

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
March 29, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 7:30 a.m. on Tuesday, March 29, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Senator Maurice E. Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Shirley Parks, Committee Secretary

OTHERS PRESENT:

Russell Rowe, Churchill County Communications
Mark Feest, Churchill County Communications
Karen Pearl, Nevada Telecommunications Association
Don Soderberg, Chairman, Public Utilities Commission of Nevada
Adriana Escobar-Chanos, Chief Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General

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Richard Hinckley, Commission General Counsel, Las Vegas Office, Public Utilities Commission of Nevada
Ernest Figueroa, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General
Judy Stokey, Sierra Pacific Power Company; Nevada Power Company
Scott M. Craigie, Sprint
Debra Jacobson, Southwest Gas Corporation
Jeffrey Shaw, Chief Executive Officer, Southwest Gas Corporation
John Hester, Vice President, Regulatory Affairs and Systems Planning, Southwest Gas Corporation
Mary Simmons, Sierra Pacific Power Company
Joe L. Johnson, Toiyabe Chapter Sierra Club
Mark Fleming, Vision Energy Corporation,
Clay R. Fitch, Nevada Rural Electric Association
Vernon Dalton, Wells Rural Electric Company
Randy Ewell, Mt. Wheeler Power, Incorporated

CHAIR TOWNSEND:

The meeting is open and I will read the bills and their summaries. The following list of bill draft requests (BDRs) will be read with their summaries.

BILL DRAFT REQUEST 55-361: Makes various changes to provisions governing financial institutions and related business entities. (Later introduced as [Senate Bill 431](#).)

BILL DRAFT REQUEST 54-380: Makes various changes relating to mortgage lending. (Later introduced as [Senate Bill 433](#).)

BILL DRAFT REQUEST 53-1315: Enacts provisions relating to use of compromise agreements and payment of lump-sum awards in resolving claims for industrial injuries and occupational diseases. (Later introduced as [Senate Bill 437](#).)

BILL DRAFT REQUEST 54-21: Makes various changes relating to practice of homeopathic medicine. (Later introduced as [Senate Bill 436](#).)

BILL DRAFT REQUEST 52-571: Enacts provisions relating to security of personal information. (Later introduced as [Senate Bill 435](#).)

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BILL DRAFT REQUEST 2-1316: Revises exemption from execution of certain money, benefits, privileges or immunities arising or growing out of life insurance. (Later introduced as [Senate Bill 432.](#))

SENATOR CARLTON MOVED TO INTRODUCE BDR 55-361, BDR 54-380, BDR 53-1315, BDR 54-21, BDR 52-571 AND BDR 2-1316.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY, SENATOR SCHNEIDER AND SENATOR TIFFANY WERE ABSENT FOR THE VOTE.)

BILL DRAFT REQUEST 52-1103: Revises provisions governing regulation of contractors. (Later introduced as [Senate Bill 434.](#))

SENATOR CARLTON MOVED TO INTRODUCE BDR 52-1103.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

BILL DRAFT REQUEST 58-1317: Revises provisions governing transactions between eligible customers and providers of new electric resources. (Later introduced as [Senate Bill 455.](#))

SENATOR HARDY MOVED TO INTRODUCE BDR 58-1317.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:

The hearing on Senate Bill (S.B.) 210 will begin with a presentation by Russell Rowe.

SENATE BILL 210: Revises provisions governing county-owned telephone systems. (BDR 58-741)

RUSSELL ROWE (Churchill County Communications):

I have provided amendments for the Committee and staff ([Exhibit C](#)). The amendments were worked out through negotiations with interested parties, particularly SBC Communications Incorporated and members of the Nevada Telecommunications Association. We have conferred with the Public Utilities Commission of Nevada (PUCN) on the bill and language. There is no opposition to this bill. This bill enjoys the support of the industry. I would like to cover the three major issues we are addressing in the bill.

I will start with what the bill will not do. It will not expand the authority of Churchill County Communications in any way. Further, it will not provide service beyond county lines already permitted under state law. The bill attempts to provide a more workable framework for Churchill County to divest itself of the company, if it is appropriate to sell and it becomes a private company. This is an important aspect of the bill from Churchill County's perspective. Another issue is the creation of a more even playing field outside the county so whenever Churchill County is operating beyond its county lines, it will do so in a fair and noncompetitive manner. The final point is to provide clarification with respect to the State Universal Service Fund; essentially clarifying that Churchill County can pay into the State Universal Service Fund as well as collect from it. I will go into some detail on each of these issues.

First, with respect to divesting the company and allowing it to become private, there is no question of someone purchasing the company today. We need to make sure the county has some ability to protect itself and its residents. The reason is Churchill County Communications has a significant economic and employment base. The Commission would need to make sure these jobs are not pulled out of Churchill County and leave a gap in employment. Section 2 of the bill provides language clarifying how the company may be listed for sale. Currently, under the law there is an archaic statute requiring the judge to appoint three independent persons to appraise the company. Apparently there is no expertise with rural communications expected of these three people. We revised this language to require the company be appraised by expert people with rural communications background as selected by the county commission. More importantly, we give the county commission the ability to negotiate the sale of the company. We recognize there may be a time when it is in the best interest of the company to become private.

The second major point of the bill deals with operating outside Churchill County. This initially came about through some of the wireless facilities provided by Churchill County Communications just outside its boundaries. Some of the other counties where the company has property and facilities expect to receive property taxes. Churchill County Communications is exempt under the law. The company could pay a fee in lieu of taxes, but the assessor cannot accept anything except taxes. We are at an impasse, by law not by desire, to pay our fair share of taxes. We have drafted most of the provisions in the bill essentially to handle these issues. The remaining portion of the bill's amendments provides guidelines for service outside the county. When Churchill County Communications operates outside of its boundaries, it will pay taxes on all services and will be subject to the same rules and regulations as any private company. The county commission wants to continue to have good relationships with their sister counties. This section of the bill was drafted to address the impasse we have had, and this language ensures Churchill County Communications will operate fairly when conducting business beyond the county lines. Private telecommunication entities are not competing at a disadvantage. These provisions for telephone service are found in paragraph (a), subsection 2, section 3 in the amendment and non-telephone service is found in paragraphs (a) and (b), subsection 6, section 1 of the bill. In order to pay taxes, property that is taxable and property services in the county that are not taxable, Churchill County Communications management wants to create a separate company. We want to make it clear in statute that this can be done. Creating a

separate company would keep two separate entities with separate books in order to pay taxes. The third portion of the amendment that deals with operating outside the county makes sure there is no subsidization of the new entity that is working outside Churchill County. There is no subsidization either directly, through general funds of the county, or indirectly through affiliated transactions between Churchill County Communications and this other entity. SBC Communications Incorporated worked with us on the language for this amendment. The final provision is to make sure county audit reports have been prepared to ensure Churchill County Communications complies with these provisions. The PUCN has the authority to investigate issues of noncompliance.

