rates in mobile home parks with master utility meters.

III. CREDITS

The following is a list of names of public utilities, state and local government agencies, consumer groups and private citizens who appeared before the committee and presented testimony:

Adamsen, Arnie
President, C.A.R.E.
Las Vegas, Nevada

Advocate for Customers of Public
Utilities, Office of
Carson City, Nevada

Beard, Clyde
Las Vegas, Nevada

Beasley, Rosalie
Sparks, Nevada

Betherum, Bertha
Sparks, Nevada

Bryan, Richard H.
Governor
State of Nevada
Carson City, Nevada

Clark, Thelma
C.A.R.E.
Las Vegas, Nevada

Craigie, Scott
Senior Political Action Federation
Las Vegas, Nevada

Demas, Vickie
President
Mobile Home Owners League
of the Silver State, Inc.
Las Vegas, Nevada

Garmany, Ouida B.
Las Vegas, Nevada

City of Las Vegas
Las Vegas, Nevada

Nevada Power Company
Las Vegas, Nevada

Outland, Orland T.
Reno, Nevada

Parker, Paul
Las Vegas, Nevada

Public Service Commission of Nevada
Carson City, Nevada

Reil, Orvis
Carson City, Nevada

Rice, Jim
Las Vegas, Nevada

Shepherd, Roger D.
Las Vegas, Nevada

Sierra Pacific Power Company
Reno, Nevada

Simon, Gene
Las Vegas, Nevada

Southwest Gas Corporation
Las Vegas, Nevada

West, Frederick
President
Citizens for Survival
Las Vegas, Nevada

Zivic, Shannon
Las Vegas, Nevada

IV. APPENDICES

- Appendix A - Bill Introductions of the 62nd Session of the Nevada Legislature Relating to the Public Service Commission of Nevada and Public Utilities.
- Appendix B - List of Topics Reviewed by the Committee to Study Rates Charged by Public Utilities.
- Appendix C - Letter, Dated April 1, 1983, Soliciting Recommendations to Be Considered by the Committee, and List of Persons to Whom the Letter Was Sent.
- Appendix D - Responses to the April 1, 1983, Letter, Received from the Following Persons:
1. Advocate for Customers of Public Utilities, Office of;
 2. Thelma Clark, Las Vegas, Nevada;
 3. Nevada Department of Energy;
 4. Nevada Power Company;
 5. Orland T. Outland, Reno, Nevada;
 6. Public Service Commission of Nevada;
 7. Sierra Pacific Power Company; and
 8. Southwest Gas Corporation.

APPENDIX A

Bill Introductions of the 62nd Session of the Nevada
Legislature Relating to the Public Service Commission of
Nevada and Public Utilities.

BILL INTRODUCTIONS OF THE 62ND SESSION OF THE NEVADA
LEGISLATURE RELATING TO THE PUBLIC SERVICE
COMMISSION OF NEVADA AND
PUBLIC UTILITIES

- A.B. 102 -- Committee on Commerce.
Corrects duplication and misplacement of provisions relating to public utilities.
- A.B. 179 -- Malone.
Enlarges public service commission of Nevada and provides for election of commissioners.
- A.B. 230 -- Committee on Government Affairs.
Allows consumer's advocate to seek civil penalties against public utilities.
- A.B. 269 -- Committee on Commerce.
Repeals imposition of latest edition of certain building and related codes.
- A.B. 283 -- Committee on Government Affairs.
Enlarges membership of public service commission of Nevada.
- A.B. 285 -- Malone, Fay, Brady, Stone, Bourne, Nevin, Kovacs, Banner, Ham, Price, Perry, Dini, Vergiels, Thompson, Bremner, Collins, Sader, - Redelsperger, Schofield, Humke, Kerns, Bogaert, Beyer, Zimmer and Coffin.
Abolishes fixed terms for members of public service commission of Nevada and terminates current terms.
- A.B. 376 -- Committee on Government Affairs.
Allows public service commission to consider public interest when determining location of its hearings.
- A.B. 379 -- Committee on Government Affairs.
Prohibits certain acts by former commissioners and employees of public service commission.
- A.B. 412 -- Committee on Commerce.
Transfers regulation of community antenna television companies to towns, cities and counties.

- A.B. 540 -- Committee on Ways and Means.
Permits reduction of assessment on public utilities for support of advocate for customers.
- S.B. 11 -- Neal.
Limits public utilities to single fee for late payment by customer.
- S.B. 26 -- Committee on Taxation.
Changes basis of valuation for assessment of property taxes of public utilities.
- S.B. 27 -- Committee on Taxation.
Changes distribution of certain taxes to local governments and provides exception to limitation of rates of taxes ad valorem.
- S.B. 28 -- Committee on Taxation.
Requires businesses to submit reports of value of construction in progress to department of taxation.
- S.B. 55 -- Neal.
Creates Southern Nevada Power District.
- S.B. 68 -- Committee on Commerce and Labor.
Abolishes economic regulation of railroads and authorizes department of transportation to regulate their safety.
- S.B. 69 -- Committee on Commerce and Labor.
Requires increased revenues of public utility to be considered at hearing for increase of rates.
- S.B. 70 -- Committee on Commerce and Labor.
Empowers public service commission to regulate pipelines for all liquids.
- S.B. 73 -- Committee on Commerce and Labor.
Provides for protection of underground facilities of public utilities.
- S.B. 74 -- Committee on Commerce and Labor.
Provides for investigation of complaints by division of consumer relations of public service commission.

- S.B. 75 -- Committee on Commerce and Labor.
Makes changes concerning CATV companies and removes jurisdiction of public service commission over airlines and news wires.
- S.B. 76 -- Committee on Commerce and Labor.
Allows deputy commissioner to hear cases for changes in rates.
- S.B. 77 -- Committee on Commerce and Labor.
Removes monetary threshold for hearings on rates by public service commission.
- S.B. 78 -- Committee on Commerce and Labor.
Changes source of payment of witness fees and clarifies method of enforcing certain orders of public service commission of Nevada.
- S.B. 79 -- Committee on Commerce and Labor.
Abolishes economic regulation of motor carriers by public service commission.
- S.B. 82 -- Committee on Natural Resources.
Facilitates acquisition, retention and transfer of water rights to public utilities and municipalities.
- S.B. 83 -- Committee on Commerce and Labor.
Dispenses with notice and hearing upon conversion of temporary to permanent administrative regulation.
- S.B. 92 -- Committee on Government Affairs.
Authorizes sale or lease of certain interests of the state and local governments to public utilities without public bidding.
- S.B. 101 -- Committee on Commerce and Labor.
Allows public utilities to write off abandoned plants, research and developmental projects for ratemaking purposes.
- S.B. 102 -- Committee on Commerce and Labor.
Requires public service commission to include costs of construction in rates of public utilities.

- S.B. 103 -- Committee on Commerce and Labor.
Revises calculation of rates of public utilities from estimated future costs.
- S.B. 104 -- Committee on Commerce and Labor.
Provides method of funding for certain conversion by electric utilities of generating from oil or gas to coal.
- S.B. 134 -- Committee on Commerce and Labor.
Authorizes public service commission of Nevada to allow public utilities to recover anticipated costs for conservation of energy.
- S.B. 161 -- Mello, Townsend, Wilson, Horn, Foley, Robinson and Raggio.
Requires certain electric and gas utilities to submit plans for their future resources and select the least costly.
- S.B. 177 -- Committee on Commerce and Labor.
Simplifies procedure for judicial review of decisions of public service commission.
- S.B. 255 -- Robinson.
Excludes property not presently in use by public utility from computation in its rate base.
- S.B. 304 -- Committee on Commerce and Labor.
Fixes interest on deposits made by customers of public utilities at rates existing in month before period of interest begins.
- S.B. 365 -- Townsend and Jacobsen.
Raises salaries of members of public service commission of Nevada.
- S.B. 366 -- Townsend.
Provides additional regulation of charges for utilities in mobile home parks.
- S.B. 374 -- Townsend and Lamb.
Requires public utilities to credit their excess earnings to deferred energy account.

- S.J.R. 2 -- Committee on Taxation.
Proposes constitutional amendment to allow
separate taxation of property used for
generating electricity.
- S.C.R. 7 -- Lamb.
Creates special joint committee to study
rates charged by public utilities.

APPENDIX B

List of Topics Reviewed by the Committee to Study Rates
Charged by Public Utilities.

LIST OF TOPICS REVIEWED BY THE COMMITTEE TO STUDY
RATES CHARGED BY PUBLIC UTILITIES

Note: The basis of this inquiry will be on what utilities can do to reduce costs and improve services immediately and over the next 10 years.

Included in this review will be what utilities have done to keep their rates down and improve customer service during the last 10 years.

Also included will be a review of the effect on consumers' utility costs of reducing the authorized rate of return of utility companies to 11 percent.

A. Earnings Analysis of Utilities.

1. Earnings analyses of Nevada utilities using various techniques such as return per share, stockholders' equity and total assets for last 10 years.
2. Review of ownership categories, including common stocks or preferred stocks of utilities: turnover rate in those ownership categories and sales price of those categories for 10 year period. Also review changes in bond rating categories of utilities over last 10 years and the effect that those changes have had on utility rates.
3. Rates of return authorized for utility companies by public service commission (PSC) over last 10 years.
4. Utility cash flow and construction budgeting.
5. Impact on rates from a reduction or increase.
6. PSC and OCA role.

Potential Witnesses: Utilities, PSC, OCA, bankers, investment community.

B. Regulation and the PSC.

1. Method of selection and appointment.
2. Salary and staffing levels.
3. Statutory and constitutional constraints.
4. Effect of federal laws and foreign policies.
5. Rate process overview.
6. PSC and OCA role.
7. Public take out - entire system or part thereof.

Potential Witnesses: PSC, utilities, OCA, Former Governor List, Former Commissioner Granata, Former PSC Commission Counsel George Keele.

C. Utility resource planning.

1. Projected construction needs for utilities through the year 2000. Included in this review will be forecasting techniques and the effects of such things as planning, zoning, political approval and population or customer growth. Also included will be discussion of potential power surpluses and the effect that selling surpluses will have on utility rates.
2. Historical overview.
3. Load forecasting.
4. Rate design.
5. Conservation including potential, ways to promote, effects on utility rates, ways to finance the cost of conservation purchases for individual customers, and effects that conservation has on utility costs. Included in the review will be the effect that conservation has on future building needs for utilities.

6. Effects that changing technology and fuels will have on customer service and utility rates.
7. Effects that Nevada utility rates and service delivery have on economic development and diversification potential.
8. PSC and OAC roles.

Potential Witnesses: Utilities, PSC, OCA, Colorado River Resources, DRI, Nevada department of energy, California Energy Commission, mining industry, gaming industry.

D. Utility operational practices and procedures.

1. Effect on rates.
2. Overall cost of operations.
3. Fuel acquisition practices.
4. Effect of federal, state and local taxes on utility rates including the effect and use of the Las Vegas franchise tax.
5. Cost reduction practices.
6. Customer and billing activities.
7. Project bidding practices.
8. PSC and OCA roles.

Potential Witnesses: Utilities, PSC, OCA, consumer groups, local government officials, railroad representatives, coal industry representatives, Nevada department of energy).

E. Consumer comparisons.

1. History of consumer costs data for Nevada utilities over last 10-year period, including data on distribution of those costs among respective classes of customers.

2. Comparison of utility consumer cost data with other states using such criteria as consumption, fuel mix geographic area, and cost per unit of energy.
3. Discussion of immediate short-term relief for low and medium income customer from the effects of utility rates. Included in this topic will be service disconnect policies.

F. Possible legislative actions can relate to:

1. Utility company profit levels.
2. Regulation and the PSC.
3. Utility resource planning.
4. Utility operational practices and procedures.

DAR/llp:Study:Rush1-4

APPENDIX C

Letter, Dated April 1, 1983, Soliciting Recommendations to Be Considered by the Committee, and List of Persons to Whom the Letter Was Sent.

This letter was mailed to the individuals on the attached list on 4/1/83.

April 1, 1983

We are writing to ensure that the Committee to Study the Rates Charged by Public Utilities receives all the recommendations it should consider during its work session. As you recall, Senate Concurrent Resolution 7 requires the committee to study and report its findings on:

1. To what extent the expenses allowed in determining rates are really necessary for the service provided;
2. Whether there is a present need for additional capital which justifies the high rate of return on the capital presently invested; and
3. Whether the present structure of the rates charged fairly distribute the necessary expenses among the respective classes of customers.

In considering these topics, the committee has divided its study into (a) earnings analyses of utilities, (b) regulations and the PSC, (c) utility resource planning, (d) utility operational practices and procedures, (e) consumer comparisons, and (f) possible legislative actions.

If you have not already done so, please prepare a list of recommendations which you would like the committee to study and transmit it to me or Sam Hohmann, senior research analyst, at the address shown on the letterhead, by April 7, 1983.

Thank you very much for your assistance.

Yours truly,

Donald A. Rhodes
Research Director

DAR/en
SCR7:LTR1

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APPENDIX D

Responses to the April 1, 1983, Letter, Received from the Following Persons:

1. Advocate for Customers of Public Utilities,
Office of;
2. Thelma Clark, Las Vegas, Nevada;
3. Nevada Department of Energy;
4. Nevada Power Company;
5. Orland T. Outland, Reno, Nevada;
6. Public Service Commission of Nevada;
7. Sierra Pacific Power Company; and
8. Southwest Gas Corporation.

APPENDIX D

- D-1. Response to April 1, 1983, Letter, Received from the Office of Advocate for Customers of Public Utilities.

OFFICE OF CONSUMER ADVOCATE
LEGISLATIVE PROPOSALS

RECOMMENDATIONS FOR SHORT TERM SOLUTIONS
BY THE CONSUMER ADVOCATE FOR LEGISLATIVE & REGULATORY CONSIDERATION

	<u>PROBLEM</u>	<u>SOLUTION</u>	<u>RECOMMENDATION</u>
OCA-1	Subsidiary operations creating financial burden and cash drain on utilities	Subsidiaries with valuation over \$1 million should be required to establish a separate subsidiary with own capital structure, own source of funding, with parent company able to contribute equity.	Passage of enabling legislation (See attachment.)
OCA-2	Excessive rates of return	Establish a cap on allowable utility profits	Passage of enabling legislation (See attachment.)
OCA-3	Utilities rewarded in rate of return for inefficient management, excessive O&M and A&G expenses	Require utilities to show at time of rate hearings that management meets certain efficiency levels and that O&M and A&G expenses have been held to a minimum.	Passage of enabling legislation (See attachment.)
OCA-4	Poor thermal integrity & inefficient heating & cooling systems in existing residential homes causes high consumption	Provide a program of incentives involving owners of residential structures and utilities to retrofit existing structures & heating & cooling systems. Utilization of State oil overcharge refund money for low-income weatherization.	Require the PSC to develop a program of incentives involving the owners of the residential structures & utilities for cost effective weatherization & efficient heating & cooling systems. Resolution urging PSC action on the program. Resolution regarding oil overcharge refund money.
OCA-5	Renters unaware of excessive utility bills for heating & cooling	Require landlords to disclose to potential tenants historical records of unit's energy cost	Passage of enabling legislation. (See attachment)
OCA-6	High bills in short abnormal weather period	Automatic deferred payment plans and utility ratepayers bill of rights. Utilization of State oil overcharge refund money for low-income utility	PSCN Regulation (see attached generic proceedings request.) Resolution regarding oil overcharge refund

OCTOBER 45

Proposed Legislation Governing Utility Subsidiary Operations

Any Nevada regulated utility which has annual operating revenues in this State of \$2,500,000 or more and which has invested \$1,000,000 or more in non-utility subsidiary operations must establish a separate business entity for that subsidiary. That subsidiary business:

- a. Must have its own capitalization investment;
- b. May receive capital contributions from a parent utility company only in the form of stockholders equity which shall be excluded from the utility's capitalization at the time of determining cost of capital or rate of return during a general rate increase filing.

