

NEVADA LEGISLATURE'S COMMITTEE TO
REVIEW THE PERFORMANCE OF THE OFFICE
OF CONSUMER'S ADVOCATE



Bulletin No. 85-11

LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

August 1984

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AUGUST 1984

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NEVADA REVISED STATUTES

228.400 Interim legislative committee to review performance of office of consumer's advocate.

1. There is hereby created an interim committee of the legislature to review the performance of the office of the consumer's advocate.

2. The committee consists of:

(a) Two members of the senate from the majority political party, designated by the majority leader of the senate;

(b) One member of the senate from the minority political party, designated by the minority leader of the senate;

(c) Three members of the assembly from the majority political party, designated by the speaker of the assembly; and

(d) Two members of the assembly from the minority political party, designated by the minority leader of the assembly.

3. The members from the assembly shall select a chairman from among their number to serve for the period ending with the convening of the 62d session of the legislature. The members from the senate shall select a chairman from among their number to serve during the next legislative interim, and the chairmanship shall continue to alternate between the houses of the legislature according to this pattern.

4. The committee exists only when the legislature is not in regular or special session. The committee shall meet at the call of the chairman to review and evaluate the effectiveness and functioning of the office of the consumer's advocate. It may make recommendations to the consumer's advocate, the attorney general, the legislative commission, the interim finance committee and the legislature.

5. The director of the legislative counsel bureau shall provide a secretary for the committee. Each member of the committee is entitled to receive out of the legislative fund a salary for each day or portion of a day in attendance at a meeting of the committee, in an amount equal to the salary established for members of the legislative commission, and the per diem allowance and travel expenses provided by law.

(Added to NRS by 1981, 1676)

TO THE MEMBERS OF THE 63RD SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Nevada Revised Statutes (NRS) 228.400 (Assembly Bill 473, Statutes of Nevada, 1981) which created an interim legislative committee to review the performance of the office of consumer's advocate.

The committee has attempted in this report to present its findings briefly and concisely. In addition to the information summarized in the report, a considerable amount of testimony and supporting information was received by the committee. Much of this information became a part of the minutes of the committee, which are on file in the research library of the legislative counsel bureau. All supporting documents are available to any member for review.

This report is transmitted to the members of the 1985 legislature for their consideration and appropriate action.

Respectfully submitted,

Nevada Legislature's
Committee to Review the
Performance of the Office
of Consumer's Advocate

Carson City, Nevada
August 1984

COMMITTEE MEMBERS

Senator Robert E. Robinson, Chairman

Senator Richard E. Blakemore	Assemblyman Robert W. Fay
Senator Bob Ryan	Assemblyman Steven C. Francis
	Assemblyman Bob L. Kerns
	Assemblyman Courtenay C. Swain

SUMMARY OF RECOMMENDATIONS

This summary represents the major conclusions reached by the committee to review the performance of the office of consumer's advocate.

The committee recommends:

1. That Nevada Revised Statutes 228.400, subsection 4, be amended to include the public service commission of Nevada in the list of government bodies to which the committee to review the office of the consumer's advocate may make recommendations. (BDR 18-121)
2. That the office of the consumer's advocate request, and the interim finance committee approve, additional travel funds as the need arises to be used to represent Nevada's interests relative to federal programs and legislation which would affect utility customers.
3. That the office of the consumer's advocate establish an informal working relationship with the commission on economic development to reduce the perception that the consumer's advocate is antibusiness and antiutility.
4. That the appropriate committee of the 1985 legislature review the possibility of reducing from 0.75 mills the maximum levy allowed to be assessed on the public utilities for the use of the consumer's advocate.
5. That the office of the consumer's advocate continue as a quasi-independent office under the office of the attorney general.

REPORT TO THE 63RD SESSION OF THE NEVADA LEGISLATURE
FROM THE NEVADA LEGISLATURE'S COMMITTEE TO REVIEW
THE PERFORMANCE OF THE OFFICE OF
CONSUMER'S ADVOCATE

I. INTRODUCTION AND OVERVIEW OF COMMITTEE HEARING

The 1981 Nevada legislature enacted Assembly Bill 473 (chapter 692, Statutes of Nevada, 1981) which created the office of advocate for customers of public utilities, more commonly known as the office of consumer's advocate (OCA). Section 12 of that bill, which became Nevada Revised Statutes 228.400, provides for an interim legislative committee to review the performance of the OCA. In particular, the committee is charged with reviewing and evaluating the effectiveness and functioning of the OCA. The committee may make recommendations directly to the consumer's advocate, the attorney general, the legislative commission, the interim finance committee, and the legislature. This is the second interim report of the committee. The first report (Bulletin No. 83-12) was submitted to the 62nd session of the legislature in December 1982.

Senator Robert E. Robinson was elected chairman of the committee for this interim. The committee held one meeting in Carson City, Nevada, on May 30, 1984.

During the meeting, the committee heard presentations from the consumer's advocate and representatives of the public service commission of Nevada (PSCN), various public utilities, the Nevada Mining Association and utility consumers. The committee received written information from the office of the attorney general, Sierra Pacific Power Company, consumer groups and private citizens. A major portion of the meeting was devoted to considering potential legislative proposals and other recommendations.

The committee received a report from the OCA detailing its activities since June 1981. The OCA claimed a "direct" savings of \$16.4 million and a "shared" savings of \$62.5 million for consumers since that time. This compares with the current annual budget for the OCA of approximately \$500,000. The OCA cited eight rate cases and 16 nonrate case matters in which it intervened on behalf of utility customers and, in many cases, effected significant savings for them. The OCA also provided the committee with a listing of recommendations that the OCA will be making to the 1985 Nevada legislature. A written report from the OCA is included in the appendices.

Representatives from the PSCN generally support the activities and conclusions of the OCA. They felt it particularly important that the OCA continues to provide strong representation for residential and small commercial customers of public utilities.

The committee heard from several representatives of Nevada utilities. The spokesmen for the utilities were supportive of the continued existence of the OCA, but felt that the OCA has a misdirected focus. The spokesmen were particularly concerned that the OCA is too negative in its relationship with utilities. The representatives of the utility companies gave examples wherein both utilities and consumers could benefit through active involvement by the OCA.

A representative from the mining industry expressed concern that the OCA was representing only residential and not business customers of public utilities. The industry believes that this tends to unfairly lower utility costs for residential customers and shift those costs to business customers.

Representatives from the general public were particularly impressed with the performance of the OCA. One spokesman and numerous letters to the committee supported this view.

The committee received several suggestions relating to the efficiency of the OCA. The committee chose five of those suggestions to make as recommendations. One of the recommendations requires a change in existing law.

II. FINDINGS AND RECOMMENDATIONS

A. RECOMMENDATIONS BY COMMITTEE TO THE PUBLIC SERVICE COMMISSION OF NEVADA

Nevada Revised Statutes 228.400 currently permits the committee to make recommendations to the consumer's advocate, the attorney general, the legislative commission, the interim finance committee, and the legislature.

The PSCN and OCA often work closely together and exchange information pertaining to rate cases and other utility regulation matters. Because of this working relationship between the two agencies, the present members believe that, in the future, the interim committee may need to communicate recommendations regarding the OCA directly to the PSCN.

The committee, therefore, recommends:

That Nevada Revised Statutes 228.400, subsection 4, be amended to include the public service commission of Nevada in the list of government bodies to which the committee to review the office of the consumer's advocate may make recommendations.

B. ADDITIONAL TRAVEL FUNDS FOR THE OFFICE OF CONSUMER'S ADVOCATE

The OCA has a fixed travel budget which takes into consideration anticipated needs for the biennium. There are, however, ongoing developments at the federal level which may seriously affect Nevada's utilities and their customers. These developments, unfortunately, do not transpire in an orderly or predictable fashion.

The committee believes that the OCA needs to respond to these developments as they occur to better represent Nevada's interests. Approval of supplemental travel funds by the interim finance committee in these special situations would help the OCA meet this goal.

The committee, therefore, recommends:

- That the office of the consumer's advocate request, and the interim finance committee approve, additional travel funds as the need arises to be used to represent Nevada's interests relative to federal programs and legislation which would affect utility customers.

C. ESTABLISHMENT OF WORKING RELATIONSHIP BETWEEN OFFICE OF CONSUMER'S ADVOCATE AND COMMISSION ON ECONOMIC DEVELOPMENT

Presentations during the meeting suggested to the committee that there is a fairly widespread public perception that the OCA is antiutility and antibusiness in general. The committee believes that this perception hurts Nevada's efforts at economic development and diversification. The committee supports a positive approach to reducing this perception by recommending that the OCA establish an informal relationship with the commission on economic development.