SENATOR TIFFANY:

I have a question about the audit. I am assuming Churchill County Communications is enlarging their plant with things such as wireless or dishes for wireless communication. The plant location from the Churchill County line and into the other county is clear where it belongs and how it should be paid. Churchill County Communications may take advantage of a central service in their county. Is there a formula to be used to pay these divided assets?

MR. ROWE:

There is no set formula. The language is written and intended to ensure any transactions the entity outside of Churchill County has with Churchill County Communications is to be done at arm's length, and at a fair market value.

SENATOR TIFFANY:

Some of that will be a shared-facilities plant. There might be a central office. A percentage could be used outside the county. Have you addressed this?

MR. ROWE:

Yes. This has been addressed. We did not detail all the requirements within the bill.

SENATOR TIFFANY:

If there is an audit, be sure to clarify what the taxpayer subsidized when outside the county.

MR. ROWE:

That is the intent of the language.

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SENATOR TIFFANY:

Do you know what type of plant is being expanded? Is it underground, cable or wireless?

MARK FEEST (Churchill County Communications):

There is no plan for expansion. If this bill passes, it will not necessarily mean expansion. This is not what the bill is about.

SENATOR TIFFANY:

You do not have any plan of expansion? Isn't it what this is all about? When the company is sold, the value will be the plant and its customers.

MR. FEEST:

We already have wireless facilities outside the county. This is important to note. The bill applies to the facility we have. Even if we do not put in another facility, we will still need this bill.

SENATOR TIFFANY:

I understand, thank you for providing this service.

MR. ROWE:

I want to wrap up the final point. For the record, the provisions of the bill amendments are found with respect to the audit, in paragraph (d), subsection 4, section 4 and with respect to the oversight of the PUCN, in paragraph (b), subsection 2, section 3. The final part of the bill has to do with clarification of the State Universal Service Fund. The statute as it is now written is not entirely clear on whether Churchill County Communications should be paying into and collecting from this fund. The language in S.B. 210 makes it clear that this company may pay into this fund and at some other point in time may qualify to collect from the fund. Through this bill, they will have the ability to apply for it. This completes the summary of the bill.

SENATOR SCHNEIDER:

In the future, do you think government might lead with the use of new technologies and we all will become a totally wireless nation?

MR. ROWE:

No. Philosophically, I believe Churchill County Communications would want these services to come from the realm of the private sector. Government could

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provide a service where needed in rural areas when there is no private company providing these services.

KAREN PEARL (Nevada Telecommunications Association):

I want to be placed on record in favor of S.B. 210. All of our concerns have been answered by Churchill County Communications. We are satisfied with the amendments to this bill.

CHAIR TOWNSEND:

We will close the hearing on S.B. 210. We will open S.B. 238 later in the meeting. The hearing on S.B. 256 will begin now.

SENATE BILL 256: Revises certain provisions relating to regulation of public utilities. (BDR 58-655)

DON SODERBERG (Chairman, Public Utilities Commission of Nevada):

We are addressing an unintended circumstance resulting from the reregulation of electric utilities that was accomplished by A.B. No. 661 of the 71st Session. In this bill, we brought back deferred energy which had been taken away and both electric utilities were to file on an annual basis. We then would do a general rate case every two years. General rate cases became much more complex endeavors than they were in the 1990s. Because of these complexities, there has been a sense of urgency to get back to establishing the audit and looking deeply into the electric utilities' books. The cycle of doing a deferred energy case every year and general rate case every two years caused an overlap of four major cases in one year and then the next year we had scheduled only two cases that were the least complex of the group. We would still like to have the general rate cases on a 24-month cycle but, in alternating years. This way we will not have the huge peaks and valleys regarding workloads for the utilities and consumer advocates. We do have an amendment to the bill ([Exhibit D](#)). It is a refinement to the language that was developed in a working group on S.B. 188. Mr. Hinckley is the principle drafter from our commission and he will go through the bill draft with you.

SENATE BILL 188: Makes various changes relating to energy. (BDR 58-364)

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CHAIR TOWNSEND:

Also in front of the Committee is the proposed amendment to S.B. 256 from the Bureau of Consumer Protection ([Exhibit E](#)). Mr. Soderberg, have you seen this amendment?

MR. SODERBERG:

No, we have not. We do agree with the Bureau of Consumer Protection that this is a good refinement to the existing language. We do not know about others who have worked on the bill.

CHAIR TOWNSEND:

Are those in southern Nevada ready to testify?

ADRIANA ESCOBAR-CHANOS (Chief Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General)

Yes. I am here. Good morning, Mr. Chair and Committee.

CHAIR TOWNSEND:

Have you submitted your proposed amendment to all the interested parties?

MS. ESCOBAR-CHANOS:

Yes. I did submit it in writing previously to you this morning ([Exhibit E](#)).

CHAIR TOWNSEND:

I would like all parties affected to have a copy for reference. Mr. Hinckley, is this your first time before the Committee?

RICHARD HINCKLEY (Commission General Counsel, Las Vegas Office, Public Utilities Commission of Nevada):

Yes. I would like to highlight the most significant provisions first and then work through the more mechanical parts of S.B. 256. We are attempting a smoother workflow facilitating everyone's best interest. The bill indicates that in October 2005, Sierra Pacific Power Company is referenced as the utility serving the less-densely populated county, and the company will file its general rate case.

CHAIR TOWNSEND:

The reference, for the record, is found on line 33 of page 6.

MR. HINCKLEY:

On line 38 of the same reference, Nevada Power Company serving in Clark County will file its general rate case in November 2006. There is an alternating period of time. Page 9, section 5, deals with the annual deferred energy cases and the fuel adjustment cases which need to be heard annually. We will try to match the timing with the general rate cases and provide for little offset of time to cover the workload. Sierra Pacific Power Company would be filing as shown on page 9, line 28 of the bill on December 1, 2005, and Nevada Power Company will be filing as indicated on page 9, line 32 on January 17, 2006. These dates have been selected as work dates. On page 9, line 34, we are adding a line, "if fuel costs have not risen to a point more than 2.5 percent of adjustment to be made the annual case could be foregone." This gives the utility an option to forego the case when there is not a significant balance and wait for the next year. The other major item to note is on page 6. Currently the commission has basically six months to work through the general rate cases. We propose to extend this to eight months. One technical note is to be aware that in addition to the 12-month test period used, the utility also has the opportunity to update the results and bring them closer in time to when new rate deadlines will be in effect. These are the major provisions of the bill. There are several other cleanup details. The fuel component gives the commission an opportunity to look at general rate design. Page 8, subsection 9, indicates the Commission has the ability to decide if there should be a change in the overall rate design. It is not compelled to do so in terms of a particular outcome or rationale, but the PUCN is given the opportunity and authority to do this.