PROPOSED EXCESS EARNINGS LEGISLATION

The Commission should establish regulations requiring any regulated utility earning a rate of return in any twelve month period that is greater than the rate of return authorized by the Commission in the last rate proceeding to credit the earnings in excess of its authorized rate of return to a deferred energy account or otherwise refund such amounts to its customers.

Proposed Legislation Governing Utility Management Efficiency

If the Commission determines after notice and hearing during the course of proceedings to increase or decrease rates that a utility is operating in an inefficient manner or is not exercising ordinary prudent or reasonable management, the Commission may disallow imprudent expenditures and/or reduce the authorized rate of return for that utility to the extent the Commission believes appropriate to provide incentives to the utility to correct its utility operations. The Commission shall adopt rules establishing methodologies for analysis of a utility's management efficiency.

PROPOSED RESOLUTION ENCOURAGING THE PUBLIC SERVICE COMMISSION
TO PROVIDE INCENTIVES FOR CONSERVATION OF ENERGY
IN EXISTING RESIDENTIAL STRUCTURES

WHEREAS a significant portion of utility costs are due to the construction of new production, transmission and distribution facilities; and

WHEREAS the costs of these facilities are increasing; and

WHEREAS it has been consistently shown that it costs less to conserve a unit of energy than to generate one; and

WHEREAS it is in the best interest of both utilities and ratepayers to avoid high cost construction project, and

WHEREAS the Public Service has begun hearings on the scope of major utility conservation programs;

BE IT THEREBY RESOLVED that the Public Service Commission should investigate the feasibility and cost effectiveness of providing incentives to utilities and owners of residential structures to retrofit existing structures. Such retrofits should be designed to improve poor thermal integrity and inefficient heating and cooling systems as an offset to constructing new production, transmission and distribution facilities.

Proposed Resolution Concerning the Utilization of Funds
Rebated to States As A Result of Petroleum Company Overcharges.

WHEREAS, the federal government has a policy of investigating prices charged by major oil companies for petroleum products; and

WHEREAS, if it has been determined that overcharges have occurred and rebates should be made to the states; and

WHEREAS, such funds can best be used to assist those who are least able to afford high energy rates;

BE IT THEREBY RESOLVED that it is the intent of the Nevada Legislature that all money rebated to the State of Nevada should be used to provide assistance to low-income residents of the State. Such assistance shall be provided through State administered programs to provide direct grants to pay utility bills, and/or to improve the thermal efficiency of individual housing units.

Proposed Legislation Concerning Landlord
Disclosure of Utility Consumption Levels

Amendment to NRS 118A.2 Through 118A.300, Obligations of Landlord

1. For all dwelling units where the tenant is responsible for all or a portion of the charges for heat, hot water, electricity and water, the landlord, or any person authorized to enter into a rental agreement on his behalf, shall disclose to the tenant in writing at or before the commencement of tenancy:
 - a. The highest bill and consumption level of gas, electricity or other fuel and water where metered for the particular dwelling unit being rented for the previous twelve-month period, or
 - b. The average bill and consumption level for gas, electricity or other fuel and water where metered as available for all dwelling units in a complex of three or more units.
2. Compliance with the disclosure requirements under this section in no way constitutes an assurance or guarantee by the landlord that utility charges will not exceed those disclosed for the previous twelve-month period.
3. All suppliers of gas, electricity, or other fuels and water used for domestic purposes shall provide to a landlord upon request the information necessary to comply with the provisions of this section.

BEFORE THE PUBLIC SERVICE COMMISSION OF NEVADA

In the Matter of the ATTORNEY)
GENERAL'S OFFICE OF ADVOCATE FOR)
CUSTOMERS OF PUBLIC UTILITIES)
Petition for a Utility Ratepayers') Docket No.
Bill of Rights for Nevada Power)
Company and Sierra Pacific Power)
Company.)

PETITION FOR A UTILITY RATEPAYERS' BILL OF RIGHTS FOR NEVADA
POWER COMPANY & SIERRA PACIFIC POWER COMPANY

COMES NOW, THE ATTORNEY GENERAL'S OFFICE OF
ADVOCATE FOR CUSTOMERS OF PUBLIC UTILITIES, (OCA), and
respectfully requests the Public Service Commission of
Nevada, (PSCN), to hold a generic hearing on establishing a
Utility Ratepayers' Bill of Rights for Nevada Power Company
and Sierra Pacific Power Company, as specifically set forth
hereinafter:

1. OCA was created by the 1981 Session of the Nevada
Legislature to represent the interests of the
ratepayers of the State of Nevada, including the
ratepayers of Nevada Power Company.
2. OCA's mailing address is 1931 Sutro, Suite 207,
Reno, Nevada 89512.
3. This Petition is filed pursuant to Commission Rule
7.090 and NRS 704.183.
4. The OCA did attend and participate in a general
consumer meeting on February 11, 1983 at the Las
Vegas Convention Center where approximately three
hundred (300) consumers attended and some fifty
(50) consumers made statements and offered
information regarding their concerns with the
practices and procedures of Nevada Power Company
including but not limited to: deposits for new

1 service, terminations for non-payment, including
2 rights to waive termination if adverse health
3 effects would occur, arrangements for payment of
4 delinquent accounts, charges for meter tests, and
5 customer rights to informal and formal review of
6 disputes.

7 5. In addition to the February 11th meeting,
8 representatives of OCA have met individually with
9 a number of ratepayers of Nevada Power Company and
10 Sierra Pacific Power Company and processed
11 numerous customer complaints expressing various
12 specific concerns regarding the practices and
13 procedures of both utilities as specified in
14 number 5.

15 6. Based upon this meeting and numerous customer
16 complaints the OCA requests the Nevada Public
17 Service Commission to hold a generic hearing on
18 establishing for Nevada Power Company and Sierra
19 Pacific Power Company a Utility Ratepayers' Bill
20 of Rights which would include but not be limited
21 in scope to the following areas:

- 22 a. deposits for new service,
23 b. termination for non-payment including
24 rights to waive termination if adverse
25 health affects would occur and
26 arrangements for payment of delinquent
27 accounts
28 c. rights to a free meter test
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- d. customer rights to informal and formal review of disputes
- e. establishment of automatic credit billing in the instance of weather induced high bills
- f. distribution of a brochure annually to inform consumers of their rights

DATED: April 6, 1983

BRIAN MCKAY, Attorney General

JON WELLINGHOFF, Consumer Advocate

RECOMMENDATIONS FOR LONG-TERM SOLUTIONS
BY THE CONSUMER ADVOCATE FOR LEGISLATIVE AND REGULATORY CONSIDERATION

	<u>PROBLEM</u>	<u>SOLUTION</u>	<u>RECOMMENDATION</u>
OCA-8	Increasingly capital-intensive construction programs for generation facilities	Expand consideration and Development of viable, cost-effective supply options (long term)	Passage of SB 161
OCA-9	Poor thermal integrity and inefficient heating and cooling systems in newly constructed residential homes will cause high consumption in the future.	Require existing building code standards on thermal performance to be increased with more rigorous enforcement. Develop incentives to builders & consumers for the installation of efficient heating & cooling systems in new structures.	Possible letter or resolution to DOE encouraging stronger standards & more rigorous enforcement.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 161

SENATE BILL NO. 161—SENATORS MELLO, TOWNSEND, WILSON, HORN,
FOLEY, ROBINSON AND RAGGIO

FEBRUARY 16, 1983

Referred to Committee on Commerce and Labor

SUMMARY—Requires certain electric utilities to submit plans for their future resources and select the least costly. (BDR 58-576) .

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Effect less than \$2,000.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public utilities; requiring certain utilities which supply electricity to submit plans containing predictions of future demands for their services and appropriate measures for acquiring resources to meet or reduce those demands; requiring selection of resources which are the least costly; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Chapter 704 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

3 Sec. 2. *The application of sections 3 to 5, inclusive, of this act is*
4 *limited to any public utility in the business of supplying electricity*
5 *which has an annual operating revenue in this state of \$2,500,000 or*
6 *more.*

7 Sec. 3. 1. *A utility which supplies electricity in this state shall, on*
8 *or before January 31 and July 1 of 1984, and every 2 years thereafter,*
9 *submit a plan to increase its supply of electricity or decrease the*
10 *demands made on its system by its customers to the commission.*

11 2. *The commission shall, by regulation, prescribe the contents of*
12 *such a plan including, but not limited to, the methods or formulas*
13 *which are used by the utility to:*

14 (a) *Forecast the future demands; and*

15 (b) *Determine the best combination of sources of supply to meet the*
16 *demands or the best method to reduce them.*

1 *Sec. 4. 1. Ninety days or more after a utility has filed its plan,*
2 *the commission shall convene a public hearing on the adequacy of the*
3 *plan.*

4 *2. At the hearing any interested person may make comments to the*
5 *commission regarding the contents and adequacy of the plan.*

6 *3. After the hearing the commission shall determine whether:*

7 *(a) The utility's forecast requirements are based on substantially*
8 *accurate data and an adequate method of forecasting;*

9 *(b) The plan identifies and takes into account any present and pro-*
10 *jected reductions in the demand for energy which may result from*
11 *measures for conservation and management of loads in the industrial,*
12 *commercial, residential and energy producing sectors of the area being*
13 *served; and*

14 *(c) The utility's plan shows an adequate consideration of the follow-*
15 *ing possible measures and sources of supply:*

16 *(1) Conservation;*

17 *(2) Load management;*

18 *(3) Pooling of power;*

19 *(4) Purchases of power from neighboring states or countries;*

20 *(5) Facilities which operate on solar or geothermal energy or wind;*

21 *and*

22 *(6) Facilities which operate on the principle of cogeneration or*
23 *hydrogeneration.*

24 *Sec. 5. 1. Within 180 days after a utility has filed its plan, the*
25 *commission shall issue an order accepting the plan as filed or specify-*
26 *ing any portions of the plan which it deems to be inadequate.*

27 *2. The commission's acceptance of a utility's plan does not pre-*
28 *clude it from examining the prudence or reasonableness of the expen-*
29 *ditures made or the methods used by the utility to carry out that plan*
30 *at the time the utility submits an application for a permit to:*

31 *(a) Construct a facility; or*

32 *(b) Place a facility into its rate base.*

33 *Sec. 6. NRS 704.890 is hereby amended to read as follows:*

34 704.890 1. The commission shall render a decision upon the
35 record either granting or denying the application as filed, or granting
36 it upon such terms, conditions or modifications of the construction,
37 operation or maintenance of the utility facility as the commission may
38 deem appropriate. The commission may not grant a permit for the
39 construction, operation and maintenance of a utility facility, either as
40 proposed or as modified by the commission, unless it finds and
41 determines:

42 (i) The basis for the need of the facility;

43 (ii) The nature of the probable environmental impact;

44 (iii) That the facility represents the minimum adverse environmental

1 impact, considering the state of available technology and the nature
2 and economics of the various alternatives, and other pertinent consid-
3 erations;

4 (d) That the location of the facility as proposed conforms to applica-
5 ble state and local laws and regulations issued thereunder; [and]

6 (e) That the facility will serve the public interest [.]; and

7 (f) *That if the facility or a part thereof is intended to meet the*
8 *requirements of customers in this state for electricity, it is included in*
9 *the utility's plan to increase its supply of electricity or decrease the*
10 *demands made on its system by its customers and that the utility's use*
11 *of the facility to meet the requirements for energy within this state is*
12 *the least expensive method of providing services or is supported by*
13 *other prudent policies.*

14 2. If the commission determines that the location of all or a part of
15 the proposed facility should be modified, it may condition its permit
16 upon such a modification.

17 3. A copy of the order and any opinion issued [therewith shall]
18 *with it must* be served upon each party.

PROPOSED LEGISLATION RESTRICTING THE INSTALLATION
OF ELECTRIC RESISTANCE HEATING SYSTEMS

The energy conservation standards for new building construction shall be amended to include provisions for restricting the installation of electric heating systems. The restriction against the installation of electric resistance heaters shall not be applied when:

1. The resistance heating system is being used to supplement a primary alternative energy system.
2. Prohibiting the use of electric resistance heating systems would not promote energy conservation.
3. Non-electric resistance heating systems are not a practical alternative to electric resistance heating systems.

Proposed Legislation Providing Incentives for
Alternative Space Conditioning systems

The Public Service Commission shall, within 90 days of the effective date of this Act, convene hearings on the feasibility of requiring regulated electric utilities in this State to provide incentives to builders of new residential housing units to install energy efficient space conditioning systems which will be an alternative to electric resistance heating systems. The Commission shall investigate the cost effectiveness and feasibility of requiring utilities to offer incentives for the purchase and installation of space conditioning systems other than electric resistance which will help the utility avoid construction of new generating facilities. If the Commission determines that such an incentive program will significantly offset the need for additional electric generating facilities, it shall order a program of implementation.

APPENDIX D

- D-2. Response to April 1, 1983, Letter, Received from
Thelma Clark, Las Vegas, Nevada.

Portions of a telephone conversation between Ms. Thelma Clark of Las Vegas and Lyndl Payne, administrative secretary, research division, legislative counsel bureau, on April 6, 1983.

This is Thelma Clark, 2038 Palm Street, Space 253, Las Vegas, Nevada 89104. My phone number is 457-4597.

This is in answer to your request of April 1, 1983, for a list of recommendations which I would like the committee to study.

Abolish fixed terms for members of the public service commission.

Terminate current terms of the public service commission.

Give the new commissioners a 3 month period in office before they may hold any rate hearings. This will help them to get their feet on the ground and get a good prospective of the job ahead.

Make the public service commission a five-member commission to serve at the pleasure of the governor.

The governor may not replace more than three commissioners in any one year.

There must be a majority present to do any business of the commission including public hearings.

The public service commission should be required to take complaints about utilities and act on them within 30 days. No more procrastinating.

Require public service commission to hold any hearings pertaining to any utilities in the affected geographical area.

The public service commission must require utilities to refund all overcharges by utilities within 30 days after an obvious overcharge. The obvious overcharge could be arrived at by checking past bills.

Get a computer printout of all stockholders in the utility company, not just the eight or 10 large corporations in the East that tell the utilities what to do...but a list of every individual stockholder. Then see if they are related to any members of the PSC or their families.