The committee, therefore, recommends:

- That the office of the consumer's advocate establish an informal working relationship with the commission on economic development to reduce the perception that the consumer's advocate is antibusiness and antiutility.

D. REVIEW OF REDUCTION OF MAXIMUM MILL LEVY

Nevada Revised Statutes 704.033 specifies an annual assessment to support the OCA of "not more than 0.75 mills" on each dollar of the utilities' operating revenue. Application of the maximum rate has tended to produce large budgetary surpluses for the OCA. To reduce these surpluses, the OCA is supporting a 1-year reduction in the assessment to 0.15 mills. In light of these events, the committee believes that there is a possibility that the maximum rate is too high and that the appropriate legislative committee should consider lowering the maximum rate in 1985.

The committee, therefore, recommends:

- That the appropriate committee of the 1985 legislature review the possibility of reducing from 0.75 mills the maximum levy allowed to be assessed on the public utilities for the use of the consumer's advocate.

E. CONTINUATION OF EXISTING ORGANIZATIONAL ARRANGEMENT OF OFFICE OF CONSUMER'S ADVOCATE

Nevada Revised Statutes 228.310 establishes the OCA within the office of the attorney general. Under this organizational arrangement, the OCA has been able to operate in a relatively autonomous manner. Information presented to the committee supported the continuance of the OCA under this arrangement. The committee feels it is important to express its opinion that this relationship should not be changed during the next biennium.

The committee, therefore, recommends:

- That the office of the consumer's advocate continue as a quasi-independent office under the office of the attorney general.

III. CREDITS

The following is a listing of the names of persons who appeared before the committee:

Craigie, Scott M.
Chairman
Public Service Commission
of Nevada
Carson City, Nevada

Hall, Jean
Public Education Officer and
Statistical Analyst
Public Service Commission
of Nevada
Carson City, Nevada

Jackson, Kelly
Staff Counsel
Office of Advocate for Consumers
of Public Utilities
Reno, Nevada

Lindsey, Charles
President
Nevada Power Company
Las Vegas, Nevada

McCrea, Charles H.
Southwest Gas Company
Las Vegas, Nevada

Parr, Stephen
Director of Regulatory Operations
Public Service Commission
of Nevada
Carson City, Nevada

Ryan, Conrad L.
Nevada Power Company
Las Vegas, Nevada

Schmidt, Fred
Commissioner
Public Service Commission
of Nevada
Carson City, Nevada

Warren, Robert E.
Executive Secretary
Nevada Mining Association
Reno, Nevada

Wellingshoff, Jon
Consumer's Advocate
Office of Advocate for Consumers
of Public Utilities
Reno, Nevada

Wells, Dick
Regional Director
Mobilehome Owners League
Carson City, Nevada

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APPENDIX A

Report and Memorandum from the Office of Consumer's Advocate
to the Nevada Legislature's Committee to Review the
Performance of the Office of Consumer's Advocate

ATTORNEY GENERAL'S OFFICE
OF ADVOCATE FOR CUSTOMERS
OF PUBLIC UTILITIES

FOURTH REPORT TO THE LEGISLATIVE OVERSIGHT
COMMITTEE ON THE CONSUMER ADVOCATE'S OFFICE

Submitted By:

JON WELLINGHOFF
CONSUMER ADVOCATE

May, 1984

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INTRODUCTION

COMMITTEE SUMMARY

This is the fourth report which the Office of Consumer Advocate (OCA) has presented to our Legislative Oversight Committee. Since the office was created in 1981, we have participated in a multitude of cases and issues before the Public Service Commission, the Federal Energy Regulatory Commission and the United States Congress. Our legislative mandate is to represent the interests of all utility customers before regulatory bodies whose decisions affect those customers. In keeping with that mandate, we are pleased to present to the Committee a summary of our activities since the last Oversight Committee meeting in October 1982.

This report is organized into four sections. The first section contains a case by case review of the utility general rate cases in which OCA has participated since the last Legislative Oversight Committee meeting. There have been eight such cases of major significance in which OCA has intervened.

The second section covers a variety of matters which affected various groups of ratepayers, that although were not general rate cases, nevertheless had equal or greater significance and warranted OCA's participation.

The third section briefly outlines OCA's staffing level and budget expenditures.

The final section outlines OCA's draft legislative proposals for the 1984-85 session.

In an effort to assist the Committee to judge the effectiveness of our participation in rate cases and other matters, we have attempted to quantify the dollar savings which occurred as a result of OCA's intervention. Dollar savings alone are extremely difficult to quantify and many involve subjective judgments which are matters of interpretation. OCA feels confident, however, that those savings which we have identified as "direct savings" in the following summary would not have been achieved were it not for the OCA's existence and involvement.

In calculating those direct savings, we have reviewed the various cases and identified those issues and adjustments which were initiated by OCA and ultimately accepted by the Commission.

For example, if OCA was the only party during a proceeding to present testimony showing why a utility was not entitled to recover a certain expense item and if the Commission ultimately accepted OCA's position, that would be classified as a "direct savings" to ratepayers. Direct savings are calculated on an annual basis, although ratepayers naturally receive the benefits of those savings year after year.

Those savings which we have categorized as "shared savings" involve issues and adjustments which were raised jointly by OCA, the Commission Staff and other intervenors and which were ultimately accepted by the Commission.

Although the OCA certainly recognizes that the Legislature and Nevada ratepayers are entitled to some concrete method to quantify effectiveness, we feel strongly that dollar savings alone should not be the sole criteria for measuring the Office's success. Certainly, few other state agencies are judged by such standards. Far more important than short-term dollar savings are long-range, least-cost approaches to utility ratemaking which OCA has attempted to instill through our participation in the regulatory arena. Although individual rate cases may come and go with regularity, the issues which are debated and the precedents which are established will carry impacts far into the future. It is in these areas where OCA hopes to make our most important contributions on the local, state and national levels.

Nevertheless, in an effort to help the Committee gauge our short-term effectiveness since the last Committee meeting, OCA has been responsible for \$11.9 million in direct savings and more than \$26 million in shared savings. Since our creation in June 1981, we have been responsible for \$16.4 million in direct savings and \$62.5 million in shared savings.*

* (A case by case statistical summary of OCA's participation in various cases is attached to the end of this report.)

We are pleased with these results and we believe that we have performed a valuable service for those consumers we represent. But even more important than dollar savings we have achieved in the short term are the long-term issues, such as Utility Resource Planning and newly evolving telecommunications policy. Issues such as these will be impacting Nevada ratepayers for years to come and OCA is looking forward to the challenges ahead.

SECTION ONE - GENERAL CASE REVIEW

1. Docket No. 82-399 - Southwest Gas Corporation

<u>Date Decided</u>	<u>Utility Requested</u>	<u>Utility Received</u>	<u>OCA Contested</u>	<u>Direct Savings</u>	<u>Shared Savings</u>
1/24/83	\$8,692,400	\$7,118,200	\$2,940,000	\$186,000	\$1,388,200

In this case, Southwest Gas sought an \$8.6 million (or 5.1%) revenue increase for its Southern Division. The primary issues in this case were rate design and Southwest's proposed Margin Adjustment Provision (MAP). The MAP was a revenue adjustment provision which would have enabled Southwest to raise or lower its commodity rate depending upon sales volume. OCA and Staff opposed the MAP proposal, which was ultimately rejected by the Commission. The Commission also accepted most of OCA's rate design and made an adjustment for deferred taxes which resulted from OCA's participation in the case. The last adjustment yielded a savings of \$186,000. The Commission declined to accept OCA adjustments related to obsolete inventory, utility association dues and vehicle fleet.

2. Docket Nos. 83-111, 83-112, 83-113 - Sierra Pacific Power Co.

<u>Date Decided</u>	<u>Utility Requested</u>	<u>Utility Received</u>	<u>OCA Contested</u>	<u>Direct Savings</u>	<u>Shared Savings</u>
5/9/83	\$22,195,000	\$12,843,000	\$17,120,000	\$521,000	\$9,000,000

In this case, Sierra Pacific requested increases in its electric, gas and water rates. The utility had been authorized a 16.6% rate of return in its last general rate case and was seeking to increase that to 18%. OCA presented testimony suggesting a 14-15% as being more reasonable. The Commission decided on a 15.5 return rate.

OCA was successful in convincing the Commission that Sierra had improperly calculated its tax depreciation, resulting in a \$355,000 adjustment. In addition, the Commission accepted a \$54,000 adjustment for operation and maintenance costs at the Valmy Power Plant. The Company also stipulated to several other adjustments for out-of-state legal expenses and Federal Energy Regulation Commission filing fees.