CHAIR TOWNSEND:

Are there any questions of Mr. Hinckley or Mr. Soderberg? Ms. Escobar-Chanos, are you ready? Mr. Hinckley ended with section 4, subsection 9 on page 8. You want to insert a new paragraph (c) between lines 11 and 12. This is about rate design and base tariffs energy rate which is really our fuel. Is this correct?

MS. ESCOBAR-CHANOS:

We have discussed this before. I would seek to add an amendment ([Exhibit E](#)), which will be paragraph (c), subsection 9, section 4 in the bill and will state, "However, in any rate design order, residential ratepayers shall receive no less than 50 percent of the benefit associated with the substantial decrease referenced in subsection 9 or in excess of 50 percent if deemed reasonable by the commission." The goal here is to provide assurances the consumer may participate as well.

SENATOR CARLTON:

I want to clarify what I heard here and then follow up with a question. Regarding the rate design, when you say participate do you mean benefit from, or do you mean actually participate in the discussion? I read it that the ratepayer would benefit from this amendment.

Ms. ESCOBAR-CHANOS:

The idea is for the consumer to both participate and benefit as well.

SENATOR CARLTON:

This leads me to my next question. Are there any concerns about some of these hearings not being held? I have not had anyone tell me they think their voice will not be heard. Is it your opinion that everyone will have an opportunity to express themselves even though some hearings will be held differently than in the past?

ERNEST FIGUEROA (SENIOR Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

The change we are seeking with this provision would basically allocate a benefit associated with any rate design order entered into by the Commission. It appears the intent of this section of S.B. 256 may mean a rate decrease, and the parties want to use the decrease to address the residential ratepayer subsidy issue. We do agree the subsidy issue needs to be addressed. We think it should be addressed on a smaller scale. The residential ratepayer should receive the benefit of a decrease in rates rather than have the possibility of receiving no reduction.

SENATOR CARLTON:

I just want to make clear the hearing procedures are being changed with this bill. Are there any concerns about people not having a voice?

Ms. ESCOBAR-CHANOS:

The Bureau of Consumer Protection (BCP) will be participating on behalf of the consumer.

SENATOR CARLTON:

Thank you. This is exactly what I wanted you to put on the record.

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CHAIR TOWNSEND:

Are there any other questions on S.B. 256 or the proposed amendments?

JUDY STOKEY (Sierra Pacific Power Company; Nevada Power Company):
We are here to support S.B. 256 and the amendment Mr. Soderberg proposed. I have with me today, Mary Simmons, Vice President of External Affairs, Sierra Pacific Power Company and Nevada Power Company who will answer any questions you may have for her.

CHAIR TOWNSEND:

If possible, we want to move these bills along without making changes.

SCOTT CRAIGIE (Sprint):

There may be an extension of the suspension period regarding rate cases. We have looked at the telecommunications side of this issue. As we move into a more competitive market there will be less and less need for rate cases. Sprint, along with others in the industry, is doing a review of the statutes in regard to this bill. There is no intent on the Commission's part to extend the suspension period of rate cases for the telecommunications companies. We see nothing in the bill to reflect this. Upon our review, if we find this to be different, we would like the opportunity to return with additional language.

CHAIR TOWNSEND:

Close the hearing on S.B. 256. Mr. Powers, what is the easiest thing for you when processing these bills?

KEVIN POWERS (Committee Counsel):

From the Legal Division's standpoint, the best approach is to have the Committee vote on the amendment, and then we will process it accordingly.

CHAIR TOWNSEND:

There will be a short recess of the Committee.

CHAIR TOWNSEND:

This meeting will reconvene and we will open the hearing on S.B. 238.

SENATE BILL 238: Revises provisions governing regulation of certain public utilities. (BDR 58-1156)

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DEBRA JACOBSON (Southwest Gas Corporation):

I have with me today Jeffrey Shaw, Chief Executive Officer, Southwest Gas Corporation, and John Hester, Vice President, Southwest Gas Corporation. We are here to speak about S.B. 238.

JEFFREY SHAW (Chief Executive Officer, Southwest Gas Corporation):

I will give a brief history of Southwest Gas Corporation. We are the fastest growing local distribution natural gas company in the nation. We operate in three states: Nevada, California and Arizona. We have slightly over 1.6 million customers in those three states. Of those customers, 459,000 are in southern Nevada, and 82,000 customers are in northern Nevada. In 2004, we added 88,000 customers. Our capital requirements are averaging over one-quarter billion dollars a year. This is a combination of growth-related capital expenditures and also non-revenue-producing, infrastructure-related capital expenditures such as relocation of lines or major reinforcements. These examples would be non-revenue expenditures. There is no cash flow as a result of these costs. There has been significant productivity in the last decade. The company has added 633,000 customers in this time. We have added only 189 employees. Based on customer-to-employee ratios, our productivity has improved by 50 percent in the last decade. Our operations and maintenance expenses on a per-customer basis are flat over the last decade. The inflation-adjusted base has actually declined.

SENATOR HARDY:

Mr. Shaw, may I please interrupt you for a moment? Senator Washington has joined us. I want to acknowledge his presence here and give him the opportunity to speak. He is the sponsor of this bill. He has indicated he would like you to continue speaking on S.B. 238.

MR. SHAW:

We are here today to consider two proposals in S.B. 238: First, statutory support for a more periodic gas cost rate change and second, statutory support for the future test year for the purpose of establishing rates. Both of these provisions are incorporated into the bill. We want to stress this is only enabling legislation. Neither of these proposals can be implemented without the explicit review and approval of detailed proposals by the PUCN. I would like to talk a little more in depth about these proposals. First, I will speak about a more periodic gas rate change. Presently, our tariffs provide for an annual rate adjustment for the cost of natural gas. Generally speaking, our rates have two

components: the actual cost of natural gas and the cost of delivery. We pass the cost of natural gas through on a dollar-for-dollar basis to the customer. We make no money. Our annual report reflects this point. The concern we have is increased volatility as we have seen with the natural gas commodity. If there is not an appropriate recovery of the natural gas cost, if it is done in a way that actually increases volatility to the customer, it causes a lot of problems. We want a more gradual cost adjustment. Our utility has no control over the cost of natural gas. The best we can hope to do is purchase gas in a manner that will eliminate volatility. We can do this by a balance of fixed-price contracts over varying periods and taking advantage of fluctuating market purchases such as any immediate decrease in gas prices. In a rising-price environment, if some of the portfolio is fixed, a balance can be adjusted with the price and achieve minimum volatility.

SENATOR HARDY:

It seems to me this is regulated so there will be a fixed rate. It would not account for those potential fluctuations or searching for non-fixed prices. You need this kind of tool to help keep the prices down.