Require PSC to provide a mailing list of agendas and hearings to persons who request them.

Require PSC to change rule 17 of Nevada Power tariff. This is the \$5 meter testing charge. I feel I should not pay to test Nevada Power equipment.

Can the weights and measure division of the State of Nevada test meters instead having the utility test their own equipment?

Request a lower rate for low-income seniors and low-income handicapped persons.

Oregon State has only one public service commissioner. Compare decision on ratemaking to Nevada's.

Statement read by Thelma Clark, 2038 Palm Street, Space 253, Las Vegas, Nevada 89104 from Ms. Wilma Rogers, 7626 West Lone Mountain Road, Las Vegas, Nevada 89129. Telephone 645-1716.

Investigate why bottle gas is so expensive in the Las Vegas area. Pahrump Valley is 88 cents. We pay \$1.10. Is there some possibility of any control?

- - -

Statement read by Thelma Clark, 2038 Palm Street, Space 253, Las Vegas, Nevada 89104 from Ouida B. Garmany, 204 North 19th Street, Las Vegas, Nevada 89101. Telephone 382-8334.

The rate of profit for Nevada Power is too high. Out of all reason. The PSC needs people who are responsive to all of the public needs. The old public service commissioners need to be replaced. Rules should be made that the commission is to answer for their reasoning.

- - -

Continuing, Ms. Clark said regarding the computer printout:

They'll send you a list of eight or 10 eastern companies, big corporations, and that's all they'll give you, but there thousands of small utility stockholders in Nevada.

Got this information before the government affairs committee and suggest Don Rhodes pull the minutes for A.B. 285 and 283 (last week) and review the testimony of Mr. Adamson of C.A.R.E. as well as her own.

Ms. Clark indicated she had told the committee about how they had treated her when she asked them to test her meter. She had to go to the governor's office. Finally she was contacted by the PSC (in August of 1981).

APPENDIX D

- D-3. Response to April 1, 1983, Letter, Received from Nevada Department of Energy.



RICHARD H. BRYAN
GOVERNOR

JAMES I. BARNES
DIRECTOR

STATE OF NEVADA
DEPARTMENT OF ENERGY
400 W. KING STREET, ROOM 106
CARSON CITY, NEVADA 89710
(702) 885-5157

DIVISIONS
CONSERVATION AND PLANNING
RESEARCH AND DEVELOPMENT

April 6, 1983

Donald A. Rhodes, Research Director
Legislative Counsel Bureau
Legislative Building
Carson City, Nevada 89710

RE: Committee To Study Utility Rates

Dear Mr. Rhodes:

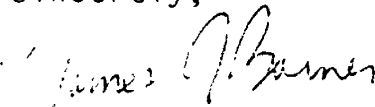
Thank you for soliciting my department's recommendations concerning the Committee to Study the Rates Charged by Public Utilities.

I will confine my recommendation to the area of utility resource planning, as my department maintains a degree of expertise in this field.

- 1) Utilities should be required to include conservation, load management, and the use of renewable resources to the highest extent possible when considering different resource options in providing the least costly service to consumers. These options could be most effective in deferring the need for expensive, capital-intensive generating plants.
- 2) A Conservation, Load Management and Renewable Resources Committee should be formed with representatives from Nevada's major utilities, the Nevada Department of Energy, the Office of the Consumer Advocate, and the Public Service Commission. This committee's charge would be to review and, as appropriate, concur or refuse to concur with the utilities' resource plan.

Once again, thank you for including my department's concerns.

Sincerely,


James I. Barnes
Director

JIB:STM:sk

APPENDIX D

- D-4. Response to April 1, 1983, Letter, Received from Nevada Power Company.

RECOMMENDATIONS OF NEVADA POWER COMPANY
FOR LEGISLATION BEFORE THE COMMITTEE TO
STUDY RATES CHARGED BY PUBLIC UTILITIES

At the request of the Joint Legislative Committee, Nevada Power Company offers the following recommendations for committee consideration and action.

Short Term Considerations:

1. Adopt legislation which authorizes lower winter electric rates for residential customers.
2. Establish uniformity of local franchise taxes at the lowest rate of any municipal entity in the utility's service area.
3. Amend NRS 704.033 to eliminate duplication of millage taxes imposed on electric customers. At present, electric utility customers are assessed a millage tax on gas purchased for generation and again assessed a millage tax on the same energy when it is converted to electricity.
4. Adopt legislation which effectively prohibits in new residential construction the use of resistance heating as the primary source of heat in residential developments.
5. Exempt insulation and other weatherization improvements from sales tax.
6. Exempt coal purchased for electric generation from sales and use taxes.

Long Term:

1. Support the adoption of S.B. 161 Resource Planning Act.
2. Adopt legislation to create a committee composed of representatives of Consumers, Utilities, and Government to study and implement a program to weatherize and retro-fit existing residences with energy efficient heating and cooling systems.
3. Require local building construction codes to embody greater insulation standards and other conservation measures.
4. To adopt and forward to Congress a statement requesting the repeal of the Public Utility Regulatory Policy Act of 1978 (PURPA) and leaving such duties up to the States to implement.

4/5/03

Item # 3

Recommendations of Nevada House C

704.033 Annual assessments on public utilities; limitations on assessments.

1. The commission shall levy and collect an annual assessment from all public utilities subject to the jurisdiction of the commission.
2. Except as otherwise provided in subsection 3, the annual assessment must be:
 - (a) For the use of the commission, not more than 3.50 mills; and
 - (b) For the use of the consumer's advocate, 0.75 mills,
on each dollar of gross operating revenue derived from the intrastate operations of such utilities in the State of Nevada, except that the minimum assessment in any 1 year must be \$10. The total annual assessment must be not more than 4.25 mills.
3. For railroads the total annual assessment must be the amount levied for the use of the commission pursuant to paragraph (a) of subsection 2. The levy for the use of the consumer's advocate must not be assessed against railroads.
4. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:
 - (a) Telephone utilities, such revenue shall be deemed to be local service revenues plus intrastate toll revenues.
 - (b) Railroads, such revenues shall be deemed to be revenue received only from freight and passenger intrastate movements.
 - (c) All public utilities, such revenue does not include the proceeds of any commodity, or energy, including energy to be changed to a different form, or service to another public utility for resale.

APPENDIX D

- D-5. Response to April 1, 1983, Letter, Received from Orland
T. Outland, Reno, Nevada.

ORLAND T OUTLAND

6 April 1983

2675 Valmar Place, Reno, Nevada 89503, Phone (702) 747-3163

Donald A. Rhodes, Research Director
State of Nevada
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

re: Committee to Study the
Rates Charged by Public
Utilities (S.C.R. 7)

Dear Mr. Rhodes,

Thank you very much for your letter of April 1st allowing me the opportunity to submit additional information to the committee. I offer the following recommendations and comments for consideration:

RECOMMENDATIONS:

1. Integral to the application of any utility for capital plant expansion should be documented justification as to why leased utilization of other utility plants within the region of operation is infeasible.

COMMENT: Expanded plant capacity imbeds a charge to the ratepayer. As alternate sources of energy are developed, more consumers, both commercial and residential, will be reducing, or eliminating, the use of energy supplied by a central utility (CU). As the usage through the CU drops, the charge to the remaining on-line consumers will inflate. Further, the functions of regional coordinating councils are to:

- >Coordinate planning and/or operation of power resources.
- >Coordinate planning and/or operation of transmission facilities.
- >Encourage joint construction projects.

Transmission lines, jointly developed by a number of regional utilities, from the under-utilized hydroelectric plants in the Pacific Northwest would better serve all concerned than separate plant expansion by each utility. Efficient utilization of contemporary plant capacity better serves both the ratepayer and the stockholder

2. Statutorily, applications for rate increases should be based on a retrospective and not a prospective test year.

COMMENT: Retrospective data shows actual costs. Prospective data may 'load' excessive inflationary projections, especially when bridging from one economic cycle to another; it may 'load' future demand forecasts far greater than reality achieves (e.g., the Disney complex never materialized at Independence Lake, yet once was listed as a prospective demand load). Prospective data developed by a utility would be next to impossible to be challenged by consumer intervenors whereas retrospective data can be verified.

3. Statutorily, Construction Works in Progress (CWIP) should be denied inclusion in any rate base.

COMMENT: It is not the function of the ratepayer to underwrite in any manner, at any stage of development, new capital plant expansion. What often is overlooked is that the current ratepayer has existing plant capacity satisfying his needs; expansion is primarily to service new ratepayers not yet on-line, and the stockholders. The current ratepayer is forced to pay a premium a service capacity already in place when new plant is developed and brought on-line for an expanded consumer base as the new plant is included in the rate base for all, forcing existing consumers to pay more in order that the company may add additional consumers. Ideally, instead of adding new construction to an old rate base, the new construction should be 'loaded' only to the new consumers, but practicality precludes this. Further, the existing consumer has no assurance he will receive any benefit from new construction as by the time new plant comes on-line the current ratepayer may no longer be living or be in business in the utility's service area. CWIP in the rate base also reduces the demand on management to hold down expansion costs.

4. Statutory authority should be established or strengthened to allow the Public Service Commission to void contracts to which a utility is a party that would force an increase in rates beyond what are 'just and reasonable.'

COMMENT: Fuel adjustment costs and increases in costs from suppliers can force 'pass-along' charges to the ratepayer that are beyond the realm of 'just and reasonable' without the utility being forced to inhibit such increases. In a 'pass-along' situation, the utility serves merely as a conduit of collection for increased costs without being forced to exert some pressure to reduce or eliminate such increased costs. The U. S. Supreme Court has ruled that when a rate is not just and reasonable it is at that time unlawful. When utility rates exceed mortgage payments (when expenses exceed capital investment) it seems a prima facie case has been made for determining rates are unjust and unreasonable and should be declared unlawful and void, as should any contracts which bear on forcing such unjust and unreasonable rates.

4. Disallow as a cost of service any expenses for 'public service' activities that go beyond advice on conservation and safety and which tend to propagandize the ratepayer and the general public. Of special attention should be an effort on the part of a utility to include any direct or indirect expenses for political action activities ranging from advice on lobbying techniques to the support or creation of political action committees, as well as a prohibition

TO: Donald R. Rhodes, re: S.C.R. 7

6 Apr 83

From: O. T. Outland

Page 3

against campaign contributions; a regulated agency should not be in a position to determine who its regulators should be.

5. All securities, whether bonds or stocks, should be issued only in the natural name of the beneficial owner. Mutual funds and institutions trading for their own accounts would be listed by their own corporate name, but securities issued to trust or nominee accounts would have to be issued in the natural name of the beneficial owner.
6. Any utility conducting non-utility enterprises should be forced to establish separate subsidiaries for them. Totally separate accounting, including separate allocation of equity shares (stocks and bonds) should be created for them. Any assets accrued historically through utility operations, directly or indirectly, by purchase or contribution, should have any revenues generated from them, either through operations or by sale, credited to the lowering of rates.
7. Presentation before any public body by a utility, its surrogates, or witnesses should be under oath with penalty of perjury.
8. Require any witness appearing in behalf of a utility to declare past, present, and probable future beneficial interests of the witness, associates, or employer in the utility.

COMMENT: Witnesses have appeared on behalf of utilities without revealing direct or indirect financial benefits from services for or interests in a utility.

Other, more technical matters, I trust will be addressed by the state consumer advocate.

I invite the committee to review my remarks before the Legislative Commission Subcommittee to Study the Public Service Commission (A.C.R. 22) made on 22 June 1980, as well as the remarks I attached thereto relating to Docket Numbers 732 and 2151.

I believe utilities across the country are propagandizing for rates of return incommensurate with the types of investment and risks attached.

A point to be remembered: Any plant expansion in an inflationary period will have imbedded in it certain inflated costs that must be borne over the depreciable cycle of the plant. As an economy improves, and inflation subsides, the ratepayer will still be burdened with the exceptional cost of amortizing the debt of that plant at inflated rates; in other words, the ratepayer will not be able to find relief in the short-term, but must bear the inflated depreciation costs for years to come. This is another reason requests for capital expansion must be reviewed intensely.

Very truly yours,


Orland T. Outland

ORLAND T OUTLAND

7 April 1983

2675 Valmar Place, Reno, Nevada 89503, Phone (702) 747-3163

Donald A. Rhodes, Research Director
State of Nevada Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Rhodes,

If they have not already come to your attention, the enclosed news clippings may be of some interest to you. I am sending them to you as an extension of the letter I sent you yesterday.

The application of the doctrine of force majeure by at least one company attempting to deal with the high cost of natural gas seems to support my contention some contracts may be voidable through the application of the 'just and reasonable' discussion in the U.S. Supreme Court decision in the Hope Natural Gas case (30 U.S. 591) which I referred to in my remarks in Docket 2151.

Very truly yours,


Orland T Outland

News clippings (4)

Keeping Utility Bills Under Control

Fuel Costs Soar, but Those and Other Expenses Can Be Curbed

By DAN RICHARD JR.

Are utility rates really out of control, or can something be done about higher bills? For several years, utility companies and their regulators have insisted that higher bills are inevitable because the cost of oil and gas fuels has skyrocketed.

Certainly, the oil cartel is to blame for higher fuel-oil prices. We can point the finger at Canadian natural-gas producers for their exorbitant charges. We can and should object to policies of federal bureaucrats who have lavished incredible windfalls on gas producers and pipeline companies at the expense of California consumers.

Yet it is wrong to claim that all rate increases are inevitable. The utilities and the California Public Utilities Commission have failed to save the ratepayers huge sums in utility fuel and construction costs. Nor is the regulatory system pushing utilities to run at maximum efficiency, or encouraging long-term investments that could limit future rate increases.

Ratepayers must bear some of the risks of utility operations, particularly in times of unstable energy prices. In return, however, they must be assured that the system will not simply pass through huge expenses that could have been controlled.

Take fuel costs. Much of California's electrical-generation system runs on oil and gas, and was built when these fuels were quite cheap. Today, however, more than 60% of your electric bill and 90% of your natural-gas bill goes to pay for fuel. Southern California Edison Co., for example, spent almost \$2 billion on fuel last year—a cost that was passed on to its customers.

Fuel consumption can be reduced, at a saving of hundreds of millions of dollars a year. For example, utilities should be spending more money on energy efficiency to reduce their fuel needs. Investments in residential and commercial conservation measures can provide energy at one-third the cost of burning oil or gas. But it takes a certain amount of courage on the part of the

PUC to authorize these expenses at a time when utility bills are rising.

Electric utilities could save ratepayers as much as \$500 million in some years by constructing new transmission lines to other regions. In the Pacific Northwest, a surplus of cheap hydroelectric power is available at certain times of the year at 10% to 20% of the price that California utilities now pay for electricity from oil and gas. Yet our utilities have been unwilling to ask shareholders to underwrite the cost of such lines.

Utilities could save money and fuel by making existing power plants more reliable. Some plants are out of service for long periods. The utility must then provide replacement power, usually from far costlier sources. Better maintenance practices and more careful selection of equipment could keep these plants running, provide more electricity and save money.