Other expense and rate base issues which were raised and challenged by OCA included: Sierra's calculations for its day to day cash needs; OCA's proposal to require stockholders pay 50 percent of the cost of rate cases; disallowing expenses associated with the annual report to stockholders; an adjustment to Sierra's property taxes, and various public relations expenses. The Commission declined to accept any of these adjustments.

3. Docket No. 82-590 - Nevada Bell

<u>Date</u> <u>Decided</u>	<u>Utility</u> <u>Requested</u>	<u>Utility</u> <u>Received</u>	<u>OCA</u> <u>Contested</u>	<u>OCA</u> <u>Direct</u>	<u>Sha</u> <u>Sav</u>
6/27/83	\$14.9 million	\$5.8 million	\$14.8 million	\$867,000	\$3,

In this case, Nevada Bell sought a revenue increase of \$14.9 million. The Company proposed substantial increases in monthly business and residential rates for both flat and measured service. The Company also wanted to increase the rate for pay phones, and begin charging for some services which heretofore had been free. In addition, the utility wanted to increase its rate of return from 15% to 16.9%.

Major issues included: rate of return (OCA recommended a 14 - 14.25% rate of return); various public relations expenses; the use of a consolidated capital structure versus a "double leveraged" approach; a revised depreciation method; and reduced employee levels.

The Commission ultimately awarded the Company \$5.8 million in additional revenues. Nevada Bell's rate of return was held to 15%. Monthly rates remained stable, although numerous service charges were increased. A number of OCA's adjustments were rejected by the Commission, although the Commission did accept two adjustments which reduced the rate increase by \$867,000. In one adjustment, OCA argued that Nevada Bell's primary equipment supplier, Western Electric, should not be permitted to earn excessive profits as a result of the rates which it charges Nevada Bell. In another matter, the Commission agreed that

Nevada Bell ratepayers should not have to pay for certain financial, legal, engineering, and research and development services which were provided by AT&T, but carried few benefits to Nevada Bell customers.

On September 23, 1983, OCA filed suit against the Commission and Nevada Bell seeking to return \$1.6 million to ratepayers. Among the issues raised by OCA were:

- There was no justification for the Commission to award a 15% return on equity.
- The Commission should not have allowed the Company to use ratepayer funds for public relations expenses such as lobbying against federal legislation designed to protect telephone users.
- The Commission should not have awarded a 16.5% inflation factor for expenses which Nevada Bell incurred since its last rate case.

Nevada Bell has also filed suit against the Commission, claiming it should have received a larger increase than was awarded. Both actions have been consolidated in the First Judicial District Court and are pending.

4. Docket No. 83-707 - Nevada Power Company

<u>Date</u> <u>Decided</u>	<u>Utility</u> <u>Requested</u>	<u>Utility</u> <u>Received</u>	<u>OCA</u> <u>Contested</u>	<u>Direct</u> <u>Savings</u>	<u>Share</u> <u>Savings</u>
12/20/83	\$42,231,000	\$20,071,000	\$32,000,000	\$3,910,000	\$7,000,000

This case was originally filed in June 1983. After reviewing the application, OCA filed a motion to dismiss based upon the fact that the application was incomplete because it did not contain testimony and workpapers. Although the Company disagreed that this material should have accompanied its filing, nevertheless it withdrew its application and refiled one month later. This one-month delay postponed implementation of new rates when the case was ultimately decided which resulted in a \$1.7 million savings to ratepayers.

Aside from the issues which normally arise in a rate case, this case contained several unique aspects. Among these were Commission approval of the sale and leaseback of the Company's new \$25 million dollar headquarters building; Commission approval to bring the \$250 million Reid Gardner plant into rate base; revised depreciation rates; and Nevada Power's request for increased revenues based upon abnormal weather which resulted in artificially low electrical sales. The case was the largest rate case ever heard in Nevada and hearings took 14 days over a five-week period.

Both OCA and Staff challenged many expense and rate base items in the case. Among the items contested by OCA were:

Rate of Return - Nevada Power sought a 16.0% rate of return. OCA argued that economic conditions had improved considerably since the Company's last rate case and a 13.5% rate of return was

more appropriate. The difference between OCA's rate and that sought by the Company amounted to \$11 million. Staff advocated a 15% return. The Commission ultimately awarded 14.75%.

Reid Gardner - OCA's witness, Whit Russell, argued for a \$13 million reduction in rate base, saying that Nevada ratepayers were being asked to pay too much for peaking power generated at Reid Gardner IV. OCA also argued that ratepayers were being asked to pay 32% of the cost of the generating plant, but were only receiving 25% of the energy which the plant produced. The Commission disagreed and rejected OCA's adjustments.

Miscellaneous Expenses - OCA proposed numerous expense adjustments. Among those expenses or rate base items which OCA encouraged the Commission to disallow were; dues paid to utility public relations, lobbying and research organizations which provided little or no benefits to Nevada ratepayers; abnormally large increases in plant maintenance costs; an adjustment to retirement accruals; excessive fuel inventories; expenses related to a coal slurry pipeline which was not used and useful; and improper annualization of depreciation expenses, deferred taxes and deferred lease payments. Most of these adjustments were rejected by the Commission. The Commission did, however, accept an OCA proposed \$343,000 reduction for wage increases and a \$724,000 adjustment because the Company had understated revenues received from wheeling power to California. At OCA's urging, the Company was also ordered to study and report back to the

Commission on more aggressive conservation and load management programs as an alternative to new generating plants. Such activity, although not producing direct savings in this case, could in the future save Nevada Power's ratepayers millions of dollars.

Nevada Power has since filed suit in District Court challenging portions the Commission's decision in this case. The OCA has cross-filed arguing that Nevada Power's entire rate increase should be thrown out because it was improperly noticed to the public.

5. Docket Nos. 83-662 and 83-1118 -
Continental Telephone Co.

<u>Date</u> <u>Decided</u>	<u>Utility</u> <u>Requested</u>	<u>Utility</u> <u>Received</u>	<u>OCA</u> <u>Contested</u>	<u>Direct</u> <u>Savings</u>	<u>Shared</u> <u>Savings</u>
1/25/84	\$1,786,405	\$500,251	\$1,786,405	\$742,000	\$1,286,154

This case was originally filed in June 1983 and sought increases in revenues of \$2,043,922 from customers in Douglas and Lyon counties. In November, OCA filed testimony concerning rate of return, capital structure and various other adjustments. As hearings on the case got underway, a consumer witness pointed out that he had received no notice of the rate hearing, as required by the Commission's Rules of Practice and Procedure. When the utility conceded that it could find no evidence that it had notified its customers, via bill stuffers, of the rate hearings, OCA moved to dismiss the case. That motion was granted.

The Company refiled its application shortly thereafter. The new application requested a revenue increase of \$1.8 million. Continental proposed to increase basic residential telephones by almost \$10.00 a month and business rates by \$17.00.

Shortly before the case went to hearing, Continental, the OCA, and the Staff arrived at a stipulated settlement which was agreed to by the Commission. The utility agreed to accept only 28% of its original request. The result was a \$2.00 monthly increase in residential rates and a \$5.50 increase in business rates. In addition, the Company agreed to lower its rate of return on common equity from 17% requested by the Company to 14%, which was the level recommended by OCA's witness. This resulted in a \$742,000 savings directly attributable to OCA.

6. Docket No. 83-1039 - C.P. National

<u>Date Decided</u>	<u>Utility Requested</u>	<u>Utility Received</u>	<u>OCA Contested</u>	<u>Direct Savings</u>	<u>Shared Savings</u>
2/29/84	\$1,571,675	\$483,000	\$1,571,675	\$42,000	\$1,046,000

This case originally requested \$1.9 million in increased telephone rates in Elko County. Upon certification, the revenue requirement was reduced to \$1.5 million. OCA had prepared testimony challenging the Company's rate of return, capital structure and various other revenue expense and rate base items.

Under the proposed rates, monthly residential service would have increased \$11 a month and business rates would rise by \$25.

Shortly before the rate hearings began, OCA, the Staff, and CP National agreed to a settlement which the Commission accepted. Under the terms of the Agreement, CP National received a revenue increase of \$483,000. This translates into an increase in residential rates of \$2.25 a month and a business rate increase of \$5.10. The Company also agreed to temporarily waive the service charge for customers who wanted to switch to a different type of service because of the rate increase.