MR. SHAW:

Yes. Let me clarify this. Presently, on an annual basis we are required to file a gas-purchase plan. All gas prices are reviewed at this time. In between those filings, we defer any difference between the approved rates charged to the customer from the last filing and what we presently pay. We defer to the balance sheet. So we can either bill this big receivable from a customer or we can build a big credit to be refunded to the customer. Most recently, we are building a large receivable. As a result, the receivable has a carry cost the customer will ultimately pay. This will eventually show as a big "spike" in the rate the customer pays.

SENATOR HARDY:

When you do have a fixed contract for natural gas, how long before it expires?

MR. SHAW:

The contract would be for two years or less. Usually about 18 months. Credit capacity and credit ratings become issues. Our thought is to have a more periodic adjustable rate similar to what we have seen in other jurisdictions.

The second part of the bill we would like to address has to do with the use of the future test period. Presently we file the rate case proposals based on a 12-month test period. By the time we file the rate case proposals, they are already stale. In this environment, though we have an authorized rate of return, we are unable to earn this amount. Southwest Gas Corporation has not earned its rate of return in the last decade. We have under earned chronically. As a result of a weakened balance sheet, the credit rating suffers. We have the lowest investment grade credit rating anyone can have. This low credit rating causes debt as we go into the market to buy credit. A future test period would not necessarily guarantee the authorized rate of return. What it will do is better match the cost expected to be incurred in the next 12 months with rates being charged to the customer for the service. Instead of a historical 12-month period, a future test uses the historical data to forecast the upcoming 12 months on which the rates will be set. The rates charged to customers will be more reflective of what the actual activity is going to be. The Commission will have full scrutiny over all of the costs and forecasts.

SENATOR SCHNEIDER:
Is this how you operate in Arizona?

MR. SHAW:
In Arizona we have a historical test period. It is an extreme problem in Arizona even more than in Nevada.

SENATOR SCHNEIDER:
What about California's rate case operation?

MR. SHAW:
California has the future test period.

CHAIR TOWNSEND:
The main issue for policy makers is how to move the idea into place. This is quite a jump.

MR. SHAW:
Any transition from a practice we have followed to a new concept like this means we need to work very closely with the Commission to come up with a plan that will make sense for the welfare of the consumer. A strong utility is a benefit to the customer. For us to send the appropriate pricing signals is

certainly in the best interest of the customer. We will be flexible while working with the Commission to develop the necessary transition plan.

JOHN HESTER (Vice President, Regulatory Affairs and Systems Planning, Southwest Gas Corporation):

I agree with Mr. Shaw; as we work through the rules and begin to implement them, these concerns will be addressed. It is possible we will not see the magnitude of an increase between the historic test year to the future test year method. There may be some difference. If you compare the volatility of natural gas prices, any kind of transition between these two mechanisms is likely be dwarfed by the kinds of fluctuations, increases and decreases we have recently seen with commodity.

SENATOR CARLTON:

Along those lines, I understand every time a rate case is filed there is an expense. Can you speak to these costs?

MR. HESTER:

Most of these costs are recovered in current rates. Probably the only incremental cost may include additional travel expense and outside consultant fees. Most of the work as well as testifying in these rate cases is done by people who are already on our staff.

SENATOR CARLTON:

Are these preparation costs then actually paid for by the ratepayer?

MR. HESTER:

That is correct.

SENATOR CARLTON:

So, every time we do not have a rate case we are saving the customer money.

MR. HESTER:

Yes. This is true.

SENATOR HARDY:

Are there additional questions? Are there any others who wish to testify?

MR. SODERBERG:

We have been made aware by Southwest Gas Corporation of two main problems and a number of potential solutions. They have worked closely with our staff and with Mr. Lampley, Director of Regulatory Operations, Public Utility Commission of Nevada, to develop a manageable plan to address these problems. We are in support of the policy and the mechanics. We believe the future test year conceptually will give us opportunity to deal with concerns of investment grade and additional costs and fees. This concept may work with all utilities.

SENATOR TIFFANY:

Why is this being proposed this Legislative Session and not a previous Legislative Session?

MR. SODERBERG:

In the last Legislative Session, we had not had these conversations with Southwest Gas Corporation. Internally, we have looked at rate cases and used inaccurate information. Southwest Gas Corporation came to us with their concerns and this new concept of future test year, and we decided it was time to bring it forward.

SENATOR TIFFANY:

It was not necessarily the spikes and the future volatility of natural gas prices.

MR. SODERBERG:

No, not with regard to the portion of the bill that addresses future test year. The experience over the last few years with natural gas price fluctuation has been significant enough to move the utility toward a creative solution to their concerns.

SENATOR HARDY:

What role will the advancement of technology play in more accurate forecasting? Will there be an impact?

MR. SODERBERG:

Over time these issues become more complex and analytical tools get better. We have improved with financial forecasting. We are not as good at forecasting the weather and this is a large component of a natural gas utility. We could be off. With another cold winter we can sell more gas. This could change the

numbers. We have been able to estimate what a consumer may use, and we have been able to see how this impacts their finances.

Ms. ESCOBAR-CHANOS:

With respect to the first part of S.B. 238, specifically the *Nevada Revised Statute* (NRS) 704.110, subsection 6, when read closely it already allows the company to make adjustments. It states, "A public utility may file an application to recover the increased cost of purchased fuel, purchased power or natural gas for resale once every 30 days." The statute provides safeguards that are important to the consumer. Essentially, the way the bill is written would remove the procedural safeguards, such as, "notice" and "an opportunity to be heard." Obviously, we are here to be sure the consumer will be heard, and these are important rights that need to be sustained. In addition, dismissing the crucial area of a prudency review is not wise. During the last four years we have seen the possibility of costs and fees becoming unmanageable. There could have been a closer regulatory observation. One year-end review will not afford the thoroughness necessary for a quality prudency review. It is a review after the fact. There is another important issue here. The PUCN has before it now PUCN Docket No. 04-6022 on the regulation docket. Carl Linvill, Commissioner, PUCN is the presiding officer. It effectively would permit the use of projected costs. It uses a methodology that would allow for the reduction of large balances without modifying the statute as it exists. It would still provide the safeguards for the consumer. I invite Mr. Figueroa to specifically address this issue.

MR. FIGUEROA:

The Commission is preparing a temporary regulation that would allow the use of forecasting gas prices and calculating the commodity cost rate. Utilizing this projection information would mitigate the large balances that are being discussed. This can be done using the existing regulation without modifying the existing statutory framework.

Ms. ESCOBAR-CHANOS:

This would keep the safeguards in place for the customer. It would also address the mitigation of volatility which we completely agree would be better for the consumer as well. Another idea would be to have a quarterly review. This might be a good way to start a pilot project and take steps toward more current reviews. Commissioners are charged with balancing the rate bearer's interest with that of the company and their shareholders. As a former commissioner,

when I attended consumer sessions it helped to put a face on the consumer. It was important for me to keep my feet on the ground and remember the consumer exists and the issues related to them. I think this is worthy of further investigation. We definitely need to keep consumer protections in place.