Instead of encouraging utilities to invest in long-term fuel-saving measures, the PUC has allowed them to pass along billions in fuel charges almost routinely. The PUC deliberately limits its annual review of the reasonableness of fuel expenses, and doesn't compare the cost of buying more fuel with investments in fuel-saving opportunities.

This cursory treatment of fuel expenses was designed to help utilities avoid cash-flow problems and shield them from large swings in fuel prices. This has contributed to the financial health of California's power companies. But even the PUC now admits that this process has placed virtually all risk of utility-fuel expense on ratepayers.

Nor has the commission provided adequate controls on construction costs. This year, the PUC must decide how much to charge ratepayers for five new power plants (Diablo Canyon 1 & 2, San Onofre 2 & 3 and the Helms Pumped Storage Project) that cost a total of \$7 billion. More than half this amount is attributable to accumulated cost overruns. But the PUC can't determine which of these costs were reasonable and

justified, because it exercised no control over construction of the plants. That is the conclusion that the state's auditor general reached last August in a report dealing with Pacific Gas & Electric Co.'s Helms project.

At the root of this problem is the PUC's philosophy of regulation—to give wide berth to prerogatives of utility management, with the commission's role restricted to after-the-fact review. Often, this means that utilities spend hundreds of millions of dollars on construction costs, fuel contracts and so forth before the PUC determines whether the expenditures were prudent. At that point, the commission can't disallow these sums without risking serious financial injury to the companies.

A new approach is needed. First, the commission must propose a comprehensive overhaul of its procedures for dealing with fuel costs. Tinkering with modest incentives, as it has recently done, is not enough. The commission could start by consolidating the dozens of annual rate proceedings that it holds for each utility into a thorough review of utility cost and investment strategies.

Next, the commission must impose controls on future construction projects and find an equitable way to evaluate the new plants about to come into service. If those units prove unreliable, the ratepayers must be protected from paying for the plants and the high cost of fuel used for backup power.

Finally, the PUC should reassert itself in actively regulating the utilities, and provide firm guidance in advance.

Rising electricity and gas rates have caused genuine hardships. We cannot avoid higher rates altogether, but we can do a lot to keep utility bills under control.

Dan Richard Jr. was an adviser to the chairman of the California Energy Commission and deputy legal secretary to former Gov. Edmund G. Brown Jr. Brown named him to the Public Utilities Commission, but the state Senate did not confirm his nomination.

Natural-Gas Price Likely to Be Main Topic As U.S., Canadian Energy Officials Meet

By FREDERICK ROSE

Staff Reporter of THE WALL STREET JOURNAL

OTTAWA—Donald Hodel, U.S. energy secretary, and his Canadian counterpart, Jean Chretien, meet this week in Washington amid growing speculation that Canada will soon lower its government-administered price for natural gas shipped to the U.S.

The officials are expected to discuss the uncertain outlook for natural-gas markets in the U.S. and Canada's place as a supplier. The Wednesday meeting will be the first for Mr. Hodel and Mr. Chretien, and the two men aren't likely to emerge with any specific agreement.

But, if all goes well, the meeting and Mr. Chretien's subsequent talks with congressional leaders may be the last step before Canada makes a long-awaited announcement that it will ease its terms for natural-gas exports.

Mr. Chretien last week told a committee of the Canadian parliament that he expected "within a couple of weeks" to have a policy offering increased "flexibility" on export pricing. He declined at the time to elaborate. There is speculation that an announcement could come as soon as next Monday, when Mr. Chretien is scheduled to make a speech in Calgary, the center of Canada's oil and gas industry.

Analysts suggest that Canada may reduce by about 50 cents its current price of \$4.94 (U.S.) per 1,000 cubic feet for gas delivered at the U.S.-Canada border. Further discounts of as much as \$1 per 1,000 cubic feet would be offered on the portion of gas purchases that exceeds 50% of volume committed under long-term contracts. Canadian officials don't deny that such an arrangement is being considered. Canada currently doesn't offer volume discounts; the \$4.94 price applies to all exported gas.

Mr. Chretien's Washington visit is seen as an opportunity to sound out U.S. officials and legislators about acceptable changes to

the Canadian gas-export charge and to compare the U.S. view with a "consensus" that Mr. Chretien said last week was emerging in Canada.

The pricing problem is a difficult one. Although it accounts for only about 4% of total U.S. consumption, Canadian gas is priced substantially above most U.S. supplies, thus boosting the average gas cost for pipeline companies and utilities using Canadian imports. Long-term contracts bind many U.S. purchasers to buy substantial amounts of Canadian gas despite its high price.

Still, U.S. gas purchases from Canada have declined measurably in recent years, dropping to 784 billion cubic feet last year from 994 billion cubic feet in 1979. The problem appears to be worsening. A growing surplus of U.S. gas supplies has coupled with falling oil prices to depress natural-gas price levels. In addition, moves toward price deregulation in U.S. markets threaten to make Canadian gas even less attractive.

The effect of Canada's gas price on utilities in the U.S. West and Midwest has sparked considerable political pressure in Congress and prompted the Reagan administration to urge Canada to change its pricing arrangement. While the administration has said it would prefer Canada to negotiate individual contracts between Canadian sellers and U.S. buyers, it apparently is willing to accept more modest Canadian changes, such as a lower price and a discount system.

Congressional acceptance of whatever new price Canada sets may be more difficult. "That's the \$64 question," says a U.S. official. Legislation has been proposed that would bar certain Canadian contract requirements and otherwise ease the contractual obligation of U.S. buyers of Canadian gas. Mr. Chretien will be meeting with some congressional critics of Canadian gas pricing.

A commercial risk is also present, say

analysts. A new Canadian price possibly won't be low enough to prevent Canada's loss of market share. Buyers may hold out, hoping for a still lower price.

"Once Canada lets go of that \$4.94 price, it's really moving into uncharted waters," a U.S. official said. He added that political and economic forces make it unthinkable for Canada to stick to the price that it set two years ago in a far more bullish market for natural gas.

Power of Pipelines to Bargain for Gas, Pass on Costs Is Targeted by Congress

By WALL STREET JOURNAL Staff Reporter

WASHINGTON—After a winter of steep price increases for natural gas, Congress is taking aim at the power of gas pipelines to bargain for gas and pass on costs to consumers.

Such legislation could vastly change the way municipalities and manufacturers buy gas. It could lead to direct negotiations between consumers in the Northeast and producers in Texas, Louisiana and Oklahoma, eliminating the pipelines in the talks. Or it could limit the ability of pipelines to pass high-priced gas costs through to their customers and increase the power of the Federal Energy Regulatory Commission to review the "prudence" of pipelines' gas-purchase agreements.

The gas pipelines have been responding to the pressure by renegotiating an increasing number of expensive contracts and by reducing their obligations to buy gas that they are unable to sell. Columbia Gas System Inc.'s exercise of force majeure this week to escape purchase obligations is the latest in a series of contract changes made since January throughout the industry. Force majeure excuses a contractor because of factors beyond its control.

Making the Best Deals

The proposals under consideration in Washington reflect widespread distrust of gas pipelines' ability to make the best deals for supplying gas to industry and homeowners.

"People here are concerned about pipeline accountability," Rep. Philip R. Sharp (D., Ind.) warned representatives of gas pipelines in hearings here last month. If pipelines want to avoid stricter controls, Rep. Sharp said, "it behooves you to provide proposals that would reassure members of Congress that pipelines will make the best deals for consumers."

Columbia Gas Transmission Corp.'s exercise of force majeure follows its own and others' recent efforts to reduce obligations to buy expensive natural gas. The company is the interstate transmission unit of Columbia Gas System.

In February, United Gas Pipeline Co. exercised "market out" clauses in 1,250 contracts and rolled back prices paid for gas. United Gas set a new ceiling of \$4.50 a thousand cubic feet for deep gas, which is decontrolled and which has cost some pipelines as much as \$9 a thousand cubic feet. Last August United Gas had rolled back ceiling prices to \$5.73 a thousand cubic feet. In February United Gas also set a ceiling price of \$3.44 for all other categories of natural gas including tight sand gas, a type that could legally be priced as high as \$5.44.

In January, four other pipelines rolled back prices. One, El Paso Co., announced to producers that in the future it would "manage... supplies so as to minimize purchase gas costs during a given period."

A Sharp Departure

Such a policy represents a sharp departure from the past winter, when pipelines fulfilled obligations to buy expensive gas even if it meant leaving cheaper gas in the ground under more flexible contracts. El

Paso paid its own producing subsidiary as much as \$10.35 a thousand cubic feet for gas this winter—more than twice the price for an equivalent amount of oil—while turning away \$2-to-\$3 gas in the San Juan Basin of New Mexico.

Gas pipelines also have been worried by a February ruling by an FERC administrative law judge against Columbia Gas Transmission that found some of its purchase practices to be in violation of the "fraud, abuse or similar grounds" standard set by the Natural Gas Policy Act of 1978.

The ruling opened up the possibility that pipelines' requests to pass through costs would be rejected more readily.

One of the proposals before Congress would make such rulings even easier. It would include "prudence" as a standard in addition to "fraud, abuse or similar grounds."

Another proposal would limit pipelines' "purchase gas adjustments" to pass high gas costs through to consumers. Anything beyond an inflationary adjustment would require a special FERC hearing, under the proposed Reagan administration bill.

Pipelines argue such a law would cripple pipelines' ability to bid for the quantities of gas needed to fulfill consumers' demands, kill incentives for exploration, and overload

the FERC with applications for special hearings.

"Because of the decline occurring in older, cheaper gas supplies, the pipelines constantly must replenish with newer, costlier supplies," said Jerome J. McGrath, president of the Interstate Natural Gas Association of America, an association of interstate pipelines. He said the pass-through restrictions "aren't realistic. Sure, we've made some dumb decisions." Mr. McGrath told legislators last month, "but gas is still the cheapest source of energy."

A third proposal would make pipelines

common carriers or contract carriers, opening up negotiations between producers and major consumers directly, eliminating the pipelines from the talks but forcing them to carry the gas agreed upon by the other parties.

Producers and some consumers say common-carrier legislation would introduce more competition into gas purchases. Pipelines they say, are currently monopoly buyers from gas producers who often have access to only one pipeline, and are monopoly sellers of gas to manufacturers and homeowners who also have access to only

one pipeline. Common-carrier legislation would force pipelines to trade gas and carry "packets" of gas between customers and producers in different parts of the country.

The measure is extremely popular among small producers who were shut in by pipelines and who believe they sell gas cheaply enough to market independently and undercut bigger producers and contracts currently held by the pipelines. The producers argue it will help consumers too.

Some consumer and utilities groups have argued, however, that such a measure could

heap pipelines' fixed costs on a smaller number of consumers—mostly homeowners—who aren't big enough to bargain independently for gas supplies with producers. "It sounds real good but I'm not too enamored with the idea," said Ed Rothschild of Citizen Labor Energy Coalition.

But the chairman of the Illinois Commerce Commission, Philip R. O'Connor, told legislators that a common-carrier bill could lower consumer gas bills "as much as 25%."

All the proposals are still in subcommittees of the House and Senate and it isn't clear whether action will come soon.

LA TIMES P 6 1 P 7 IV APR 6, 1983

East Coast Natural Gas Firm Will Cut Purchases in Half

By KAREN TUMULTY, Times Staff Writer

A major East Coast natural gas pipeline firm has taken the strongest action yet in the industry's struggle to cut back on costly excess supplies of gas, and the move could trigger similar actions by other pipelines, industry officials and analysts said Tuesday.

Columbia Transmission Corp., which has been under criticism by federal regulators for its gas-purchasing practices, told natural gas producers on Monday that it will take only half its normal deliveries, despite "take-or-pay" provisions in their contracts that require the pipeline to purchase a much higher minimum amount.

The firm, which is a subsidiary of Wilmington, Del.-based Columbia Gas System Inc., invoked *force majeure* clauses, under which it claims that forces it cannot control have made it impossible for the firm to abide by the take-or-pay provisions. In this case, Columbia cited a warmer-than-usual winter and a slumping economy.

"There was no place to put the gas," said Columbia spokesman Bruce Quayle.

Columbia, one of the nation's largest interstate pipelines, also told producers that the prices it will pay for gas will be tied to prevailing prices for No. 2 fuel oil, an alternative fuel to which many of its

Please see PURCHASES, Page 2

PURCHASES

Continued from First Page

largest customers are likely to switch when natural gas prices rise too high.

The company said its actions could lower its natural gas rates by more than 5%.

Industry sources said gas producers are likely to challenge Columbia's stand, and that the result may become a significant precedent at a time when skyrocketing gas prices are drawing fire from consumers, utilities and government officials. If Columbia prevails, they said, other pipelines are likely to invoke similar clauses against the producers from whom they buy. Further, analysts said, regulators are likely to encourage such actions as a means of lowering residential gas bills.

"If it works as a legal tactic, it could be very powerful for the gas pipelines," said one analyst, who asked not to be identified.

Bruce Marshall, a spokesman for Southern California Gas Co., said that the Los Angeles-based utility and its suppliers are not likely to take so dramatic a step in the near future.

"We're not to the point where we need to go to this drastic situation," Marshall said. "This (Columbia's move) is like the last straw."

Many pipeline firms, however, have been quietly pressuring gas producers to renegotiate the take-or-pay provisions, which typically cover between 80% and 100% of the natural gas purchased under recent contracts. In recent months, a number of them also have invoked "market out" escape clauses of their contracts, under which they can refuse to purchase gas priced at levels higher than what the market will bear.

APPENDIX D

- D-6. Response to April 1, 1983, Letter, Received from the Public Service Commission of Nevada.



PUBLIC SERVICE COMMISSION

STATE OF NEVADA

April 6, 1983

Address all communications to the Commission
Telephone (702) 385-4180

KINKEAD BUILDING
505 E. KING STREET
CARSON CITY, NEVADA 89710

Senator Floyd Lamb
Chairman, Special Committee
to Investigate Utility Rates
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Re: April 1 Request for Recommendations
to SCR 7 Committee

Dear Senator Lamb:

Before the SCR 7 Committee addresses the question of what action it should take in response to "high utility bills," it should first satisfy itself that it understands the problem. Although Committee members have asserted their objectivity and open-mindedness, it is not clear that the majority of members have listened to the expert witnesses appearing before them. This perception results from the Committee's refusal to request information from the experts at the Public Service Commission, and its refusal to hear their comments when offered.

Utility regulation is a complex matter, not only from a technical standpoint, but also from a social standpoint. From the Committee's point of view, the real issues ought not to be the technical questions of what rate of return was granted to Nevada Power Company two years ago, whether Southwest Gas should decorate its offices, or, even, whether Sierra Pacific should delay or accelerate Valmy II. While those issues are politically attractive, each has undergone or, as in the case of Valmy II, is continually undergoing thorough study by the Public Service Commission and its staff, the Consumer's Advocate, the utilities and the courts. And, despite rhetoric to the contrary, the positions of the parties on those issues are really not very far apart - certainly, not far enough apart to affect rates in any significant way.