7. Docket No. 83-1012 -
Southwest Gas Corporation (Southern Division)

<u>Date</u> <u>Decided</u>	<u>Utility</u> <u>Requested</u>	<u>Utility</u> <u>Received</u>	<u>OCA</u> <u>Contested</u>	<u>Direct</u> <u>Savings</u>	<u>Shared</u> <u>Savings</u>
4/9/84	\$9.5 Million	\$7.1 Million	\$6.3 Million	\$275,000	\$1,037,45

This general rate case was filed by Southwest primarily as a result of a decision by Southwest's largest customer, Nevada Power, to no longer purchase gas for electric generation. Nevada Power contended that purchasing gas was no longer cost-effective due to the rates which were set in Southwest's last general rate case. Therefore, the primary issue in this case involved rate design and how the revenue deficiency resulting from the loss of Nevada Power should be made up by other classes of customers.

Southwest contended in its application that its revenue requirement was based upon an assumption that there would be no further sales to Nevada Power. The Company proposed a rate design which would have put the majority of the revenue burden on residential and small commercial customers. OCA proposed a rate

design which would have provided that the revenue deficiency be split between small consumers and shareholders. OCA also proposed various reductions in the revenue requirement based upon financial gain the Company received from the sale of its old headquarters; computation of cash working capital; deferred income taxes; and American Gas Association dues.

In its Opinion and Order, the Commission constructed a rate design premised upon the assumption that no gas sales would be made to Nevada Power. The Commission did note, however, that if sales do resume, that the benefits of any sales should be returned to the Company's other ratepayers.

The Commission partially agreed with OCA's adjustment for American Gas Association dues and also agreed with OCA's observation that Southwest's revenue requirements had been improperly calculated by \$200,000. Total direct savings by OCA amounted to approximately \$275,000.

8. Docket No. 83-822, et al. - Group W Cable

<u>Date</u> <u>Decided</u>	<u>Utility</u> <u>Requested</u>	<u>Utility</u> <u>Received</u>	<u>OCA</u> <u>Contested</u>	<u>Direct</u> <u>Savings</u>	<u>Shared</u> <u>Savings</u>
Still Undecided	\$1.3-1.7 Million	- 0 -	\$1.7 Million	\$750,000	\$750,00

Group W Cable has filed four separate rate requests since July 1983. To date, the Company has been unsuccessful and rates for basic cable service have remained stable. The Company's

first rate application was dismissed by the Commission because the Company failed to provide sufficient information.

The application was then refiled. Shortly before hearings began, however, the utility submitted some additional testimony which conflicted with its original application and which neither OCA nor Staff had sufficient time to review. OCA informed the Company that because of the untimeliness of its filing, OCA would move to dismiss the application. At that point, the application was withdrawn by Group W.

Shortly thereafter, the Company again refiled. This latest application contained the same financial data that was contained in the two previous rate applications. Because Nevada Revised Statutes require utilities to provide the most current financial information available, OCA filed a motion to dismiss the case, arguing that because of the outdated material, it would be impossible for the Commission to get an accurate picture of the Company's financial condition. The Commission agreed and dismissed the case.

Group W then refiled once again. OCA and Staff filed testimony in which it was argued that not only was the Company entitled to no increase, but there was a good possibility that rates should be reduced. After reviewing the testimony, the Company again withdrew its rate case.

The Commission did, however, conduct hearings on the quality of service which the Company is providing. OCA and many of the utility's customers testified that the Company was providing unsatisfactory service. The Commission agreed and established a timetable for improvements.

Group W has indicated that when it again refiles its rate application, it intends to challenge the Commission's authority to regulate television signals which are imported from outside Washoe County.

SECTION TWO - NON-RATECASE MATTERS

1. Sierra Pacific and Nevada Power Prorations

Direct Savings

Sierra Pacific -- \$2.8 million

Nevada Power -- \$868,500

This issue was touched upon briefly in our last report to the Legislative Oversight Committee. At that time, we were unsure precisely how, and to what extent, the Commission would order rebates in this matter. The Commission has since addressed this issue, so a more complete description of the case is now possible.

In response to a consumer complaint concerning a disputed bill, OCA began an investigation of the billing practices of Sierra Pacific and Nevada Power. Based upon the results of that probe, OCA filed a petition with the Commission alleging that the companies were not prorating utility customer's bills to reflect changes in new rates approved by the Commission.

For example, take the case of a utility which received a rate increase that was to take effect July 1. Theoretically, all energy a customer consumed prior to July 1 should have been charged at the old rate and energy consumed after July 1 should have been charged at the new, higher rate. Thus bills would have been prorated between old and new rates.

OCA learned, however, that the two utilities had not adhered to this practice in cases of deferred energy rate changes. Using the above described example, if a rate increase took effect July 1, and the utility sent out a bill July 2 for energy consumed in June, all energy was being charged at the new, higher rate instead of prorating the bill between the old and new rates.

Both Sierra Pacific and Nevada Power maintained the issue was only a timing difference, but the Commission agreed with the OCA and ultimately ruled that the utilities had indeed overcollected. As a result, the Commission ordered Nevada Power to refund \$868,500 to its customers. Sierra Pacific was ordered to refund \$2.8 million. Those refunds were issued in 1983. Sierra Pacific has since filed a court challenge of that ruling which is pending.

2. Sierra Pacific Holding Company

In December 1983, Sierra Pacific filed an application seeking Commission approval to reorganize its corporate structure. The Company proposed to form a holding company to be known as Sierra Pacific Resources. The existing utility would become a wholly-owned subsidiary of Sierra Pacific Resources. The Company's two non-regulated subsidiaries, Lands of Sierra and Sierra Energy Company, would also become subsidiaries of the holding company and would theoretically be separated from the utility company.

Sierra said its primary reason for proposing to reorganize was that a diversified company would look better in the eyes of the financial community resulting in lower borrowing costs. The Company also indicated it wanted to eliminate the public perception that the utility company was subsidizing the two non-regulated subsidiaries.

OCA strongly opposed allowing the company to form a holding company, contending that the Commission would be relinquishing considerable oversight ability if the reorganization was permitted to go through as proposed. Specifically, the Commission would no longer have authority over stock issuance by the Company. This loss of regulatory control by the PSC was the main issue of concern of the OCA.

OCA sponsored two expert witnesses who testified that at best, the reorganization would provide only marginal benefits, while in a worst case scenario, the reorganization could seriously harm ratepayers.

OCA Witness, Hugh Larkin, a Certified Public Accountant, testified that a diversified company with financially unsuccessful subsidiaries is likely to have more volatile earnings and will have more trouble maintaining its bond ratings. Sierra's existing subsidiaries have traditionally lost money and there is no indication that new ventures would be profitable. In addition, new business ventures would be a drain on the utility's cash flow.

On May 15, 1984, the Commission, in a 3-2 decision, allowed Sierra to reorganize. The Commission also declined to impose any conditions upon the reorganization. At this writing, the OCA is planning to ask the Commission to reconsider its decision.

3. CP National - Henderson

In this case, CP National had begun a construction program in April of 1983 which involved replacing gas service lines to several hundred residential gas customers in Henderson. One aspect of the project was to relocate customers' gas meters from the back of their homes to the front. The Company said it was necessary to relocate the meters for two reasons: first, because many customers had built patios and room additions over the existing gas lines; and secondly, to make it easier to read the meters by putting them in a more convenient location.

CP National had agreed to pay the costs of moving the gas lines and meters. Because the meters were to be moved from the back of the homes to the front, however, the Company told customers that they would be responsible for paying the costs of rerouting the gas lines within their homes in order to be able to connect with the meter at its new location. This would necessitate the homeowner obtaining a building permit and spending up to several hundred dollars to have the work done.

OCA argued in a petition filed with the Commission that the Company's tariffs did not require that the utility's customers be financially burdened because of a utility initiated construction project.

After filing our petition, OCA and staff met informally with the utility which ultimately agreed that all costs for moving the meters would be paid for by the Company and would become a part of the Company's rate base.

4. All Nevada Telephone Companies - Docket 83-1102

Direct Savings

\$428,000

This case arose as a result of action by the FCC and the Court ordered divestiture of the Bell System. Both the FCC and Court concluded that local telephone companies should provide long distance access to local networks on a fee or access charge basis.

In order to comply with FCC and Court directives it was necessary for the Public Service Commission to establish an access charge framework in Nevada. The method chosen by the Commission to achieve those was projected to produce more revenue to local companies than they previously received. OCA urged the Commission to establish a billing credit that would result in a reduction in rates of approximately \$428,000. Staff and Nevada Bell argued that no credit should be established. The Commission ruled that this excess revenue should be accounted for by the

local operating companies so it can ultimately be returned to ratepayers thereby sustaining the OCA's position that these funds should be used to reduce local service charges.