The BCP opposes the entire second part of S.B. 238 dealing with the NRS 704.110. The use of future test year represents a major fundamental paradigm shift in how gas utilities are regulated in Nevada. Nevada is known by utility regulators as a historic test year jurisdiction. A historical test year is based on actual data from the utilities' books: actual rate base, revenues, expenses and capitalization on which rates are set. It is the most commonly used method in the United States even as Southwest Gas Corporation is using it in other jurisdictions. The question to ask is why is this necessary? There are many technical issues involved in all the rate cases. There are many ways to avoid the regulatory lag we have been hearing about in today's testimony. I will address a specific situation. As the current statute is written, from 1993 to 2003 Southwest Gas Corporation had the ability to file a test case every year. They only availed themselves of these opportunities four times. There are issues with their credit rating and concern about shortages, but they have not really followed or taken advantage of the vehicle in place by virtue of existing law. Further, we have a certified filing. In Nevada, utilities can alter the historic test year to include all known and measurable changes up to six months after the actual test year has ended. This would bring them much closer to the test year date and allow the company to estimate changes at least six months in advance. In the last rate case, Southwest Gas Corporation failed to file and did not avail itself of this mechanism. So you see there are other reasons for their problems. I fully support a strong, healthy company. It is good for the company, the consumers and the State. In a ten-year period, the company only filed four times. This means for six years it did not come to the table to state its needs. This last test year they did not file a certification period. I am not sure why this happened.

MR. HESTER:

One of the problems with regulation as it is set up today is it still relies on historic data. Had we come in more often, we would have had more frequent rate cases using stale, out-of-date data. This would not be a solution to the problem we have with respect to our earnings. There are 17 other states that provide some application of a future test year. It is not an uncommon or novel approach. In our most recent case regarding certification, it was the judgment

of the company that providing for a certification of the filing would not have made a significant difference in recognition of our cost versus the cost that was reflected in the 12-month test period.

Ms. STOKEY:

We are in support of this bill. We do believe it is a better way for consumers to realize what their consumption is, how much their billing is and how to match these up.

MARY SIMMONS (Sierra Pacific Power Company):

We do support this bill. As it is written now, it applies only to the gas utility business. Sierra Pacific Power Company serves approximately 130,000 gas customers in Reno and Sparks. We agree with the statements made by Southwest Gas Corporation. We file rate cases for the electric business for Sierra Pacific Power Company in California on a future test year basis as well as the Federal Energy Regulatory Commission (FERC). We have had significant experience with this. I will answer any questions you may have.

CHAIR TOWNSEND:

There are many pros and cons with this issue. Of concern is the larger context in which future test year and a number of other controversial or debatable issues come before this body. It comes directly from the financial markets and how they perceive Nevada as a statutory state and regulatory state. Is there a chance for institutional private investors to get a return on their investment? This could happen if you have the appropriate retained earnings. There is a better balance sheet and this could enhance borrowing power. This benefits the consumer because the less it costs to borrow, the greater chance the consumer will pay less. The role of the PUCN is to see that there is a balance. Ms. Simmons, you participate in both jurisdictions of California and the FERC with future test year projections. How do you think it is perceived in financial markets?

Ms. SIMMONS:

To my knowledge the investment community considers anything that would allow the company a better chance of earning their authorized returns to be positive. I believe they would perceive this as positive.

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CHAIR TOWNSEND:

The public has a difficult time understanding this complex issue. You represent real money to the consumer. The BCP will need to interpret this complex issue so the public will understand it. The Commission and the consumer advocate have their view points. We will close the hearing on S.B. 238.

We will take up S.B. 256 as well as S.B. 210.

SCOTT YOUNG (Committee Policy Analyst):

We do have an additional amendment on S.B. 256 ([Exhibit F](#)).

CHAIR TOWNSEND:

We will begin with a work session on S.B. 256.

MR. CRAIGIE:

On page 5 of the bill, as we review from the beginning of section 4 down to subsection 2, the way this is written all public utilities would carry everyone to a 240 day test year. Further, there is another change on line 28 of page 6. This language is followed by electric utilities activities. It is apparent the language changes were not intended. I want to thank Mr. Powers and Mr. Young and the Commission chairman for their help with this discovery. We have talked about the public utility as a Plan of Alternative Regulation (PAR) carrier giving them much more flexibility with this language in the proposal ([Exhibit F](#)). The PAR carriers can opt out of PAR and some are getting close to the time when they might be able to do this. The PAR carriers are the large telecommunications companies; there are two now involved, SBC Communications and Sprint. When they become a PAR carrier, there is flexibility on some rates and other activities. They carry a heavy burden and have competitive services. They do have the option to leave this arrangement. We would like to explore this possibility.

CHAIR TOWNSEND:

This will not have to be perfect. The amendment needs to have support by the Commission. All parties who worked on it need to say there was no intent to have less inclusion. Mr. Powers will be able to take it and consider how to clarify the language.

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MR. CRAIGIE:

I am comfortable working this through without further delay on the bill. I appreciate all parties coming forth to find a solution. This change to S.B. 256 will be more consistent with the original proposal.

CHAIR TOWNSEND:

I apologize that I did not give bill draft people this telecommunication insight.

MR. SODERBERG:

No discussion with the Commission or the working group that put this bill together contemplated telecommunications. We do not have that many telecommunication rate cases. This amendment will not be a problem for us. Our workload mainly deals with energy rate cases.

CHAIR TOWNSEND:

The second amendment was actually proposed by the bill's originators and was submitted by Mr. Soderberg.

MS. SIMMONS:

Sierra Pacific Power Company and Nevada Power Company do not agree with the amendment proposed by the consumer advocate. The bill as submitted provides flexibility and possible rate design. The percentages included in the amendment, though they appear to be appropriate, are high and could impact the residential customers unduly.

CHAIR TOWNSEND:

I have a question for Mr. Soderberg. Page 8, section 9, line 3, which is the fuel component, states, "files an application to clear its deferred energy account and the utility proposes a substantial decrease." Is the Commission on record as to what "substantial" means? How do you determine this?

MR. SODERBERG:

At this point, we do not have a definition of this word. This is clearly a concept brought in when various parties were looking at the provision in an attempt to find a mechanism to allow a level of decrease in regard to a possible rate design. It was left to the Commission's discretion as to what a substantial decrease would be if we ever found ourselves in a situation with lower prices. It would be still be in the Commission's discretion whether of not to act once the evidence is heard.

CHAIR TOWNSEND

Is it fair to say with a decrease two things would happen? There would be an obligation to say what the cost-benefit analysis will be and if we go to rate design, what the benefit is. One of the larger problems the Commission faces with all the participants, companies and customers is how to apportion a responsible rate design bill. This could be more of an argument than the actual rate request. Who will pay and what portion of it? We try to keep the rates consistent. Ms. Simmons, what you are saying is without the amendment the Commission retains the authority and flexibility to decide the percentage amounts.