The real issues that ought to be addressed by the Committee are the social energy issues:

1. Should current ratepayers pay for construction programs or conservation programs which raise rates in the short term but may decrease rates over the long term?

2. Should residential ratepayers continue to receive subsidies from industrial and commercial ratepayers through imposition of rate structures which are biased toward residential customers?
3. How should the energy requirements of the truly needy be satisfied?

These are questions that should be addressed. They are difficult and require soul-searching. Hip-shooting answers such as, "Make the utility shareholders pay," won't do. In order to make stockholders pay, the authorized rate of return must be reduced to a point so low as to be confiscatory, or an income tax on the dividends that they receive must be imposed. In either event, the cost of money would, through market forces or court action, quickly rise back to the point where ratepayers are actually carrying the burden of the programs supposedly being paid for by stockholders.

Finally, it must be reiterated that as long as utilities continue to generate electricity with fossil fuels, and as long as utilities are faced with commercial, industrial and residential growth, rates will not decrease, no matter how much anyone conserves or how much "fat" is trimmed from operations. And, in any area which has summer temperatures of up to 115° or has below-freezing winter temperatures, bills will be seasonably high.

The Public Service Commission and its staff comprise many diverse viewpoints and areas of expertise which should be considered when addressing these very difficult questions. We, frankly, do not have all the answers; however, we are willing to do our best to assist the SCR 7 Committee or anyone else in an attempt to find the answers.

Sincerely yours,

PUBLIC SERVICE COMMISSION OF NEVADA



R. C. BOS, Chairman

RCB:JLC:ctf

APPENDIX D

- D-7. Response to April 1, 1983, Letter, Received from Sierra Pacific Power Company.

Sierra Pacific Power Company

JOE L. GREMBAN
President

April 8, 1983

Mr. Donald A. Rhodes
Research Director
Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Dear Mr. Rhodes:

As requested in your letter of April 1, I am enclosing a copy of our recommendations for the committee studying utilities pursuant to SCR 7.

The recommendations also summarize the cost benefits in dollars to the consumer.

Sincerely,

Joe L. Gremban
Joe L. Gremban

JLG/lb

Enclosure



SIERRA PACIFIC POWER COMPANY'S RESPONSES
TO THE THREE (3) QUESTIONS ASKED IN THE
LETTER OF DONALD A. RHODES, RESEARCH
DIRECTOR, DATED APRIL 1, 1983, AND
ADDITIONAL COMMENTS FOR THE COMMITTEE'S REVIEW

I. RESPONSES TO THE THREE STUDY AREAS:

1. To what extent are the expenses allowed in determining rates really necessary for the services provided?

As this committee well knows "expenses" or costs to serve our customers, as referred to in determining rates are usually categorized into four (4) basic categories:

- (a). Cost of money.
- (b). Depreciation.
- (c). Taxes.
- (d). Operation and maintenance.

The above referenced expenses are necessary items that are generally well scrutinized by the Commission staff, the intervenors' experts, the utilities' outside auditors and the Consumer Advocate's technical experts. It is seldom that an expense item is found not to be justified. In the event that the Utility is denied the recovery of an expense item, it is usually a "close - call decision" to disallow it. Such a disallowance may well become an issue for judicial or appellate review. Therefore, it is without question that the expense recovery requested by the Utility must be handled on a case by case basis as pointed out by Southwest Gas Corporation. Further-

more, there is nothing controversial about the overwhelming majority of operating expenses because the "uniform systems of accounts" prescribed by the Federal Energy Regulatory Commission (formerly FPC) and known as the "FPC, Uniform System of Accounts prescribed for Public Utilities and Licenses (1965) and amendments" thereto have been adopted by the state regulators having jurisdiction. The Nevada Commission has adopted the "uniform system of accounts" which specifies the items to which various outlays (expenses) are chargeable. All expense items are, of course, subject to regulatory check and to examination by independent public accountants. Intelligent, self-interest and supervised accounting and auditing do not allow for extravagant or uncommon expenditures. Therefore, it is only too clear that the expenses allowed in determining rates are really necessary for the utility services provided.

2. Whether there is a present need for additional capital which justifies the high rate of return on the capital presently invested?

The question lacks in fairness and is indeed incomplete. It can only be answered by looking at the complete picture of what factors must be considered in establishing a reasonable rate of return and it is not entirely predicated on a "present need for additional capital."

The Committee must keep in mind that in establishing a reasonable rate of return the seasoned regulator must look at many factors, in conjunction with rate base, in order to produce fair earnings for the Utility, those factors are much broader than the need for additional capital and set forth as follows:

1. Basic interest rate.
2. Cost of utility capital.
3. The financial structure, that is, percentage of bonds, preferred stock, and capital stock.
4. Business conditions.
5. Risk involved in the business.
6. Stability of earnings.
7. Amount available for surplus.
8. Fact that utilities have no direct competition.
9. Possibility of government competition.
10. Taxation.
11. Reward for efficient management.
12. Market value of stock as compared with stocks of competitive businesses.
13. The competitive norm - higher earnings in times of prosperity, lower earnings during depression (recession) periods. Stable return versus the fluctuating return of competitive industry.
14. Cost of obtaining funds - pricing and fees of underwriters.
15. The general inflation level.
16. Regulatory lag - the period from the time the need for more earnings develops to the time taken by the regulatory commission to hold hearings and issue an order permitting the rate increase.

As pointed out by Southwest Gas Corporation, a review of the returns on common equity granted by the Nevada Commission and actually earned by the Nevada utilities have been in many cases substandard. The bottom line for Nevada utilities and a long term benefit to their customers that must be kept in mind by the committee is to attract investment by investors of our

Nevada utilities. The principal measure of reasonableness of return is whether the utility is able to maintain its credit and, thus, induce investors to put money into the utility business. Maintenance of credit includes preservation of the integrity of the investment in the enterprise, which in turn means fair treatment for the investor and helps keep rates down over the long-term and is beneficial to the rate-payer.

As A.J.G. Priest states in his Principles of Public Utility Regulation, Vol. 1, Ch 5, "Rate of Return," pages 195 - 196:

"One of the Bluefield truisms not often quoted is, 'A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.'" " . . . Unless investors are offered utility opportunities comparable with those available among the industrials, they may keep their hands in their pockets. The results could be grim."

3. Whether the present structure of the rates charged fairly distribute the necessary expenses among the respective classes of customers?

If the cost of actually serving customers and classes of customers is the foundation upon which the development of a "fair"

rate structure is premised, the present structure of rates charged does not "fairly" distribute the necessary expenses among respective classes of customers.

At present, in virtually all instances the costs associated with provision of electric and natural gas services to the residential class is subsidized by rates collected from all other customer classes. The Nevada Commission is presently in the process of requiring Nevada utilities to institute cost based rate designs reflective of the actual expenses associated with providing service on a class by class basis.

II. TOPICAL CONSIDERATIONS

We have reviewed the considerations of Southwest Gas Corporation as to the additional topics of review applicable to (a) earnings analyses of utilities, (b) regulations and the PSC, (c) utility resource planning, (d) utility operational practices and procedures, (e) consumer comparisons, and (f) possible legislative actions, as set forth in their recommendations to the committee dated April 7, 1983, and we are in general agreement with their representations and recommendations as to the referenced topics.

III. ADDITIONAL INFORMATION AND COMMENTS AS TO SIERRA PACIFIC'S EARLIER FILED FIFTEEN RECOMMENDATIONS WITH THE COMMITTEE ON MARCH 24, 1983.

1. In connection with our recommendations 1., 2., and 3 applicable to conservation measures, we have the following estimates that might be realized by up-grading the insulation standards in our electric and gas utility service territory:

CEILING INSULATION

	Standards		Annual Estimated Savings
	<u>From</u>	<u>To</u>	<u>Per Customer</u>
Electric	R19	R38	\$78.00
Gas	R19	R38	\$26.00

WALL INSULATION

Electric	R11	R19	\$91.00
Gas	R11	R19	\$31.00

Additionally, we attach a listing of conservation measures and the resultant - estimated savings in annual energy consumption. See Attachment "A".

2. There are benefits to the rate payer as stated in our earlier recommendation No. 6 applicable to construction work in progress. Please see Attachment "B" Statement and Figures 1 and 2 thereto.
3. There are benefits to ratepayer via appropriate legislation which would provide a method of funding for certain

conversion by electric utilities of generating from oil or gas to coal (S.B. 104) as stated in our earlier recommendation No. 7. See Attachment "C" entitled Ft. Churchill Coal Conversion Estimated Savings to Customers and our earlier suggested changes to S.B. 104 which were not incorporated at the last hearing on S.B. 104 before the Committee on Commerce and Labor.

4. Sierra Pacific in its initial presentation of the fifteen (15) Recommendations was attempting to address concerns That cause greater costs to the utility and its ratepayers. At first reflection, some of the recommendations may appear to be self-serving, but if close analysis is given to the merit of these recommendations, they are not only beneficial to the utility, but in the long run, beneficial and cost - saving to its rate payers. It is indeed unfortunate that sufficient time is not available to study these proposals carefully because there is merit to them if objectively received.

If we can be of further assistance to the Committee, please let us know.

MEASURESSAVINGS IN ANNUAL
ENERGY CONSUMPTION

1.	Caulking & Weatherstripping	Up to 4%
2.	Heating Systems Modifications	
	a) Electric Ignition System	Up to 7%
	b) Replace Furnace or Boiler Efficiency	Up to 10%
	c) Oil Burner Replacement	Up to 9%
	d) Flue opening modification - (3% Applicability)	Up to 10%
3.	Cooling System Modification	Up to 1%
4.	Central Area Conditioning Replacement	Up to 18%
5.	Ceiling Insulation	
	a) From R-11 to R-38	Up to 8%
6.	Wall Insulation	
	a) Frame Construction: No insulation to R-11	Up to 9%
7.	Floor Insulation	
	a) Floor over open or vented crawl space, no insulation to R-11	Up to 5%
8.	Duct Insulation - located in an open or vented crawl space	Up to 9%
9.	Pipe insulation for hydronic heater - located in an open or vented crawl space	Up to 6%
10.	Water Heater Insulation	Up to 2%
11.	Storm or Thermal Windows - single glass to single glass with storm window (conduction only)	Up to 9%
12.	Storm or Thermal doors - solid core door to solid core door with storm door (conduction only)	Up to 1%
13.	Heat Reflective & Heat absorbing window material	Up to 2%
14.	Devices Associated with Load Management techniques	Removed
15.	Clock Thermostats	
	a) Min. - single setback @ night	Up to 11%
	b) Max. - Dual setback @ night	Up to 22%
16.	Waste Heat recover water heater system	Up to 5%
17.	Outside air system	Up to 3%
18.	Insulated shutters & shades	Up to 11%
19.	Heat pump water system	Up to 8%

CONSTRUCTION WORK IN PROGRESS IN RATE BASE

In support of the request in Docket No. 959 to include Valmy construction work in progress in rate base, Sierra Pacific presented substantial evidence which clearly showed that our electric ratepayers would benefit in the long run from such regulatory treatment. This occurs as follows. During the construction period, the ratepayer is required to provide revenues to support the additional rate base resulting from the inclusion of Valmy construction work in progress. Because the Company recovers its money costs during construction in this manner, the plant investment is lesser by the amount of such recovery. Consequently, once the plant is in operation, rates are lesser over the entire 37½-year life of the facility. Figure 1, attached, illustrates what has just been outlined.

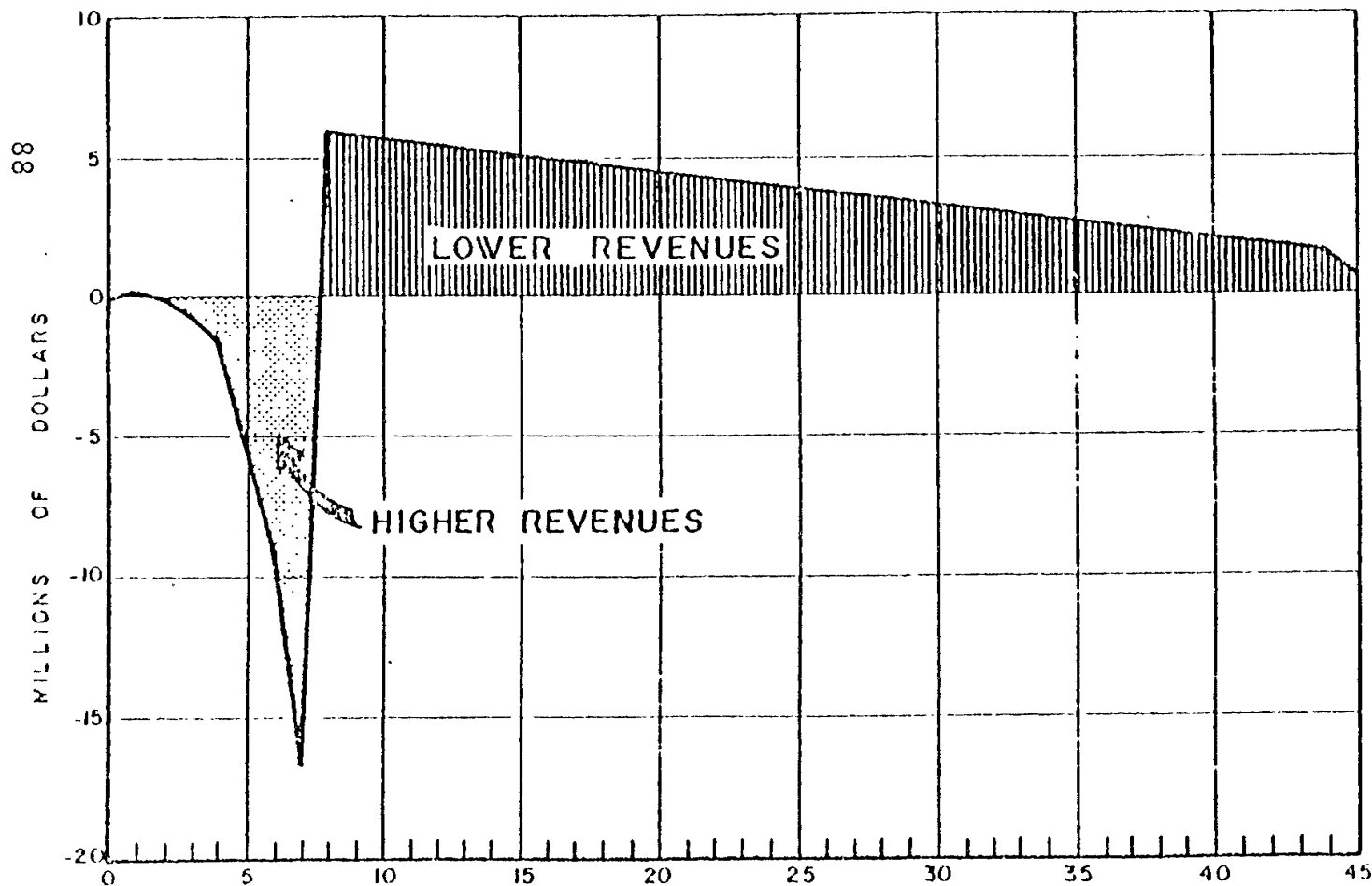
Figure 1, shows the dollars of revenues on the left hand side of the graph, and the years of construction and operation across the bottom. During the first seven years, which is the entire construction period, higher revenues are required to support the construction work in progress in rate base. The amount of such revenues as shown in this graph is \$33.0 million. However, from years eight through forty-five, i.e., the estimated operating life of the facility, a total savings in revenues occurs in the amount of \$139.0 million. The net long-run benefit, therefore, to all of Sierra Pacific's electric ratepayers is \$106.0 million.