5. Shadow Mountain Village Mobile Home Park -
Docket 83-511

This case was brought before the Commission by the Mobile Home Owners League of the Silver State. In a complaint brought against the Shadow Mountain Village Mobile Home Park, the League claimed that residents of the park had been overcharged for natural gas service. At the League's request, OCA represented the 277 park tenants.

OCA alleged that Shadow Mountain Village Home Park had failed to adhere to Nevada Revised Statutes which requires parks to prorate utility costs among all residents if lots within the parks are not individually metered.

During two days of hearings, it was shown that rather than prorating the monthly natural gas costs, the park's management assessed a flat monthly rate which was calculated using some "ballpark" assumptions. Eventually, when individual gas meters were installed, it was discovered that the park had overestimated the monthly gas charges. OCA also introduced evidence showing that the park's management had hidden increases in rent by informing residents that utility rates were being increased. OCA

argued that residents should be entitled to a total refund of \$56,000. That would equate to individual refunds ranging from \$190 to \$258, depending upon the size of the tenant's trailer.

At this writing, the Commission has not issued a decision in this matter.

6. Deferred Energy Accounting Adjustment Cases

Direct Savings

Sierra Pacific -- \$549,000

OCA has participated in numerous deferred energy accounting adjustment cases. Deferred energy accounting is a procedure established by the Commission whereby the utility is reimbursed for its fuel costs. The intent of the procedure is to insure that the utility receives dollar for dollar recovery of its fuel costs so that customers pay neither too much nor too little. Most fuel adjustment cases are fairly routine and may even go through unchallenged.

In Docket Number 82-681, OCA did point out, however, that Sierra Pacific had not reflected sales of some 12,000 megawatt hours. The Company agreed with OCA's adjustment which resulted in a \$431,000 savings to ratepayers.

In another deferred energy case, Docket Number 83-636, Sierra Pacific and the Commission accepted an OCA proposed adjustment of \$118,000 which related to energy purchased by

Sierra Pacific from Idaho Power. In addition, both Staff and OCA joined in various adjustments which resulted in shared savings of \$596,000.

7. Utility Resource Planning

Due to the passage of S.B. 161 during the last legislative session, Nevada became the first state in the nation to use an integrated approach requiring the State's major utilities to use "least cost" methods to plan and provide for future electrical needs. Legislation is pending on the federal level to encourage all states to enact least cost energy planning procedures. Thus, Nevada is in the forefront of utility resource planning in the country.

The Utility Resource Planning Act requires the State's two major electric utilities to show that they have given equal economic consideration not only to building new conventional base load plants, but also to other supply and demand side alternatives such as geothermal energy, energy conservation and load management. The purpose of the Act is to insure that electric utilities select supply resource mixes which are the least expensive for ratepayers and, if possible, reduce the necessity of constructing costly generating plants. The Commission has adopted regulations outlining how the least cost planning process will proceed.

On July 1, Sierra Pacific and Nevada Power will file their first resource plans. The plans will contain forecasts of future electrical demand as well as an analysis of the resources the utilities propose to use to meet that demand. After review and comment by the OCA, the Commission Staff and other intervenors, the plans will either be accepted by the Commission or be sent back for additional revisions.

OCA is encouraging Sierra Pacific, Nevada Power and the Commission to put some conservation and load management programs on the "fast track". These are measures with a high calculated cost/benefit ratio and which do not require expensive and extensive analysis before implementation.

8. Sierra Pacific Power (Winnemucca Water Case) -
Docket 83-710

In this case, filed in July 1983, Sierra Pacific sought to increase water rates for its customers in Winnemucca by \$207,000. Prior to the case going to hearing and after negotiations with the OCA and Staff, the Company agreed to reduce its request by 50 percent. This resulted in a joint savings of \$103,500.

9. Small Water Companies

OCA has been involved in numerous cases involving small water companies. Those cases frequently present multiple problems for all the parties including the utilities themselves. The primary problem with small water companies is that the utilities are often established in order to accommodate the sale

of subdivided lots. Frequently, the utilities are undercapitalized and as the years go by, the water company is unable to stand on its own as a business entity. This results in requests for significant rate increases which, from the utility's point of view, are often complicated by the fact that poor record keeping and improper expense allocations often make it difficult to obtain a true picture of the utility's financial condition. Several water companies are providing poor quality of service because systems have been allowed to deteriorate. Utility owner/operators claim they are being denied the rate increases necessary to improve the systems and customers maintain they should not have to pay higher rates unless and until the service is brought to a satisfactory level. OCA has joined with the Commission in an effort to resolve these problems, and it is expected that the Legislature may have to address the problem in the next session.

OCA has participated in cases involving Desert Springs Water Company, Sheridan Acres Water Company, Ruth McGill Water Company Stagecoach Utilities, Valley Water Company, Reno Park Water Company, Silver Lake Water Company, Purity Water Company and Jea Utilities.

10. Pataya Storage Facility

In this case, Southwest Gas Company's Southern Division has applied to the Federal Energy Regulatory Commission for permission to construct a \$56 million underground gas storage

facility outside Kingman, Arizona. OCA has participated in hearings in Washington, D.C. and OCA, along with the Commission and the FERC Staff, have argued the storage facility is unnecessary and will place an unreasonable financial burden upon Southern Nevada ratepayers. If constructed, the plant will add from \$14 to \$50 a year to the utility bills of Southwest's Southern Nevada customers. During hearings in April, Southwest's gas supplier, El Paso Natural Gas, told FERC that its own recently completed storage facility in New Mexico would more than adequately cover Southwest's storage needs.

At this writing, a FERC Administrative Law Judge has yet to issue a decision in this matter.

11. National Association of State
Utility Consumer Advocates

OCA is a member of the National Association of State Consumer Advocates. Through this organization, OCA has participated in numerous utility related issues on a national level. NASUCA has been particularly active lately in the controversy surrounding access charges and the changing environment of the telecommunications industry.

Another issue which NASUCA has recently become involved in is "phantom taxes". Phantom taxes are those taxes which utilities collect from their customers for federal income tax purposes but do not pay immediately to the federal government.

Utilities, like other businesses, receive substantial federal tax benefits when they make investments in facilities such as new power plants. These benefits include accelerated depreciation due to shortened tax lives and investment tax credits.

Despite these savings, however, federal law and state utility regulations allow the utilities to charge their customers as if the utilities were not receiving the tax benefits. Furthermore, as long as a utility continues to grow, it can continue to accumulate additional tax benefits and indefinitely postpone paying much of its federal tax obligation. In the last few years, Nevada Power and Sierra Pacific have accumulated more than \$100 million in deferred tax accounts.

Recently proposed federal legislation, H. R. 4923 (The Phantom Tax Reform and Least Cost Energy Planning Act), will allow the Nevada Public Service Commission to see that some of these deferred taxes are returned to customers faster than they are currently. Presently, the Commission's authority to pass on the savings is hampered by federal statutes.

Those restrictions would be loosened if a state can show that it is trying to reduce investments in new power plants by requiring utilities to analyze the cost-effectiveness of new plant construction versus other supply options. Nevada would certainly qualify, due to the passage of the Utility Resource Planning Act as discussed above. Thus, if the federal "Phantom

Tax" Act were passed Nevada's ratepayers could expect an almost "immediate" and substantial reduction in their electric rates if the PSC acted expeditiously. In June, OCA will be representing Nevada ratepayers and the National Association of State Utility Consumer Advocates before a congressional committee which is receiving testimony on the Phantom Tax Reform Act.

OCA has contacted Nevada's congressional delegation in hopes of enlisting their support for this legislation.

12. Centel - Docket No. 83-1156

In December 1983 Central Telephone Company of Las Vegas filed a tariff with the Commission requesting permission to stop leasing telephone equipment to its customers. The Company proposed that effective April 1, 1984, customers would have to buy the Centel equipment which they had been leasing or return the equipment to Centel and purchase new equipment from another source. As the April 1 deadline approached, both OCA and the Commission began receiving complaints from Centel customers who were confused and concerned about having to make up their minds in such a short time frame. Customers were also concerned about their ability to pay for the equipment. After Chairman Craigie expressed concerns about Centel's program, OCA offered a counter proposal to Centel which would allow the Company's customers to continue leasing their Centel equipment for an additional six months while they decided on their purchase options. If the

customer elected to purchase his equipment, he would then have until December 1985 to make monthly payments. This OCA proposal allowed senior citizens and those on fixed incomes to "purchase" their Centel telephone for little more than they were currently paying in "lease" payments. Centel agreed to this proposal which was approved by the Commission.