Ms. SIMMONS:
That is correct.

CHAIR TOWNSEND:
Ms. Escobar-Chanos, how did you decide on 50 percent?

Ms. Escobar-Chanos:
The consumers of the State of Nevada comprise a huge number of ratepayers and it is the BCP's opinion they should be able to receive half of the benefits. No less than 50 percent is a guaranteed percentage of the benefits.

CHAIR TOWNSEND:
Is it fair to say you have a concern if flexibility is left with the Commission? Are you concerned they might try to solve the subsidy issue? Is this why you want a guarantee?

Ms. Escobar-Chanos:
I respect the Commission. I would like this benefit to be a starting point to create greater assurance for the consumer.

CHAIR TOWNSEND:
I understand what you are saying, but a policy needs to be associated with your suggested benefit. Is your concern with the flexibility of the Commission to decrease and then some future commission could level the subsidy as they look at rate design? Is this one of your concerns?

Ms. ESCOBAR-CHANOS:

This is a great concern of BCP.

CHAIR TOWNSEND:

This is the reason for the 50-percent benefit. There is nothing wrong with this opinion. This is a valid position from the standpoint of the BCP. Rate design is a difficult process. When it is required, sitting through a hearing at the regulatory level gives new understanding to this very complex issue.

DON SODERBERG:

The Commission has always taken these issues very seriously. There has been a measured approach when addressing the subsidies so they do not place a great burden on residential ratepayers. I understand the consumer advocate's position. The reason I am supporting her amendment to this bill is because this paragraph is a novel concept. It is a large departure from any past practice. We typically do not look at rate design in deferred energy cases. The last time a large company brought this issue forward it was stricken because we did not believe we had the statutory authority to do so. If we are doing this in a small and measured way as is proposed here, I see no problem with an additional safeguard so future commissions are aware not to aggressively attack the subsidy. It is good public policy to allow residential ratepayers to see some of the decreases if it comes along. They have paid high rates for a long time. I have no problem with the amendment as proposed; however, the language could be refined with discussion among the consumer advocate, Mr. Lampley and a representative of the company.

CHAIR TOWNSEND:

Ms. Simmons, since you are the designated person here help us understand why the 50-percent issue for rate design is not appropriate for you.

Ms. SIMMONS:

I will use the example of Sierra Pacific Power Company. Residential customers pay about 23 percent of the total bill for fuel purchase power that we are discussing here. The amendment states that no less than 50 percent of the benefits, whatever the reduction, will go to the residential customer. This added percentage will not relate back to the rate design and the amounts the residential customer has actually paid.

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CHAIR TOWNSEND:

Ms. Escobar-Chanos, does Ms. Simmons' statement help you redefine the language as to the percentage benefits?

MS. ESCOBAR-CHANOS:

I will look at the amendment and determine if a different approach is workable as long as the general policy is still respected and followed.

CHAIR TOWNSEND:

Ms. Simmons gave an actual case in which the example was a decrease of 23 percent.

MR. FIGUEROA:

In regard to Ms. Simmons comments, we are under the impression with Sierra Pacific Power Company the issue of subsidy is not large. This really pertains to Nevada Power Company. Perhaps we could differentiate between the two companies as we work out language, but preserve the intent of the amendment.

CHAIR TOWNSEND:

We will open the hearing on S.B. 188.

[**SENATE BILL 188**](#): Makes various changes relating to energy. (BDR 58-364)

SENATOR HARDY:

The proposed amendment to S.B. 188 is being distributed ([Exhibit G](#)). Mr. Soderberg, this mock-up is reflective of the conversations we had in the original hearing. We are down to one point of contention on this amendment, subsection 3 of section 12. Is this your understanding?

MR. SODERBERG:

Subsection 3 outlines when the utility would be able to take advantage of receiving credits for energy efficiency. It is my recollection Mr. Johnson testified earlier that there needed to be a closer connection between what was paid and credits accepted. There could be philosophical differences on the issue. I would like to hear Mr. Johnson articulate his concerns.

JOE L. JOHNSON (Toiyabe Chapter Sierra Club)

Mr. Soderberg expressed my concern very well. Simply, where it states "in whole or in part" will not lead to flexibility. If there is any direct subsidy, then

the utility gets the entire amount. I raised the issue of energy-starved subdivisions. Under the language here, if the developer asks the utility for a dollar, they essentially get the entire credit for energy efficiency which they would probably receive anyway. It is important to allow flexibility to the PUCN in determining these energy payments and credits. My comments also had to do with the existing statute. There is some ambiguous language about whether the utilities' fixed cost qualifies as a subsidy. The Commission has in the past ruled there would be credits for the small distributive generator. A future PUCN or the courts could change this decision and permit the utility to collect the credit for a system any individual personally could install without any direct subsidy at all. From my perspective, the new language solves the problem of solar energy. Energy efficiency is still not addressed. There was some discussion by a number of parties that energy efficiency did not need to be in this section of the amendment. My position is I would like to see a linkage or allowance for the PUCN to make decisions and have flexibility without statutory requirement that if there is any subsidy then they get all the credits.

SENATOR HARDY:

Your proposed amendment is included in the mock-up we have in front of us ([Exhibit H](#)).

MR. JOHNSON:

There was concern expressed that my original amendment may have unintended consequences and so the amendment this morning deals with a proposal that "efficiency" be deleted from the section and retain, "directly be reimbursed" and "cost of" as written.

SENATOR HARDY:

Those who are opposed to the amendment come forward.

CHAIR TOWNSEND:

A member of the working coalition for the original proposal, Jon B. Wellinghoff, has made a recommendation. Another member, Fred J. Schmidt, Ormat Nevada, Incorporated and Southern Nevada Water Authority, requests a follow-up. Also requested is a subsequent follow-up by Michael W. Yackira, Chief Executive Officer, Sierra Pacific Resources, noting that section 12 was never in the final submission of the bill according to their recollection. How will this affect you, Mr. Johnson?

MR. JOHNSON:

There would need to be added language in an amendment to cover what the PUCN has in present regulation. There was a decision made that fixed cost is outweighed by the benefit to the system in the small distributive generator. There are still people within the utility at operational level who feel this fixed cost qualifies as a subsidy and they should get those credits.

MR. SODERBERG:

When the concept to add energy efficiency to the renewable portfolio standard was raised, we all understood this was novel. The concept was the utility would reimburse customers on some level, whatever the market would bear. We would then take advantage of those credits, but if we were to go too far with the concept, it could become unmanageable. We are comfortable with the language before us. We are leery of expansion and of too many people qualifying and selling these products. The utility needs to square its best deal, and bring it to the Commission where it can be scrutinized to make sure payments are not too high. We are uncomfortable going too far with this concept.