To put this in another perspective, I have prepared figures showing what the effect would be on a typical residential electric bill over the life of the facility. Figure 2, attached, illustrates this effect. During the seven-year construction period, additional revenues required to support the Valmy construction work in progress in rate base total \$98.64 for this typical customer. Beginning with the first year of operation, however, rates are lesser, and the \$98.64 provided during the construction is offset by the sixth year of operation, and subsequent savings from years seven through forty-five amount to \$318.74.

Applying this effect to all Sierra Pacific electric customers, it can be stated that each customer will receive benefits approximating four times the additional outlay required during the construction period.

NET REDUCTION IN REVENUE REQUIREMENTS FOR VALMY RESULTING FROM THE INCLUSION OF CWIP IN THE RATE BASE

THE COMPARISON SHOWS HIGHER REVENUE REQUIREMENTS DURING THE CONSTRUCTION PERIOD ARE FOLLOWED BY LOWER REVENUE REQUIREMENTS WHEN THE PLANT IS OPERATING. THE NET-RESULT OVER THE PROJECT'S LIFE IS A REDUCTION OF \$106 MILLION FOR THE RATEPAYERS



ASSUMPTIONS

- 1 8.5% AFUDC rate
- 2 Capital Structure Cost

Debt	55 %	10 %
Preferred	15 %	10 %
Common	30 %	14 %
- 3 37 1/2 Year Plant Life
- 4 Straight Line Depreciation
- 5 48% Income Tax Rate
- 6 CWIP added to rate base each Dec 31 during construction period
AFUDC calculated on interim expenditures

ANALYSIS OF IMPACT OF CWIP IN RATE BASE
ON CONSUMER'S ANNUAL ELECTRIC BILL*

<u>Year</u>	<u>Increase (Decrease) In Annual Bill</u>	<u>Cumulative Increase (Decrease)</u>
Construction 1	\$ -0-	\$ -0-
2	.18	.18
3	1.98	2.16
4	4.77	6.93
5	13.50	20.43
6	27.63	48.06
7	50.58	98.64
Operation 1	(17.82)	80.82
2	(17.42)	63.40
3	(17.06)	46.34
4	(16.69)	29.65
5	(16.29)	13.36
6	(15.94)	(2.58)
7	(15.59)	
8	(15.22)	
9	(14.86)	
10	(14.48)	
11	(14.12)	
12	(13.75)	
13	(13.39)	
14	(13.02)	
15	(12.65)	
16	(12.29)	
17	(11.91)	
18	(11.55)	
19	(11.18)	
20	(10.81)	
21	(10.44)	
22	(10.08)	
23	(9.71)	
24	(9.35)	
25	(8.97)	
26	(8.61)	
27	(8.24)	
28	(7.88)	
29	(7.51)	
30	(7.13)	
31	(6.77)	
32	(6.40)	
33	(6.04)	
34	(5.67)	
35	(5.31)	
*Based on monthly consump- 36	(4.94)	
tion of 750 kWh. 37	(4.57)	
38	\$ (3.72)	\$ (318.74)

FT. CHURCHILL COAL CONVERSION
ESTIMATED SAVINGS TO CUSTOMERS

FIRST FULL YEAR OF OPERATION
AFTER CONVERSION

IN MILLIONS OF DOLLARS

Total Fuel and PP Costs - w/o conversion	\$208.0
Total Fuel and PP Costs - with conversion	<u>188.0</u>
Savings in Fuel Costs	<u>\$ 20.0</u>

ADOPT \$20.0 MILLION OF ANNUAL SAVINGS (RATE REDUCTIONS):

FIRST TEN YEARS

2/3's for Funding each year	\$ 13.3
1/3 to Customers each year	<u>6.7</u>
Total Savings	<u>\$ 20.0</u>

SECOND TEN YEARS

100% to Customers each year	<u>\$ 20.0</u>
-----------------------------	----------------

TOTAL SAVINGS TO CUSTOMERS - 20 YEARS

\$ 6.7 Million X 10 years	\$ 67.0
\$20.0 Million X 10 years	<u>\$200.0</u>
	\$267.0

TOTAL COST TO CUSTOMERS

ZERO

April 6, 1983

March 3, 1983

Sierra Pacific Power Company

LEGAL DEPARTMENT

S. B. 104

SENATE BILL No. 104—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 3, 1983

Referred to Committee on Commerce and Labor

SUMMARY—Provides method of funding for certain conversion by electric utilities of generating from oil or gas to coal. (BOR 58-432)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

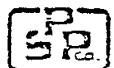
AN ACT relating to electric utilities; providing for the adjustment in the design of rates to fund the conversion of a generating facility to make it capable of being fired by coal; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1. Section 1. Chapter 704 of NRS is hereby amended by adding
2. thereto the provisions set forth as sections 2 to 8, inclusive, of this act.
3. Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the*
4. *context otherwise requires:*

1. "Coal" includes anthracite, bituminous, sub-bituminous
and lignite hydrocarbon minerals.

5. ~~1. "Coal" includes any other primary source of energy which is~~
6. ~~derived from coal and any synthetic fuel which uses coal as its base.~~
7. 2. "Cost of the conversion" means the cost determined by the
8. commission to be reasonable and necessary for a conversion, including
9. the cost of:
10. (a) Engineering, administration and any legal expenses;
11. (b) Environmental studies and control equipment;
12. (c) Equipment and facilities for the handling, storage and combus-
13. tion of coal;
14. (d) Equipment and facilities for the handling, storage and disposal of
15. the resulting waste, regardless of their location;
16. (e) Adapting or refurbishing boilers to permit the combustion of
17. coal; and
18. (f) Interest and other expenses relating to the financing of the con-
19. version,



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— 2 —

- 1 whether or not those costs are incurred before the date of initial con-
2 version. The term does not include any costs incurred to expand the
3 facility's generating capacity during the conversion.
4 3. "Cost saved" means the difference in cost between an amount
5 of coal and an equal amount of gas or oil calculated on the basis of
6 British thermal units.
7 4. "Date of initial conversion" means the first day on which an
8 existing facility for the generation of electricity which was fired by gas
9 or oil generates electricity for continuous distribution to customers by
10 the combustion of coal, whether or not additional facilities must be
11 ~~constructed or installed.~~

work must be done to complete construction or installation of the
facility.

- 12 Sec. 3. 1. A public utility proposing to convert an existing facility
13 for the generation of electricity which is fired by gas or oil to a facility
14 which is also capable of being fired by coal may apply to the commis-
15 sion for ~~an~~ rate

adjustment ~~in the design of its rates~~ to permit its recovery
16 of the cost of the conversion.

- 17 2. After receipt of such an application, the commission shall hold
18 a public hearing within 60 days to consider whether to authorize such
19 an adjustment and, if authorized, the methods to be used to permit the
20 recovery.

- 21 Sec. 4. 1. The commission shall render its written decision within
22 120 days after receiving the application for such an adjustment.

- 23 2. If, based upon the record of the hearing, the commission deter-
24 mines

- a) that the projected fuel savings will be
greater than the cost of conversion,
- b) that the conversion of the facility is
consistent with and included in the
utility's resource plan,
- c) that the conversion will be of benefit
to the ratepayers,

~~there is a substantial probability that the cost of the conversion~~
25 ~~will be at most equal to the cost saved which is estimated to accrue to~~
26 ~~customers over the remaining life of the facility, the commission shall~~
27 authorize ~~an~~ rate

~~adjustment in the design of the applicant's rates.~~



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28 3. If the applicant becomes, by reason of the conversion, entitled
29 to any federal or state grant, the commission shall make such determi-
30 nations and issue such orders as are necessary to reduce the amount of
31 the cost of the conversion which the applicant would otherwise recover
32 by means of the adjustment. If such a grant is received after the termi-
33 nation of the adjustment, the commission shall make such determina-
34 tions and issue such orders as are necessary to return any excess col-
35 lected to the customers.

36 Sec. 5. 1. The amount of the adjustment must:

37 (a) Be at least two-thirds of the cost saved per kilowatt-hour sold
38 which accrues to the customers on the date of the initial conversion;

39 (b) Permit the applicant to recover the cost of the conversion net of
40 any taxes which may be imposed on the applicant for revenue received
41 because of the adjustment; and

42 ~~(c) Permit full recovery within:~~

43 ~~(1) No more than 34 months after the date of the initial conversion~~

— 3 —

1 ~~if the amount required to do so would be no more than the amount of~~
2 ~~the cost saved; or~~

3 ~~(2) No more than 120 months if the amount required to do so~~
4 ~~would be more than the amount of the cost saved.~~

5 2. The public utility shall apply all revenue derived from the
6 adjustment solely to the cost of the conversion.

7 3. The commission shall not recognize, when calculating any rate,
8 price or charge, the costs of the conversion which are recovered from
9 customers as a result of the adjustment.

10 Sec. 6. On the date of initial conversion, the public utility shall file
11 with the commission a tariff which sets forth the rate

adjustment in the

12 ~~design of rates~~ authorized as a result of the conversion.

13 Sec. 7. 1.

The public utility shall present to the commission a certification of the cost of conversion and an accounting of the revenues it has received through the adjustment on an annual basis.

14 2. When a public utility has fully recovered its share of
15 the cost of conversion and the debt and interest therefor are fully
16 discharged, it shall:

17 (a) Stop the adjustment;

18 (b) Rescind the applicable tariff; and

19 (c) Present the commission with proof of the public utility's compli-
20 ance with all orders of the commission regarding the adjustment and
conversion.

Sierra Pacific Power Company

LEGAL DEPARTMENT

(d) present a complete accounting to the commission
of the cost of conversion and revenues that it
received through the adjustment

21 2. If the proof so presented shows that the revenue collected pur-
22 suant to the adjustment is not equal to the public utility's share of the
23 cost of the conversion, the commission shall order the actions neces-
24 sary to return any excess or collect the amount still needed for full
25 recovery.
26 Sec. 8. The faith of the state is hereby pledged that this act will
27 not be repealed, amended or modified to impair any tariff or charge
28 ordered by the commission pursuant to those sections.



RECOMMENDATIONS OF SIERRA PACIFIC POWER COMPANY
FOR LEGISLATIVE CONSIDERATION

At the request of the Joint Legislative Committee on Utility Rate Levels, Sierra Pacific offers the following recommendations for legislative consideration and action:

1. Establish stronger minimum building construction standards for adequate insulation and weather-stripping to effect conservation.
2. Provide appropriate authority for funding or financing assistance to property owners retro-fitting insulation or other proven conservation improvements.
3. Establish a professional board with Energy Department, Public Service Commission, Consumer Advocate and utility representatives to set standards for energy saving devices or practices.
4. Establish adequate criminal sanctions for fraudulent sale, installation or application of claimed energy saving devices.
5. Adopt a statutory statement of legislative intent in NRS Chapter 704 directing the Public Service Commission to exercise its "balancing of equities" function in rate making with primary attention to long-range as opposed to short-range impacts.
6. Allow utilities to recover in current rates the carrying and related costs attributable to new utility plant construction (construction work in progress) during the period of construction.
7. Support statutory authority for special adjustments to rates to allow financing of conversion of gas- or oil-fired generating stations to include coal-fired capability by allocating a portion of estimated fuel cost savings toward capital costs. (S.B. 104.) Similar authority for special rate adjustments to allow financing of rebuilding of existing hydroelectric generating facilities would be a long-term benefit to all consumers.

8. Allow utilities to fully recover research and development costs to allow examination and possible implementation of alternative energy resources, new conservation technology and similar matters.
(S.B. 101.)

9. Adopt a resolution directed to Congress supporting deregulation of natural gas pricing and to request a Congressional review of the propriety of automatic pass-through of foreign natural gas price increases to domestic utilities by the Federal Energy Regulatory Commission.

10. Establish minimum educational, experience or professional qualifications for public service commissioners and extend their fixed, staggered terms to six years.

11. Establish a Board to nominate a slate of candidates for vacancies on the Public Service Commission from which the Governor would make the final choice. Board members should represent professional, utility, consumer and business interests such as agriculture, gaming, mining and retail sales.

12. Expand the budget of the Public Service Commission to allow the employment of additional qualified staff members and to increase the salaries of commissioners and their technical and professional staffs.

13. Authorize utilities to recover in rates reasonable amounts for educational advertising and similar activities designed to inform the consumers of the economics and nature of the utility industry.

14. Declare that Commission decisions in rate cases are final and any changes may only act prospectively.

15. Allow rates to be based upon an estimated future test year test period rather than the present historic test period.

APPENDIX D

D-8. Response to April 1, 1983, Letter, Received from Southwest Gas Corporation.

Southwest Gas Corporation
RECOMMENDATIONS TO THE COMMITTEE
TO STUDY THE RATES CHARGED
BY PUBLIC UTILITIES
April 7, 1983



SOUTHWEST GAS CORPORATION

Charles H. McCrea Executive Vice President General Counsel

April 7, 1983

Mr. Donald A. Rhodes
Research Director
Committee to Study the Rates
Charged by Public Utilities
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Rhodes:

Thank you for your letter of April 1, 1983. We welcome the opportunity to augment our presentation to the Committee made on April 1, 1983.

We will preface our recommendations by commenting briefly upon the three study areas outlined in your April 1, 1983 letter, after which we will discuss possible legislative action.

I. STUDY AREAS.

1. To what extent are the expenses allowed in determining rates really necessary for the service provided?

It is exceedingly difficult to provide a categorical answer to this question. In every rate proceeding, both the Public Service Commission staff



auditors and the OCA auditor examine the utility's expenses and recommend disallowance of those they deem inappropriate. The Commission itself considers the recommendations and makes the decisions, as it should. We know of no way to handle this other than on a case by case basis.

Over a period of years, Southwest has found the Commission to be strict, even unreasonable in disallowing expenses in some instances, and in consequence we have either pared to the bone or eliminated expenses which the Commission has disallowed for rate making purposes.

2. Is there a present need for additional capital which justifies the high rate of return on the capital presently invested?