13. Nevada Power Management Audit

In March 1983, OCA filed with the Commission a petition requesting that the Commission order a management audit for Nevada Power Company. The Commission, pursuant to Nevada Revised Statutes can order an investigation into a utility's management practices if the Commission feels it is warranted.

Among the issues which OCA believed should be investigated were:

1. The acquisition and use of all computer hardware.
2. Policies relating to meter reading and meter testing.
3. Acquisition of materials and supplies.
4. Purchase and sale of electrical energy.
5. Bidding and negotiation procedures.

The Commission rejected the petition, saying it would be more appropriate to consider the issues during Nevada Power's next general rate case. In the meantime, the Commission's Staff was ordered to investigate the areas which OCA raised.

When Nevada Power's next rate case was filed the Commission received testimony relative to OCA's petition. In its Opinion and Order the Commission deferred making a decision saying a separate hearing was necessary.

In comments filed subsequent to that Opinion, OCA maintained that Nevada Power had, during the rate case, responded adequately to some of the suggested areas of inquiry raised in OCA's initial petition. There were, however, several areas which OCA believed warranted additional investigation and which should be examined during the course of a management audit.

On May 7, 1984, the Commission unanimously voted to order an audit into six specific areas. They were:

- 1) Nevada Power's heat pump conservation program.
- 2) The Company's service termination procedures.
- 3) The Company's bidding procedures.
- 4) The planning for, acquisition and use of computer hardware and software.
- 5) Operation of pollution control equipment at the Reid Gardner plant.
- 6) The policies of the Company's customer relations staff.

The Commission suggested to Nevada Power that the Company allow the OCA and Staff to participate in the selection of the auditors and provide suggestions on how the audit will be conducted. The audit itself is expected to be completed in approximately twelve months.

14. El Paso Natural Gas - FERC

Direct Savings

\$100,000

This case was brought against El Paso Natural Gas Company, an interstate supplier of natural gas, by its retail customers alleging that they had been overcharged for wholesale gas deliveries. Southwest Gas is one of El Paso Gas Company's customers and Southwest claimed it had been overcharged by \$375,000. OCA supported Southwest's petition and pointed out that Southwest was entitled to interest payments of approximately \$100,000. El Paso has agreed to refund both the overcollections and interest payments. Other parties in the matter are continuing to file motions, thus the case has not yet been finally resolved.

15. CONSUMER COMPLAINTS

OCA receives numerous consumer complaints involving billing disputes, utility line extensions, terminations, deposit requirements and quality of service problems. If possible, OCA will advise consumers to contact the Commission's Consumer Division which attempts to resolve individual disputes between utilities and their customers. At times, however, OCA will intercede if it appears that an individual complaint is evidence of a more widespread problem or if the customer has been unable to have his problem satisfactorily resolved by the Consumer Division.

As more fully described earlier in this report, the issue of prorating utility bills between old and new rates was brought to OCA's attention through a consumer's telephone inquiry. This eventually resulted in a \$3.6 million savings to ratepayers.

In addition, OCA's involvement with Group W Cable came about as a direct result of complaints received by our office from many of the utility's customers. OCA considers consumer complaints a very productive asset which we will continue to rely upon as a source of information.

16. Lawsuits

OCA has filed five lawsuits challenging the Commission's rulings on various general rate cases.

Most recently, the Nevada Supreme Court ruled against OCA in an appeal of a District Court decision which upheld the Commission's ruling in a case including Southwest Gas. OCA argued that Southwest should not have been permitted to certify to a higher requested rate of return than the Company sought in its original application. OCA also maintained that the Commission had insufficient evidence to set Southwest's rate of return at 16.7 percent.

In its decision, the Supreme Court held that the Commission did not abuse its discretionary powers and that the Commission's decision was supported by substantial evidence.

A second Supreme Court Appeal is currently awaiting oral arguments. In that case, OCA contends that the Commission improperly allowed Sierra Pacific to retain property tax overcollections which OCA believes should have been refunded to customers. OCA also is contending that Sierra's methodology of calculating its day to day cash needs, and the Commission's acceptance of that methodology, is incorrect.

Two remaining lawsuits involving Nevada Power and Nevada Bell are pending at the District Court level.

SECTION THREE - ADMINISTRATION

The Office of Consumer Advocate is staffed by five professionals and one and one-half clerical employees. They are.

- | | |
|------------------------------------------|------------------|
| 1. Consumer Advocate | Jon Wellinghoff |
| 2. Staff Counsel | Kelly Jackson |
| 3. Regulatory Analyst | Cynthia Mitchell |
| 4. Senior Utility Specialist | Suren Kumar |
| 5. Administrative Assistant | Richard Hackman |
| 6. Legal Secretary | Anne MacDonald |
| 7. Management Assistant I
(half-time) | Clemencia Golbov |

Like the Public Service Commission, OCA is funded through a mill assessment on the gross operating revenues of regulated Nevada utility companies. Our budget authorization and expenditures for the current, as well as previous fiscal years consist of the following:

1984 - \$	502,953*
1983 - \$	476,547
1982 - \$	400,117
1981 - \$	14,993
	<hr/>
	\$1,394,610

*Assumes entire 1984 budget authorization will be expended

SECTION FOUR - LEGISLATIVE SUMMARY

The primary job of the OCA is to protect the public interest. During the past year several areas have been identified in which we believe a legislative change is necessary in order to fully protect Nevada's ratepayers. The following is a brief recap of the legislation which the OCA believes should be considered by the Legislature when it convenes in 1985.

1. Extension of Suspension Period

At the present time, the Public Service Commission has a total of 180 days to render a decision on a rate increase application after the application has been filed by a public utility. The 180 days includes a 30 day notice period which is required by NRS 704.100 and a 150 day suspension period which is set forth in NRS 704.110(2). The current national average for rendering such decisions is 240 days. It has been the experience of the OCA that a 180 day period does not afford the parties and Commission sufficient time to adequately prepare for and conduct hearings or to render a decision regarding many utility rate requests. As a result, it is our opinion that the public interest is not being adequately represented and protected.

The need for additional time to review and process rate applications stems from several factors. First, applications for rate increases involve two specifically identifiable subject areas. The Commission must establish the utility's overall

revenue requirements which involves resolution of numerous issues; and then it must determine what rate design will be used to authorize the utility recover the revenue requirement from its ratepayers. Hiring witnesses, conducting adequate discovery and preparing for hearing simply cannot be accomplished in a manner that ensures full protection of the public interest within current time constraints.

Therefore, the OCA recommends that the Legislature adopt amendments to NRS 704.110 which would expand the time available for review and investigation of utility applications. As a concomitant change to the extension of the suspension period, the utility company should be allowed to certify to items for a period up to nine (9) months after the end of the test period as opposed to the current six (6) month limitation. Making changes in both sections of NRS 704.110 will afford parties and the Commission a more reasonable period of time to investigate utility company filings for rate increases and at the same time enable utility companies to reflect changes to expense and rate base that take place for the nine month period after the end of the test year.

2. Deadlock Dilemma

Under current statutory provisions, if the Public Service Commission is unable to reach a decision in a case prior to the end of the suspension period, the request goes into effect in

full as applied for by the utility company. It is the OCA's position that such a result is not in the public interest. Under such circumstances, the utility has clearly not maintained its burden of demonstrating that the requested increase is justified since had it sustained that burden, the Commission would have been able to reach a decision in the case. Therefore, the OCA supports the enactment of legislation to change this situation. Specifically, the OCA recommends that legislation be adopted which would result in the denial of an application in those instances in which the Public Service Commission has held hearings but was not able to reach a decision because of a deadlock situation.

As has been noted by Phillis M. Silvestri of the National Association of Parliamentarians, such a result would be consistent with the general rules of Parliamentary Practice and Procedure. Affirmative action should only be taken in those instances in which there is a majority vote. It is a disservice to ratepayers for rates to be increased in those instances in which the utility has not clearly met its burden to justify the requested increase in rates.

3. Prior Approval of Construction Projects

Under Nevada's current legislative framework, utility companies are required to obtain construction permits for a variety of facilities. This process enables the Public Service

Commission to ensure that there is a need for such facilities prior to the time the utility companies begin construction. Unfortunately, the current law does not require prior Commission review of items like office buildings. As has been seen during the past several years, new office building projects carry significant impacts on rates and ratepayers. These projects should be reviewed by the Commission prior to the time construction is undertaken. Such a review will benefit both ratepayers and stockholders alike. It is certainly in the ratepayers interest to ensure that utility companies have reviewed all available options for meeting its space requirements and that the methods selected by it to meet those requirements are reasonable and prudent. On the other hand, stockholders would benefit from this system through the early identification of any potential problem areas that could result from investment expenditures which are subsequently determined to be unreasonable or excessive by the Commission.