CHAIR TOWNSEND:

Ms. Simmons, we are asking much of you, but three of the participants have asked that the changes in subsection 3 of section 12 be taken out of the bill entirely. I will quote from his letter: "That section was never intended to apply to energy efficiency and was not in my final draft that was approved by the working group." Subsection 3, lines 21 through 31 ([Exhibit G](#)), would state:

If, for the benefit of one or more of its retail customers in this State, the provider has subsidized, in whole or in part, the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

This language would remain as original in the bill according to Mr. Wellinghoff's, Mr. Schmidt's and Mr. Yackira's agreement.

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Ms. SIMMONS:

We would agree to return that section to its original language.

CHAIR TOWNSEND:

Mr. Powers, do you understand the e-mail reading that there would be no changes per the section just read? It remains as original language.

MR. POWERS:

Essentially, the mock-up of the bill will be returned to its original state.

CHAIR TOWNSEND:

This takes care of the bill draft, but it will not take care of Mr. Johnson's problem.

MR. JOHNSON:

Actually, I wish to retain the changes in the first sentence, "directly reimbursed." This portion of the bill solves many of my issues. What I am asking for is a verification of existing regulation as to the utility rebate program.

CHAIR TOWNSEND:

We have a group of 10 or 12 people who have worked for 10 months on this bill and you are offering an amendment to it. No one agrees with you.

MR. JOHNSON:

This is not a concern with the issues they are addressing. I am addressing the issue of solar energy and the utility subsidy. They are dealing with efficiency and my proposal is not.

CHAIR TOWNSEND:

I understand this. I will leave this up to the Committee, but I would be reluctant after all this work to add something to the bill. If we can find another bill to which we could attach your amendment and then have a debate, it would be preferable. We do not want to interrupt the work of this bill.

MR. JOHNSON:

This verifies what is in existing regulation. The chairman of the PUCN has stated he is uncomfortable removing the word efficiency from the language.

MR. SODERBERG:

I have to admit I have not seen Mr. Johnson's proposal. Each time we discuss it, his concerns become clearer. As you have suggested, it may be better in another bill. We could have Mr. Johnson bring his concept to us. If it has merit, we could possibly interject it into S.B. 256. If we are fortunate, we could have it go over to the Assembly. This would give us time to sit and work out the language so everyone is comfortable. This would not require the entire working group. We do not want to clutter the work already achieved on the bill.

CHAIR TOWNSEND:

Is it fair to say the multicolored mock-up of the bill is the work accomplished by the group including Mr. Wellinghoff, Mr. Schmidt and Mr. Yackira? They have asked for the return of the original language.

MR. SODERBERG:

Yes, with the caveat in subsection 3 the bill accurately reflects the hearing discussion and oral modifications proposed by Mr. Schmidt.

CHAIR TOWNSEND:

In the meantime, Mr. Johnson, you will make arrangements to work with the Committee to address your language concerns or within the Assembly attached to another bill.

SENATOR CARLTON:

I would like some clarification on several items. On page 6, the language at the top is about energy credits and efficiency measures installed and the residential customers. My concern has to do with the newer subdivisions that will have Energy Star standards. The older residential neighborhoods do not have this advantage. Is this going to affect only the newer residential areas? Is there any language for the existing neighborhoods that would help them with unit replacement costs?

MR. SODERBERG

We view the existing language now puts the onus on the utility to find the most efficient way to save the kilowatts. These concerns are accurate. There is nothing currently in the bill requiring any type of retrofitting unless there is some way to show a real savings. Older homes do tend to have less insulation and older units are less efficient. There is energy-saving opportunity in older homes, but to retrofit an older home is expensive. Current language does not request a

utility to spend this money on retrofit of older homes. The Commission would not mandate this without a statutory charge or direction to do so.

SENATOR CARLTON:

This will be a concern for the area I represent. The inner core neighborhoods of Las Vegas are mostly older homes. These consumers will not benefit with this legislation. I do not want to slow the process on this bill. Is there a way to address this on the floor?

CHAIR TOWNSEND:

Actually, it can be addressed. I think S.B. 123 theoretically is supposed to do this. It is the retrofit, weatherization bill. This is where we can address these concerns. There is a money provision in the bill to do this. We can address the policy concerns in this bill.

SENATE BILL 123: Revises provisions governing energy assistance.
(BDR 58-238)

SENATOR CARLTON:

My only confusion with this would be the renewable portfolio standard. I want the company to be able to use the retrofits towards this standard and I am not sure inserting it into S.B. 123 would allow them to do this.

MR. SODERBERG:

This language would allow the utility to do retrofitting if it chose to bring it to the Commission. It does not mandate this.

MS. SIMMONS:

I would like to speak to Senator Carlton's concern. The company has been looking at this issue to see if we could tailor some of the programs to address this concern. We would commit to bring back a plan to the Commission for consideration as part of our conservation measures. Our intent is to provide some incentives for conservation and to do this for older homes as well.

CHAIR TOWNSEND:

We need to look at the policy side of this issue. It would be important for Ms. Simmons and company to prepare a plan for retrofitting for consideration by the Commission. Then, combine the plan with the weatherization program in

S.B. 123 and discover any overlaps or gaps relative to the more established neighborhoods.

SENATOR CARLTON:

I do not want to slow this process down. This will be very good. Adding in a hard number can be difficult because I do not want to insist on any percentages. This only makes it harder to fulfill our goal. However, it is important to meet the needs of the more established neighborhoods. I want to assure everyone this policy addresses their home as well.

CHAIR TOWNSEND:

Ms. Simmons, it would be helpful to us were you to prepare a statement so Senator Carlton can read it into the record from the floor of the Senate and provide it in the other House. We will print this up verbatim so you will have it.

The company will provide to the Public Utilities Commission of Nevada a plan to deal with retrofitting of older homes given the programs they already have in a good faith effort to meet the standards that we have set forward in previous legislation as well as this. We are concerned with understanding of the older home component in retrofitting and energy efficiency.

Will that help your concern, Senator Carlton? This is an area where the BCP can be most helpful. We find many times in this Committee that people simply do not know what is available. When the consumer is made aware of what is available, there are many options from which to choose.

MARK FLEMING (Vision Energy Corporation):

I do not have a statement on S.B. 188. This would be considered a general energy comment. Basically, Vision Energy Corporation is a company bringing new technology to renewable energy and energy efficiency. We find ourselves out in the cold. In the case of electrical generation from pressure letdown, no one is bringing this technology to market even though it is in the renewable standard. We have found it difficult to receive data from the utility because they consider this technology to be a risk since it is not currently in use. They also have a strict policy against marketing for a vendor, and they consider that giving us this data would be marketing for us. We would like to see a way for new technology to be considered.

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CHAIR TOWNSEND:
Have you spoken to the utility about a pilot program?

MR. FLEMING:
This is one of the mechanisms to try, yes.