We submit that the "are you still beating your wife" form of this question states a conclusion that the record will not support. If the returns on common equity which the Commission has granted Nevada utilities are compared with those granted by other state regulatory commissions -- a comparison analogous to the "comparative earnings" test prescribed by the U.S. Supreme Court in the Hope case -- you will find that they are about mid-range. If you compare the returns on common equity actually earned by



Nevada utilities -- a much more telling criterion -- against both those authorized by the Commission and those authorized for and earned by utilities in other jurisdictions, you will find that the returns on common equity earned by Nevada utilities are in many cases substandard. More, the record reveals that while one of the three major energy supplying Nevada utilities (Nevada Power Company) experienced in 1982 earnings on common equity close to (but still below) the level authorized by the Commission, none of these utilities has consistently experienced earnings even approaching the level authorized. It follows that the foregone conclusion -- "high rate of return on the capital presently invested" -- is simply not factual, whether related to authorized return on common equity or, especially, to returns actually earned.

Lastly, the observation must be made, and the record clearly supports it, that the entire return on common equity component of the total cost of service is a minor fraction of the revenue dollar collected by the utilities; in the case of Southwest Gas Corporation, the fraction is 2 percent. The equity returns of Nevada utilities therefore are not, as a matter of fact, properly seen as an important cause of customer dissatisfaction.



3. Does the present structure of the rates charged fairly distribute the necessary expenses among the respective classes of customers?

There is no doubt that the costs of serving residential customers are subsidized by the rates paid by all other classes of customers, at least in the natural gas distribution business in Nevada. It follows that the answer to the question is "no." Cost based rates in almost all cases would result in increases to residential customers and decreases to other classes.

II. TOPICAL CONSIDERATIONS.

Following are considerations which, we believe, need the attention of the Committee and its staff in the preparation of its report and recommendations.

- A. The growing tendency of governments at all levels is to cast utilities in the role of providers of public assistance. Because the ramifications of putting utilities in the welfare business are serious, we have prepared and enclose a separate paper entitled "Public Utilities as Public Assistance Agencies."
- B. The selection, tenure and role of public service commissioners deserves attention. Public service commissioners are in many respects like judges. Like judges, they must be insulated from both the passions



of the electorate and the pressures of other government officials -- and the officials should want it this way.

Utility rate making must be a rational process. Utility rates meeting the applicable legal criteria simply cannot be established by majority vote at an orderly town meeting, much less by an emotional crowd each member of which has a high bill complaint.

Public service commissioners do not have an open field in which to run; they must observe the guidelines established by the court cases. These cases focus on the Fifth Amendment to the United States Constitution and Article 1, Section 8 of the Nevada Constitution, both of which require due process of law and contain provisions prohibiting the taking of private property for public use without just compensation, which is what occurs when utilities are forced to provide service at uncompensatory rates. There is an important line of court cases which defines the rights of utilities and the corresponding obligations of utility regulators under these constitutional provisions. In a nutshell, neither the Legislature nor the Public Service Commission has the authority to (and no responsible legislator or public



service commissioner would want to) destroy or seriously damage the public utilities in Nevada by irresponsible or uninformed regulation. The appointment of unqualified or biased individuals to the Public Service Commission would result in turmoil in the industry, serious increases in capital costs to utilities, higher rates to consumers and the burdening of court dockets with numerous appeals of Commission decisions.

Public service commissioners need to be knowledgeable about their jobs, and knowledge in this type of job typically results from experience. It follows that the terms of public service commissioners should be fixed and should be relatively long (no fewer than four years; six years would be preferable). For the same reasons that people want impartial judges, public service commissioners should have no identifiable bias. Utilities are not entitled to have their partisans on the commission, and neither are consumers.

In view of Nevada's open meeting law, there is something to be said in favor of having five commissioners. The open meeting law at least arguably makes it an offense for any two commissioners (out of a three member Commission) to discuss utility problems



with each other even in the most general way, for two commissioners constitute a quorum of the Commission. This often results in a serious lack of communication between commissioners, and has approximately the same inhibiting effect as would a law prohibiting Nevada Supreme Court justices from discussing the merits of a case with each other except in public meeting. No one, including judges and commissioners, likes to make a fool of himself publicly, and questions that might be asked in a private meeting to clear up misunderstandings or to supply needed information simply are not asked in public meeting, often at great loss to the quality of the substantive decisions that result. Were there five commissioners, two at least might privately converse with each other without facing the threat of prosecution for violation of the public meeting law.

These are serious matters; if a suitable balance between consumer and investor interests is not maintained by the Public Service Commission, the entire state will suffer. Not only will the citizens of the state ultimately suffer for want of adequate utility services, the state will quickly achieve a reputation for having an environment hostile to business. Businessmen are not fools. When they see a state which,



as a matter of government policy, trashes one of its largest industries, they recognize that their own businesses could easily receive the same treatment. Finally, when the state and its subdivisions have capital needs, they drink at the same well as do the utilities. A state that has too little respect for investors in its utilities may encounter too little respect in the marketplace for its own obligations.

- C. An effective public service commission requires expert staff. Utility regulation is a field of considerable specialization, and top quality staffers are not easy to find. Career regulators must be adequately compensated and otherwise fairly treated.
- D. The Public Service Commission should not be hamstrung with restrictive legislation on regulatory methodology. The leading United States Supreme Court case on utility regulation, *Hope Natural Gas Company v. Federal Power Commission* (which has been specifically applied to Nevada regulation by the Nevada Supreme Court in *Ely Light and Power Company v. Federal Power Commission*) is generally cited for the "end result" doctrine. That doctrine, in substance, is that utility regulators have wide discretion in their



choice of methodologies, and their decisions will not be invalidated by an apparent irregularity in the decision making process as long as the "end result" is rates that are just and reasonable. This gives the regulators maximum flexibility in responding to all of the considerations that go into the rate making process, including the views of consumers. Legislation which attempts to prescribe strict methodologies for any part of the rate making process only impairs the Commission's flexibility.

It is axiomatic, we believe, that not all problems can be solved by legislation. To a conscientious legislator, it is no doubt anticlimactic and perhaps disappointing to reach, at the end of a comprehensive committee investigation, the realization that the Legislature has no power to solve and only limited power to alleviate problems to which it has devoted so much attention. The record made during the proceedings before this Committee, while it reveals much dissatisfaction with high utility bills, shows conclusively that utility rates in Nevada are not excessive by any accepted standard of rate making. There is, accordingly, no legislative imperative to perform surgery of any kind on either the utilities or the Commission. There is no discernible, rational action which might be taken by the Legislature



that could do much to either reduce the level of present or future utility rates or improve radically upon the quality of utility regulation.

III. THE PROBLEM IS SUBSTANDARD HOUSING.

The record in this proceeding clearly identifies both the nature of the most pressing problem and its location.

The problem, quite obviously, is that a large number of dwelling units -- an estimated 58,000, in southern Nevada alone -- were built with electric resistance heating equipment. The laments of southern Nevada consumers coincide with the testimony of Nevada Power Company witnesses; this type of heating is inefficient. Moreover, the problem is aggravated, in older dwellings, by inadequate insulation or no insulation at all.

This type of heating equipment has found acceptance in southern Nevada in past years because electric rates historically have been very low. Moreover, this type of equipment has been favored by builders -- particularly those who build on speculation -- because it has a low initial cost and is easy to install. Few if any of the 58,000 southern Nevada dwelling units employing electric resistance heating are now served by natural gas for any application. Not installing natural gas saved the builder money at the time the units were constructed, because he did not have to pay for the additional plumbing and



venting that gas equipment requires. It is a false economy, but it is typical of speculative builders, who will not themselves own or occupy the premises which they build. They are interested in keeping initial construction costs as low as possible in order to maximize profits upon sale. Unfortunately, this short-sighted approach always produces inferior quality.

The problem, then, can be clearly identified as a problem of housing quality -- in Clark County alone, some 58,000 dwelling units that are substandard in terms of efficient energy utilization. This is a huge number of units and the problem they create is by no means limited to low income people. It is reasonable to assume that in so large a sample, the percentage of those who might qualify as low income or poor would not differ significantly from the percentage of such persons in the entire population of Clark County. The Committee therefore should be cognizant of the fact that remedial legislation of general application, to the extent that it imposes burdens upon either utility ratepayers or taxpayers as a class, would be imposing a burden upon citizens in all income brackets for the the benefit of a large number of citizens who are not needy by any standard. The concept of providing taxpayer or ratepayer subsidies to middle class and even wealthy citizens (some 44,000 rental units, many



of which, we must assume, are owned by wealthy landlords, are included among the substandard dwelling units) is exceedingly troublesome to us from a philosophical and public policy standpoint.

IV. POSSIBLE LEGISLATIVE INITIATIVES.

To alleviate the problem of energy inefficient dwelling units, the Committee might recommend that the Legislature take one or more of several actions. Some of these actions might precipitate legal challenges. Others, as we have observed above, present philosophical and public policy problems. Set forth below are what we believe to be arguably beneficial actions that the Committee might take or urge the Legislature to take, as the context suggests.

1. Landlords of multiple dwelling units might be required by law to provide prospective renters with written statements showing both the rent to be charged and, separately, the cost of electricity (and gas, if the units have gas service) for a 12-month period ending not earlier than three months prior to the date the statement is submitted. Obviously, this could not apply to units not yet 12 months old. Utilities have this data and can supply it with respect to any service location. Renters comprise a large percentage of those stunned by high heating



bills in the most recent winter season. With this information, each prospective tenant would be in a position to know the real cost on an annual basis of any dwelling unit he might propose to rent.

2. The installation of electric resistance heating equipment as the primary source of heat might be prohibited by law in any new dwelling unit except a unit built by an owner for self occupancy. Conceivably there could be legal problems with a blanket proscription; after all, if a person building a custom home for his own occupancy knows the cost of operating electric resistance heating and wants it anyhow, he should be permitted to indulge his own folly. Therefore, the proscription should be limited in its application to all multiple housing units and all units the owners of which are unknown or have not specifically authorized electric resistance heating at the time the building plans are submitted to local authorities for approval.
3. Owners of multiple dwelling units might be required by law to change out electric resistance heating equipment and to insulate their units, over a period of several years. This might be legally controversial since, unlike the case of smoke detectors, no problem of public safety is involved. However, it might be



justified on the basis of a legislative determination of public policy.

4. Appropriate insulation standards might be required by law in all new dwelling units.
5. State "low income" housing monies might be made available to qualifying owner-occupants of energy inefficient dwelling units for insulating and retrofitting such units, just as such monies are made available for the purchase of new dwelling units by qualifying low income persons. We do not believe that owners or occupants of energy inefficient units should qualify for retrofit subsidies of any kind unless they can qualify as low income persons.

Owners of multiple units, when they are required to inform prospective tenants of the potential costs of utilities for such units (pursuant to the notice provisions of legislation such as that recommended at Section IV.1 above) will find that their units are much less desirable in the rental market and command lower rents because of the high cost of utilities.

Non-needy owners of dwelling units that should be insulated and/or retrofitted have federal income tax credit incentives to make the necessary changes, to say nothing of the incentive of lower utility bills.



Both the gas and the electric utilities have personnel who are experienced in estimating insulation costs and who are able to recommend suitable replacement equipment options. These utility personnel are happy to advise and assist customers when called upon.

6. Natural gas rates and rate design might be freed from Commission regulation, but the Commission would retain jurisdiction over authorized rates of return for gas companies, rules, conditions of service, complaints, etc. Such deregulation would enable Southwest Gas Corporation to respond with needed flexibility to energy costs in the marketplace, where it has many competitors. Regulation of utility rates is justified on the basis that regulation is a substitute for competition. However, where there is competition such as natural gas faces from numerous sources, the rationale for regulation disappears.
7. The mill tax on sales of gas to electric utilities for generation should be eliminated. This product -- energy -- should be taxed only once, and the proper place to impose the tax is upon the retail sale of the electricity.
8. Coal purchased for electric generation should be exempted from sales and use taxes. Gas purchased to



generate electricity is not subject to sales or use taxes. Logically, coal purchased for the same purpose also should not be subject to these taxes.

9. Utilities should be not only authorized but urged to show local franchise taxes and the mill assessment of the Commission and the OCA as separate line items on bills to customers. Customers are entitled to know what portion of their payments goes to support the utilities and what portion goes to support other entities.
10. The Legislature might adopt and forward to Congress a joint resolution urging repeal of the Public Utility Regulatory Practices Act of 1978, so that matters affecting local utility service might be left to the jurisdiction of state regulatory commissions, where such matters properly belong.
11. The Legislature might adopt and forward to Congress a joint resolution urging deregulation of all natural gas defined as "new" gas under the Natural Gas Policy Act of 1978, and that certain contract provisions be voided as contrary to public policy. Production incentives under the NGPA have worked, but the prices prescribed by the NGPA unfortunately have become ceilings rather than floors. The elimination of political price fixing for gas controlled under the



NGPA would permit market forces to establish market clearing prices at the wellhead.

Enclosed is a copy of a paper entitled "Statement on Natural Gas Policy," which presents in writing a portion of the presentation we made to the Committee at Las Vegas on April 1, 1983. On pages 7 and 8 will be found a discussion of the onerous gas purchase contract provisions which Congress should void or mitigate in any legislation modifying or repealing the NGPA.

We will cooperate in every way with the Committee and its staff in providing further assistance or information in connection with the preparation of its report and recommendations.

Very truly yours,

SOUTHWEST GAS CORPORATION

By Charles H. McLean

Enclosures

PUBLIC UTILITIES AS PUBLIC ASSISTANCE AGENCIES

C. H. McCrea
Executive Vice President and General Counsel
Southwest Gas Corporation

The hearings of the Joint Legislative Committee on Utilities and the Public Service Commission held in Las Vegas on April 1 focused effectively on the problems that many citizens are having paying their utility bills. Through no fault of the Committee, easy solutions were not forthcoming.

In the larger context, these hearings are simply another skirmish in a debate that is probably the hottest political question in America today: how well is one man entitled to live out of another man's pocket?

The utilities are caught in the middle. They are investor owned businesses, but unlike any other business, they are required to extend credit to every person who applies for service. Moreover, they are for all practical purposes prohibited from discontinuing service where to do so would imperil the health of the non-paying customer, and prohibited from discontinuing service under any circumstances without long and costly delay. Utilities claim that they should be allowed to promulgate and enforce reasonable credit policies. To the extent that utility credit policies are too lax, credit losses come initially out of the pockets of utility stockholders. Ultimately, however, the losses come out of the pockets of ratepayers because credit losses become part of the utilities' cost of service in subsequent rate proceedings.

In effect, the utilities' paying customers are forced to assume the additional burden of non-paying customers -- rather a mutant form of taxation without representation. It can be argued with much logic that paying utility customers would be better off if the burden of non-paying customers should be charged to them directly in higher state and local taxes rather than in higher utility rates; then, at least, the cost would be deductible for federal income tax purposes. Second as an evil only to taxation without representation is taxation without deduction.

But the basic question remains. Is it proper to look upon public utilities as public assistance agencies? Granted that they provide highly important if not absolutely indispensable services. However, food, shelter and clothing are at least equally indispensable. Nevertheless, the law does not require Safeway to provide groceries without compensation, landlords to provide shelter without compensation, and Sears to provide clothing without compensation. Does the monopoly status of utilities makes them different? If so, why?