4. Regulation of Utility Holding Companies

During the past several years, there have been increasing efforts by gas and electric utility companies to reorganize in a holding company format. In this State, Sierra Pacific Power Company recently applied for permission from the Public Service Commission to effect a corporate reorganization which would result in the establishment of a holding company for its

operations. Though Sierra Pacific filed an application with the Commission regarding the proposed reorganization, it ultimately took the position that the Public Service Commission did not have jurisdiction over this matter.

The OCA has spent considerable time and energy analyzing the potential complications that may arise if utility holding companies are not subject to jurisdiction of the Public Service Commission. As a result of that investigation, the OCA believes it is essential for the Nevada Legislature to pass legislation which will establish a clear and unequivocal framework for the Commission's jurisdiction over the formation of holding companies in the first instance and on-going access to the necessary information to effectively regulate any utility subsidiaries of a holding company. Without the necessary legislative changes, there exists a potential void in the regulatory framework in this State that could work to the detriment of Nevada ratepayers.

5. Profit Level

One of the major determinations that must be made by the Public Service Commission in rate proceedings, involves the return on common equity or profit level which a utility company should be authorized. This issue is normally one of the big dollar questions in rate cases. Since its inception, the OCA has been concerned about the lack of Commission precision in explaining how it arrived at the return being authorized. Give

the significance of this item, it is imperative for the Commission to be required to explicitly identify the methodology and factors which it uses to determine a utility company's profit level. Without such information, it is not possible for the parties or for the judicial system to determine whether the Commission has rendered a decision based upon the record before it.

6. Small Water Companies

For the past ten years, the Public Service Commission has faced continuing and serious problems concerning small water companies. Several legislative changes could help reduce future problems in this area. First, legislation should be adopted which provides for continuing Commission regulation of small water companies. Under the present circumstances, small water companies are certified by the Commission at the time they initiate operations but are not subject to full Commission regulation until they have twenty-five (25) customers and more than five thousand dollars (\$5,000.00) annual operating revenues. As a result, by the time the Commission becomes involved with full regulation of small water companies, the problems are often insurmountable. This situation could be changed by providing Commission oversight of the operations of these companies from the time of formation until the time they become subject to full rate regulation by the Commission.

Finally, changes should be made to require disclosures to prospective purchasers of developed real property regarding the extent to which the cost of water and sewer systems are included in the purchase price of the property. Otherwise, purchasers may pay for the cost of such improvements when they buy their property and again when rates are set by the Public Service Commission. This has been a continuing and vexing problem in the small water company arena.

Second, the power and authority of receivers who are appointed to operate small water companies should be more clearly defined. Such authority should extend to representing the company in bankruptcy proceedings, undertaking actions necessary to dissolve and liquidate insolvent operations and negotiating the transfer of such operations to appropriate local governmental entities.

Though these proposals will not eliminate the problems which surround small water companies, they will certainly provide the Commission and parties with more latitude in avoiding the sort of problems that have been experienced and resolving those that do arise.

GENERAL RATE CASES

DOCKET #	DECIDED	AMOUNT REQUESTED	PSCN AUTHORIZED	CONTESTED BY OCA	OCA DIRECT SAVINGS	SHARED SAVINGS
SPP 81-105	8/24/81	16,324,255	7,071,916	12,241,155	490,000	6,832,500
SPP 81-660	5/6/82	17,689,000	4,225,000	30,449,000	79,200	4,900,000
SPP 83-111	5/9/83	22,195,000	12,843,000	17,120,000	521,000	9,000,000
SUB TOTAL		56,208,255	24,139,916	59,810,155	1,090,200	20,732,500
NP 81-081	8/10/81	21,876,472	14,492,757	12,539,406	-0-	6,910,977
NP 81-602	3/29/82	16,601,911	6,189,132	20,604,047	380,000	7,800,000
NP 83-707	12/20/83	42,231,000	20,071,000	32,000,000	3,910,000	7,000,000
SUBTOTAL		80,709,383	40,752,889	65,143,453	4,290,000	21,710,977
SWG 81-229	10/12/81	2,288,800	1,561,800	600,700	229,700	-0-
SWG 81-614	4/12/82	7,839,639	6,187,220	2,426,652	1,200,000	186,000
SWG 82-398	11/24/82	8,625,817	6,650,000	2,925,674	343,600	1,548,600
SWG 82-399	1/24/83	8,692,400	7,118,200	2,940,000	186,000	1,388,200
SWG 83-1012	4/9/84	9,500,000	7,100,000	6,300,000	275,000	1,037,453
SUBTOTAL		36,946,656	28,617,220	15,193,026	2,234,300	4,160,253
CP 82-095	8/9/82	500,478	376,832	48,500	3,800	-0-
CP 83-1039	2/29/84	1,571,675	483,000	1,571,675	42,000	1,046,000
SUBTOTAL		2,072,153	859,832	1,620,175	45,800	1,046,000
CONT82-179	9/27/82	3,604,550	1,572,000	1,547,349	180,000	2,032,550
CONT 83-1118	1/25/84	1,786,405	500,251	1,786,405	742,000	1,286,154
SUBTOTAL		5,390,955	2,072,251	3,333,754	922,000	3,318,704
NB 82-590	6/27/83	14,900,000	5,800,000	14,800,000	867,000	3,995,000
GW 83-822	-0-	1,700,000	-0-	1,700,000	750,000	750,000
TOTAL		197,927,402	102,242,108	161,100,563	10,199,300	55,713,434

DEFERRED ENERGY & OTHER CASES

DOCKET #	DECIDED	AMOUNT REQUESTED	PSCN AUTHORIZED	CONTESTED BY OCA	OCA DIRECT SAVINGS	SHARED SAVINGS
SPP 82-332	7/26/82	3,810,586	-0-	-0-	-0-	-0-
SPP 82-333	7/26/82	26,215,996	22,247,000	6,735,000	-0-	3,961,000
SPP 82-443	9/27/82	731,562	645,589	86,000	86,000	-0-
SPP 82-444	9/27/82	1,057,000	1,195,034	474,000	110,000	-0-
SPP 82-681	1/31/83	-8,224,000	-9,730,000	2,256,000	431,000	1,825,000
SPP 82-332-3	3/7/83	-0-	-2,825,000	2,825,000	2,825,000	-0-
SPP 83-636	7/26/83	-4,110,060	-4,900,000	1,939,253	118,000	596,000
SUBTOTAL		19,481,084	6,632,623	14,315,253	3,570,000	6,382,000
NP 82-201	5/24/82	4,594,980	4,561,923	529,000	33,000	-0-
NP 82-550	11/29/82	16,957,112	16,446,355	1,039,770	868,500	124,37
SUB TOTAL		21,552,092	21,008,278	1,568,770	901,500	124,37
TEL 83-1120	12/19/83	428,000	-0-	428,000	428,000	-0-
SWG 81-514,53	10/5/81	10,608,916	10,297,377	111,539	111,539	-0-
SWG 82-476	10/4/82	17,217,496	17,217,496	-0-	1,089,282	-0-
SUB TOTAL		27,826,412	27,514,873	111,539	1,200,821	-0-
TOTAL		69,287,588	55,155,774	16,423,562	6,100,321	5,910,37
GENERAL AND OTHERS TOTAL						
SIERRA		75,689,339	30,772,539	74,125,408	4,660,200	27,114,50
NEV POWER		102,261,475	61,761,167	66,712,223	5,191,500	21,835,34
S.W. GAS		64,773,068	56,132,093	15,304,619	3,435,121	4,160,25
CONTINENTAL		5,390,955	2,072,251	3,333,754	922,000	3,318,70
CP NATIONAL		2,072,153	859,832	1,620,175	45,800	1,046,00
GROUP W		1,700,000	-0-	1,700,000	750,000	750,00
NEVADA BELL		14,900,000	5,800,000	14,800,000	867,000	3,995,00
MISC		428,000	-0-	428,000	428,000	-0-
FERC		-375,000	-475,000	475,000	100,000	375,00
GRAND TOTAL		266,839,990	156,922,882	178,071,179	16,417,621	62,594,80

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

TO: Members of the Legislative Oversight Committee DATE: May 23, 1984

FROM: Jon Wellingshoff, Consumer Advocate

SUBJECT:

In a letter sent to our office on May 10, 1984 Senator Robinson, Chairman of OCA's Legislative Oversight Committee, poses a number of questions and concerns regarding the office's budget and operational structure. Most of those questions are answered in the body of our report to the Oversight Committee and attached tables. One question, however, is not included and is being addressed separately in this memo. That question relates to the functional organization of the Consumer Advocate's Office and its relationship to the various branches of state government. Specifically, Senator Robinson requested:

"Also, now that the attorney general who wanted your office in his office is now the governor, it occurs to me that you might want to be moved to the Public Service Commission where you would have ready access to information and technical assistance such as engineering, etc. So, you might give us your input on that."