CHAIR TOWNSEND:
You need to sit down with some of these experts.

MR. FLEMING:
I have spoken with Mr. Balzar, and he said he considered giving us data to be marketing our product. This was my understanding; however, I do not wish to speak for him.

CHAIR TOWNSEND:
Holding up this bill for that reason is not appropriate. I apologize, but we have done all we can to help jump-start and continue the momentum on renewable energy. Now we have a focus on energy efficiency. What we do is policy. What people do as far as marketability from a vendor perspective does not come before this Committee. If you are running into marketing problems, we can arrange a time for you to sit down with some of these people to give you a fair hearing. We do not promote products here. We pick categories we think are in Nevada's and the public's best interest.

MR. FLEMING:
"Pressure letdown" is part of the renewable energy portfolio. I see no way this element of the portfolio will be satisfied. What I bring to the Committee is a new technology.

CHAIR TOWNSEND:
You are saying you cannot get in the door, and yet you want to be a separate category from biomass, solar, geothermal and wind.

MR. FLEMING:
Basically, what we would like to do is get the data we need to put in a proposal to the utility.

CHAIR TOWNSEND:
Have you requested the data from the PUCN?

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MR. FLEMING:

No, I have not. I am willing to do this. Thank you.

CHAIR TOWNSEND:

We do not take data from companies. This is a policy body. You need to talk to the chairman of the PUCN and find what mechanism to follow to qualify for this data. Are there others who have comments on S.B. 188?

MS. ESCOBAR-CHANOS:

I want to put something on the record if I may. For the record: with respect to paragraph (b), subsection 2, of section 12, at the very end [Exhibit G](#) says, "Unless a different percentage is approved by the Commission." This is dealing with the 50 percent of the amount that must be saved for energy-efficiency measures for the residential customers. I do not believe we have memorialized this on the record. This contemplates a different percentage approved by the Commission should the residential consumer not be able to reach the 50 percent in a given test year. I just wanted to clarify this.

CHAIR TOWNSEND:

That is an important point. The committee secretary is instructed to print that out verbatim to be put with the bill when it is brought to the floor. Committee, the proposal is to accept the multicolored draft of S.B. 188 minus the changes on page 6, subsection 3 of section 12.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 188.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED (SENATOR LEE WAS ABSENT FOR THE VOTE.)

CHAIR TOWNSEND:

We will now take up S.B. 210 again. Mr. Rowe, this is your bill regarding the process for Churchill County Communications to position itself if and when the opportunity comes to sell to the private markets. Committee, do you have additional questions for Mr. Rowe? Are there any comments? Mr. Rowe, is this

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your addition? Did you intend to leave the effective date of July 1, 2005, for any reason?

MR. ROWE:

Yes, this is my addition and the effective date.

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 210

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED (SENATOR LEE WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR TOWNSEND:

Do we have an update on S.B. 256?

MR. SODERBERG:

Mr. Hinckley has given Mr. Young the modification to the amendment requested by the consumer advocate. It was worked out by conference call in your office ([Exhibit I](#)).

SENATOR HARDY:

Would you please define equiproportional for the Committee?

MR. HINCKLEY:

This word, equiproportional, is a well-recognized, traditional word and concept in utility regulation. It means the residential class contributes to the overall usage of electricity by utility company based on the characteristics of usage of the members in that class. They are not equal in terms of usage between residential class and large industrial consumers for example, but it is the proportion they contribute that will be the basis for which the rate design order is affected. So their characteristics are fully recognized.

MR. POWERS:

An alternate language could be "equitable and proportional decrease."

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MR. HINCKLEY:

The fact is it needs to be more proportional. If you want to delete the word equitable we will then arrive at the concept and the point where we need to be. Keep the word proportional.

CHAIR TOWNSEND:

Ms. Escobar-Chanos, you have been listening and the term equiproportional did not pass our Committee legal counsel. Do you agree with the word change of "proportional"?

MS. ESCOBAR-CHANOS:

This is in line with our original intent.

CHAIR TOWNSEND:

Regarding S.B. 256, Mr. Soderberg has an amendment to strike the October reference of odd number of years. There is the other amendment with language changes submitted by Mr. Hinckley agreed to by the BCP. Additionally, there is Mr. Craigie's amendment.

MR. CRAIGIE:

Actually, we signed off on that language.

SENATOR HARDY MOVED TO AMEND AND DO PASS S.B. 256

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED (SENATOR LEE WAS ABSENT FOR THE VOTE.)

CHAIR TOWNSEND:

Committee, in regard to S.B. 238, are there questions? We will look at this bill again in a week. Ms. Escobar-Chanos, this will give you an opportunity to contact the people with Southwest Gas Corporation and any others interested in this bill. We will close the hearing on S.B. 238. We will now have a presentation from Nevada Rural Electric Association. We have three Committee members who have never heard of rural electric and four people on the Committee have heard a great deal about this. Many do not know much about your jurisdiction and do not understand how a co-op functions.

CLAY R. FITCH (Nevada Rural Electric Association):

I am Chief Executive Officer for Wells Rural Electric and I am President of the Nevada Rural Electric Association. With me is Vernon Dalton, President of the Board for Wells Rural Electric Company, and Randy Ewell, General Manager for Mt. Wheeler Power, Incorporated. We have prepared a brochure with some written information ([Exhibit J](#)) and a map showing the rural areas we serve ([Exhibit K](#)). There are six member utilities that are headquartered in Nevada. Additionally, there are five other member utilities headquartered outside the State of Nevada, but serve people who do live in Nevada. We are nonprofit, member-owned, or publicly owned utilities. We are governed by a democratically elected board of directors. As you review the map, you will see we are out in the rural areas of Nevada. Not counting the uncertified areas where no one lives, we serve approximately 60 to 70 percent of the land mass of Nevada. We have about 50,000 customers. We were formed by people who live in these areas for the sole purpose of meeting their needs.

VERNON DALTON (Wells Rural Electric Company):

In the rural areas of Nevada there was no electric energy. Power companies were reluctant to serve these areas. The people assembled and formed cooperatives. This is how we exist today. We have a responsibility to be financially sound and to follow all rules, regulations and bylaws that govern the organization. We all live in these areas. We are unpaid and receive a per diem only. This is the basics. Are there any questions?

MR. FITCH:

We are interested and would like to be included in any future planning process for large projects.

RANDY EWELL (Mt. Wheeler Power Incorporated):

We have had an excellent working relationship with Sierra Pacific Power Company and Nevada Power Company. We have transmission agreements with them and work closely with them. We appreciate the cooperation we have experienced.

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VICE CHAIR HARDY:

Are there questions from the Committee? This brochure is simple, easy to read and an informative document.

There being no further business, the meeting of the Senate Committee on Commerce and Labor is adjourned at 10:52 a.m.

RESPECTFULLY SUBMITTED:

Shirley Parks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____