Shifting a significant part of the public assistance burden to private corporations has immense political appeal. Dropping this load on public utilities not only increases the level of public assistance without increasing the official level of public spending or taxation; it is done with beguiling simplicity. However, this makes it neither fair nor wise.

In the first place, the portion of the public assistance burden borne by the utilities is never reflected in any

government budget. What this means, simply, is that the government has lost track of this portion of public assistance costs. When one loses track of where costs are incurred, there is almost no hope that they will ever be brought under control.

Shifting public assistance costs from government to public utilities or any other form of private corporation is, in its simplest form, a type of Robin Hoodism -- taking from the supposedly rich and giving to the supposedly poor. But utility ratepayers as a class are neither richer nor poorer than the people at large; they are the people at large. The most important thing to remember about Robin Hood is that he was a hood.

At the April 1st meeting of the Joint Legislative Committee, the question was raised, rhetorically, about whether there should be a preferential rate for senior citizens. From a legal standpoint, this might or might not pass muster. Probably it is not something that the Public Service Commission itself lawfully could do. In 1979, the Colorado Supreme Court, in Mountain States Legal Foundation v. Colorado Public Service Commission, struck down preferential rates ordered by the PSC for the elderly and disabled poor, holding that the PSC is not an agency endowed with the power to administer the state's welfare problems. Preferential rates of this nature also have been successfully challenged in Idaho and Utah. Whether the Legislature might require utilities to grant preferential treatment to senior citizens and others is another question.

But even if such legislation should be lawful, what would be its rationale? Information that I have studied suggests that not more than a relatively small percentage -- 10 percent is the number that sticks in my mind -- of senior citizens would qualify on the basis of need. What conceivable justification is there for granting the other 90 percent preferential rates, some of which would be subsidized by the working poor in other age categories? If there are to be preferential utility rates for senior citizens at all, certainly they could only be justified for senior citizens who are also needy. And if need is to be the criterion, why should the assistance be denied to other than senior citizens?

Let us assume, then, for purposes of argument, that utilities are to be required to provide service to indigent citizens on the basis of need. Now the hard questions arise: How is "need" to be defined? Are the utilities to set up the bureaucracy necessary to process applications for public assistance in utility bills? Won't they make the same investigations that other public assistance agencies make in order to prevent wholesale abuse of the system? Is it suitable for private corporations to be given the authority to invade the privacy of aid applicants to ascertain "need"? But otherwise, how could "need" be verified?

An alternative would be for the existing governmental public assistance agencies to ascertain "need." But this, as we shall see, would be catastrophic from a cost standpoint. The only real

constraint that a governmental welfare agency has upon the allocation of benefits is the overall budget of the agency. It is frightening to contemplate the amount of aid that such an agency likely would distribute if, in effect, it had a blank check on somebody else's account! This would be palpably unworkable; authority and responsibility must reside in the same agency.

The problem is hardly a new one; it was addressed comprehensively by Toqueville in his Memoir on Pauperism, which was written 150 years ago.

Unpalatable as it may be, the only rational source of public assistance funds to pay utility bills is the taxpayer. He pays these costs anyhow, one way or another. It is better to address the problem forthrightly, keep control of the costs and recognize that utilities are not different from other essential goods and services that government accepts the responsibility of providing to those unable to provide them for themselves.

STATEMENT ON NATURAL GAS POLICY

Regulation of the natural gas industry in the United States began in 1938. In 1938, Congress enacted the Natural Gas Act [52 Stat. 821 (1938); 15 U.P.C. §717] to regulate the transportation and sale of natural gas for resale in interstate commerce. With respect to jurisdiction over natural gas at the wellhead, Section 1(b) of the Act states, in pertinent part, "The provisions of this Act . . . shall not apply . . . to the production or gathering of natural gas."

Notwithstanding this language, in 1954, 16 years after the enactment of the Natural Gas Act, a divided United States Supreme Court held that the Federal Power Commission (now the Federal Energy Regulatory Commission, or FERC, herein called "Commission") was required under the Natural Gas Act to regulate the price of natural gas at the wellhead [Phillips Petroleum Corp. v. Wisconsin (1954) 347 US 672, 74 S Ct 74].

The Supreme Court's decision in the Phillips case precipitated an uproar in Congress, and Congress in fact passed an amendment to the Natural Gas Act overruling the Supreme Court's decision in the Phillips case. However, the activities of some of the oil industry lobbyists, notably Bill Keck, President of Superior Oil Company, were so outrageous that President Eisenhower felt morally constrained to veto the legislation. Congress was unable to override Eisenhower's veto, and the Phillips decision therefore became another part of the

controversial legacy of the Warren Court. In my opinion, the Phillips decision was an even more important factor than the 1973 Arab oil embargo in precipitating the crisis concerning energy -- and it is essentially a political crisis -- which first gripped the United States in the early 1970's and persists to the present time.

The Commission was ill equipped to regulate the price of natural gas at the wellhead. Natural gas production is not a utility type of operation, such as distribution systems or pipeline transmission systems, which are "natural" monopolies. Moreover, the Commission's regulatory chores under the Natural Gas Act, prior to the Phillips decision, extended to not more than 50 or 60 natural gas pipeline companies. There are, however, more than 7,000 independent producers of natural gas, and each is faced with different geological and technical problems in the production of gas in each separate well. Costs of producing gas from each well often differ widely.

The Commission attempted, for a limited period of time, to regulate natural gas prices at the wellhead on the same cost-of-service principles that it employed in regulating pipeline prices. However, the sheer volume of the work involved in regulating the prices charged by more than 7,000 producers at hundreds of thousands of wells was overwhelming. Ultimately, the Commission sought to carry out its unasked for mandate by prescribing area prices, which essentially are average production costs within a geographical area. This simply meant that half of

the producers within a given geographic area were earning more than a "reasonable" rate of return on utility rate making precepts while the other half were losing their shirts.

The net effect of the inability of the Commission to effectively regulate wellhead prices of natural gas (and I do not criticize the Commission for this failure; the task assigned to it by the Supreme Court was impossible) was that wellhead prices, rather than being set by the marketplace, were set by administrative fiat responding to political pressure. As time progressed, these wellhead prices fell further and further below what the market clearing prices would have been, because this is the predictable result of political regulation of the marketplace.

The major consequences of this political intrusion into the marketplace were two, and they became increasingly serious as the years progressed:

1. Because natural gas was increasingly underpriced in comparison to coal and oil, it was the preferred fuel for all types of industrial and power plant applications. Not only was natural gas underpriced as a fuel; the cost of constructing facilities utilizing natural gas typically was lower than the cost of facilities utilizing either oil or coal for the same purposes. Natural gas consumption accordingly increased much more rapidly than might otherwise have been expected.

2. Because the government was in the business of controlling the prices of natural gas and in many cases had prescribed returns which investors viewed as substandard compared to returns available from other investment opportunities, capital available for investment in the exploration, discovery, drilling and producing of new natural gas sources began to dry up.

There was no way in which Congress could readily solve these two problems. It had no way to enforce a law compelling gas and oil to come to the surface of the ground to be captured by man. Without creating a police state, it could not pass a law requiring investors, against their will and better judgment, to invest in gas exploration, development and production.

Gas reservoirs have varying lives, but generally these lives are measured in terms of years. Accordingly, the country's natural gas resources were not cut off immediately and precipitously by the Supreme Court's decision in the Phillips case and the Commission's inability to regulate wellhead prices on any rational basis. However, the inevitable eventually did occur: whereas for many years the gas producers added reserves at a rate faster than natural gas was being consumed, towards the end of the 1960's a turnaround occurred, and consumption began to exceed reserve additions by increasing amounts each year.

At approximately the same time that consumption began to outpace reserve additions, a new and important factor came into the picture. The country became increasingly conscious of

environmental quality, and Congress enacted comprehensive legislation designed to prevent air and water pollution and clean up both air and water resources.

Since natural gas is the cleanest burning of all fuels, the environmental cleanup effort imposed still further demands upon gas reserves which were already declining at an alarming rate. By the time the Arab oil embargo hit in 1973, both natural gas reserves and deliverability were seriously deficient. The sudden cutoff in major sources of oil precipitated the crunch that followed.

By the mid 1970's, the gas and oil industries had been virtually demagogued to death by politicians. It was during this period that the term "obscene profit" was coined by Senator Henry Jackson of Washington. It was apparent that something had to be done, but Congress was bitterly divided between those (largely from the producing states) who wanted to free the industry from controls and let the free market work and those (largely from the consuming states) who wanted to tighten controls and ration the rapidly diminishing supply.

In April, 1977, President Carter presented to Congress his grand energy plan. Although that plan had been developed by people who were reputed to be knowledgeable about energy, among them the highly respected James Schlesinger, previously Secretary of Defense and at the time the country's Secretary of Energy, it was utterly irrational. It assumed that natural gas production was in permanent decline, that virtually all domestic reserves of

natural gas had been discovered and were being produced, that production would continue to decline until no significant volumes remained, and that increases in wellhead prices would have no significant impact on supply. The theory was correct in only one respect; there was in fact no more natural gas to be produced at 7 cents, 10 cents, 20 cents or 40 cents a thousand cubic feet (Mcf). But gas is not different from other minerals. Almost no gold was produced when the price was \$35 an ounce, but quite a bit of it is produced at prices which, in the past three years, have ranged from above \$800 to below \$300 an ounce. There was no reason to suppose that the production of gas -- which, like gold, is a mineral -- should not increase if the prices should rise, but the authors of President Carter's energy plan had no faith in market forces.

Fortunately, the producing states rebelled at President Carter's energy plan. By November, 1978, when Congress finally produced the Natural Gas Policy Act as the most controversial and perhaps most important part of the National Energy Act, natural gas was the centerpiece of the legislation rather than its ugly stepchild.

The Natural Gas Policy Act was far from a flawless piece of legislation, but it probably was the best that a divided Congress could produce at that time. It did take the Commission out of the business of establishing wellhead prices for "new" gas. Actually there are approximately 28 different classifications of gas. Every molecule of gas is identical to every other molecule and

the user cares not at all whether the gas at his burner tip came from offshore production, tight sands, deep formations or any other source; all that is important to him is the price. Nevertheless, the NGPA set prices for each of the various classifications of natural gas it established, and prescribed a formula by which they would increase both absolutely and in tandem with inflation. Certain categories of new gas, including that produced from depths below 15,000 feet, were not subject to any ceiling prices.

Either by luck or wit, and perhaps a little of both, the producing state congressmen outsmarted the liberals from the consuming states; the prices prescribed for the various classifications of gas in fact did stimulate a drilling boom of unprecedented proportions. By 1981, new additions to the country's domestic natural gas reserves exceeded consumption for the first time in nearly a decade.

In the meantime, new problems arose. Pipelines, starved for gas, bid up prices of unregulated gas in attempting to get sufficient volumes to meet their customers' requirements. In doing so, they were forced to accept, in some cases, onerous contract provisions imposed upon them by the producers, who were then in the catbird seat. The onerous provisions were of essentially four types:

1. Relatively long-term contracts, sometimes without cancellation clauses.

2. High "take or pay" provisions, under which the pipeline was obligated to take and/or pay for gas at a very high load factor -- often 90 percent.
3. Indefinite price escalator clauses, under which the seller was authorized to increase prices based upon inflation, the price of various grades of oil, or other factors.
4. "Most favored nation" clauses, under which the pipeline agreed that it would pay to the seller a price equal to the highest price it should negotiate to pay any other producer.

In retrospect, and with the benefit of 20/20 hindsight, it is easy to conclude that the pipelines were unwise to purchase gas under such conditions. But that is a very harsh judgment when one considers the conditions the pipelines faced when they signed the contracts. It is easy to be wise in retrospect.

In stimulating production, the Natural Gas Policy Act has worked well; there is now a surplus of gas to be purchased at the wellhead. But as we have seen on many occasions -- most recently in February, 1981 when President Reagan decontrolled oil prices, following which pump prices for gasoline quickly dropped as much as 10 cents a gallon -- when legislators or bureaucrats set ceiling prices, these tend to become floors.

We still have turmoil in the natural gas industry, notwithstanding the available surpluses of gas. It is paradoxical, and could only occur in a market controlled by politics rather than

economics, that we have a comfortable surplus of natural gas at the same time that industrial customers throughout the country, who would prefer to burn gas if the price were competitive, are switching to other fuels.

The Natural Gas Policy Act, with respect to all gas discovered after its enactment, expires in 1985. It has been widely predicted that a huge increase in gas prices will occur at that time, because the statutory ceilings on most gas will be lifted (gas under price control when the Natural Gas Policy Act was enacted remains so indefinitely). But utilities in the gas distribution business, who already are losing industrial customers at an alarming rate because gas prices at the wellhead are too high, are immensely skeptical that the experts in Washington can be right about this. It does seem a little unlikely that prices will fly up when political controls are released, when supply already outpaces demand by many magnitudes.

Obviously, the best time to remove ceiling prices is when there is a surplus, not a shortage. Therefore, immediate price decontrol of all classifications of natural gas discovered since the Natural Gas Policy Act would seem to be a safe step to take now. The older, cheaper gas, which would remain under control under the contracts entered into many years ago and which now constitutes 40 to 50 percent of pipeline supplies, would remain controlled. But so-called new gas, whatever its source, would be free from price controls, and would quickly find a market clearing level.

The politically motivated accusations that producers would lock in supplies and wait for prices to rise simply won't wash if analyzed in the context of rational economics. In the first place, there are more than 7,000 independent producers of natural gas, and each has his particular problems. Moreover, the producer typically has borrowed money and pledged his reserves as security, and he must pay interest on the indebtedness and must ultimately repay it. He simply cannot afford to keep his reserves, the sale of which he expects to generate money to service and repay his indebtedness, locked in the ground and in great likelihood would face foreclosure if he did. The gas producer is no more likely to irrationally keep his reserves off the market than producers of copper are likely to leave ore in the ground if they can produce copper at a profit. A market clearing level will be found, and competition will thereafter set prices, just as it did before the Supreme Court threw the industry into turmoil in 1954.

In changing the Natural Gas Policy Act to decontrol all "new" gas, it will be necessary for Congress to do more than simply enact a repeal. As noted above, at the time that Act was passed, the natural gas shortage was desperate and the conditions in this sellers' market generated onerous contract provisions which must be voided if we are going to have a free market in natural gas at the wellhead. Decontrol legislation should also provide that buyers must have a "market out" clause in each contract, whereby if, for economic reasons, the buyer is unable

to sell gas purchased under a producer contract because it is too expensive, he can release the seller from the delivery obligation and let the seller look elsewhere for a buyer.

Reforms of the nature just prescribed would restore, in a rather short period of time, price rationality in an industry that has been without it for nearly three decades. Natural gas represents our largest and certainly our most easily utilized hydrocarbon resource for virtually every fuel purpose except transportation (and it has limited uses there). It is now estimated (but not, obviously, by the same people who drafted President Carter's original energy proposals to Congress in 1977) that the United States has consumed less than 10 percent of its economically producible natural gas resources. With an orderly market in this valuable fuel, the natural gas industry will again be able to bring Americans abundant supplies of natural gas at competitive prices.