OCA believes that for the reasons discussed below Senator Robinson's proposal would not be in the best interests of Nevada's ratepayers.

OCA was created by the 1981 session of the Legislature to independently represent ratepayers before the Public Service Commission. Furthermore, it should be noted that the voters have expressly supported locating the OCA in the Attorney General's Office to provide the autonomy needed for its work. Both the initiative petition, which provided the stimulus to create the office, and Question 11, which was overwhelmingly approved by voters, specified that the OCA should be located in the Attorney General's Office. Merging our office with either the Commission or the Commission Staff would remove that independence and negate the original legislative and public intent. We believe that such a merger would not be in the best interests of utility ratepayers and would serve no useful purpose. We also believe that the office should be retained within the Attorney General's Office to maintain political and functional independence.

As the Oversight Committee is aware, the Public Service Commission is comprised of two entities; the Commission, which decides cases and sets policy; and the Staff which presents testimony and sees that the Commission's policies are carried out. During general rate case proceedings, the Staff is a separate party and presents its own witnesses and testimony just as OCA or any other intervenor to a proceeding.

The Staff, however, is not completely separated from the Commission primarily because the Commission has supervisory authority over the Staff. Key Staff appointments are made by the Commission and the Commission has the final word on Staff hiring, firing and salary increases. The situation is somewhat analogous to a judge having the authority to hire or fire a defense attorney who appears before him. Clearly, under the existing organizational framework, the Staff cannot be an independent advocate. Therefore, if OCA was merged with the Staff, our authority to independently represent utility customers would be lost.

The Committee should be aware that beyond the need for independent representation of ratepayers' interests, the Legislature has specifically charged the OCA with the responsibility to be an advocate for those interests. This means that the OCA has the legislative mandate to present the consumers' case to the PSC and other regulatory and legislative bodies from the perspective most favorable to the consumers the office represents. Thus, the OCA has the responsibility to be on the cutting edge of regulatory and legislative actions which promote the best interest of Nevada's ratepayers. The PSC Staff on the other hand, does not share this responsibility. (The Staff is required by law and PSC directive to carry out

Commission policy and present the "middle-of-the-road" position at rate cases.) Furthermore, the Staff does not make independent legislative proposals, and certainly is not cast in an "advocate" role. The distinctions between the OCA and the PSC Staff in this regard should be clear.

OCA believes that it is beneficial to the regulatory arena to bring a new perspective to the ratemaking process. Prior to the creation of OCA, issues such as those raised by the Utility Resource Planning Act received little attention. The Commission and Staff, because of the nature of the workload, are forced into a position of being reactive rather than approaching issues prospectively. OCA believes that our participation in the regulatory process has assisted the Commission in initiating more prospective, long-range actions and in generally expanding the scope of issues presented to the Commission. We further believe that there are additional opportunities to provide further assistance to the Commission and the regulatory process. Merging OCA with the Staff would stifle the current progress toward comprehensive regulatory planning. It would also severely diminish the introduction of creative and innovative proposals for improving ratepayers positions in the regulatory and legislative arenas.

We would also point out that merging OCA with Staff would, in all likelihood, make it impossible to file suit against the Commission in those instances where ratepayers have been unfairly

harmd by Commission decisions. To date, OCA has filed five lawsuits against the Commission challenging the Commission's rulings on various issues. In each of those cases we alleged that the Commission's ruling had resulted in harm to ratepayers by decisions that were either arbitrary and capricious or not based upon substantial evidence.

Even when the OCA and Staff agree on issues, once a case is decided, Staff cannot challenge that decision in court. Under the existing organizational framework, allowing the Staff to file suit would, in effect, result in one side of the Commission suing the other. Obviously, since the Staff is appointed and retained by the Commission, it would be impractical for the Staff to file suit against the Commission.

Prior to OCA's creation, residential and small commercial ratepayers had no practical recourse to overturn by appeal Commission decisions which adversely affected them. The utilities, naturally, did have the legal and financial means to file court challenges and they did not hesitate to exercise their right. The cost of these suits is of course borne by the ratepayers.

Since the Staff could not sue there was no one to represent the interests of the residential and small commercial customer. Consumers now have that representation, however merging OCA with

Staff could once again leave customers with no practical recourse against unfair PSC rulings.

Finally, OCA believes that the office should remain an arm of the Attorney General's Office in order to maintain an equitable separation of powers. The Commission is an executive agency. Commissioners are appointed by the Governor. Since the Staff is in turn appointed and retained by the Commission, the Governor can indirectly exert influence over the Staff. Placing the OCA with the Commission or Staff would disturb the balance which has been created by making the Attorney General responsible for appointment of the Consumer Advocate.

In summary, OCA can see no benefits to ratepayers by merging our office with the PSC Staff. On the contrary, the proposal presents very real threats to ratepayers and the regulatory process. We would urge the Committee to preserve ratepayers' interests and set aside this proposal.

APPENDIX B

List of Other Written Submittals to the Nevada Legislature's
Committee to Review the Performance of the Office of
Consumer's Advocate

LIST OF OTHER WRITTEN SUBMITTALS TO THE NEVADA LEGISLATURE'S
COMMITTEE TO REVIEW THE PERFORMANCE OF THE OFFICE OF
CONSUMER'S ADVOCATE

The following list identifies the additional written submittals to the committee to review the performance of the office of consumer's advocate. These documents became part of the minutes of the May 30, 1984, committee hearing. They are available for review at the research library of the legislative counsel bureau.

1. A letter and statement from the Sierra Pacific Power Company.
2. A testimony outline from the Nevada Power Company.
3. A letter from the office of the attorney general.
4. A letter from Bill Kissam, chairman, and Ray Wood, vice chairman, Seniors United, Las Vegas, Nevada.
5. A letter from Vickie Demas, state president, Mobilehome Owners League of the Silver State, Inc., Las Vegas, Nevada.
6. A letter from Julian Wallace, executive vice president, and Lillian Wallace, editor, Mobilehome News, Mobilehome Owners League of the Silver State, Inc., Las Vegas, Nevada.
7. A letter from Thelma Clark, vice president, Mobilehome Owners League, Las Vegas, Nevada.
8. A letter from Edward Corsa, "for the Dignity of Seniors," Las Vegas, Nevada.
9. A letter from William G. Hudspeth, spokesman, Coalition of Concerned Citizens, Las Vegas, Nevada.
10. A letter from Quida B. Garmany, senior citizen, Las Vegas, Nevada.

APPENDIX C

Suggested Legislation

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BDR 18-121..... Authorizes interim committee reviewing performance of consumer's advocate to make recommendations to public service commission	64

SUMMARY--Authorizes interim committee reviewing performance of consumer's advocate to make recommendations to public service commission. (BDR 18-121)

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

AN ACT relating to public utilities; authorizing the interim committee of the legislature which reviews the performance of the consumer's advocate to make recommendations to the public service commission; and providing other matters properly relating thereto.

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

Section 1. NRS 228.400 is hereby amended to read as follows:

228.400 1. There is hereby created an interim committee of the legislature to review the performance of the office of the consumer's advocate.

2. The committee consists of:

(a) Two members of the senate from the majority political party, designated by the majority leader of the senate;

(b) One member of the senate from the minority political party, designated by the minority leader of the senate;

(c) Three members of the assembly from the majority political party, designated by the speaker of the assembly; and

(d) Two members of the assembly from the minority political party, designated by the minority leader of the assembly.

3. The members from the assembly shall select a chairman from among their number to serve for the period ending with the convening of the 62d session of the legislature. The members from the senate shall select a chairman from among their number to serve during the next legislative interim, and the chairmanship [shall] must continue to alternate between the houses of the legislature according to this pattern.

4. The committee exists only when the legislature is not in regular or special session. The committee shall meet at the call of the chairman to review and evaluate the effectiveness and functioning of the office of the consumer's advocate. It may make recommendations to the consumer's advocate, the attorney general, the public service commission, the legislative commission, the interim finance committee and the legislature.

5. The director of the legislative counsel bureau shall provide a secretary for the committee. Each member of the committee is entitled to receive out of the legislative fund a salary for each day or portion of a day in attendance at a

meeting of the committee, in an amount equal to the salary established for members of the legislative commission, and the per diem allowance and travel expenses provided by law.