Members present:

Chairman Jeffrey
Vice Chairman Robinson
Assemblyman Bennet
Assemblyman Bremner
Assemblyman Chaney
Assemblyman Horn
Assemblyman Sena
Assemblyman FitzPatrick
Assemblyman Rusk
Assemblyman Tanner
Assemblyman Weise

Guests present: See attached list

Chairman Jeffrey called the meeting to order at 3:05 p.m. and stated the purpose of the meeting was to hear AB 366, then AB 377 and then AB 412.

AB 366: Assemblyman Paul May was first to testify on this bill, as its introducer. He stated that this bill would help people who were trying to sell pieces of property because currently it is a very lengthy procedure to change a parcel map into final approved form when dividing up a piece of property and under current law, you cannot advertise, contract on, or otherwise deal in any piece of the overall parcel until the final map has been filed. He stated that even though it is now unlawful to deal with these properties prior to the filing of the final map, realtors are doing that as a matter of practice and this change would eliminate their violation of the law under a common practice within the industry. He stated that if this provision were passed, the monies and final transfer of title would be held in escrow until such a final map were filed respective to that piece of property.

In answer to a question from Chairman Jeffrey, Mr. May stated that if the final map for a subdivision or piece of property were ultimately not approved, that all the monies and agreements upon which the escrow was based would revert back to the beginning of the negotiations because consumation would be contingent upon that final approval of the map.

In answer to a question posed by Dr. Robinson, Mr. May stated that it would not jeopardize the investment by the Buyer because the monies would all remain in escrow until the transfer of title and this would be pointed out at the inception of the escrow account. He also stated that the manner of the use and control of escrow monies and the procedures related to it are set out in other statutes.

Mr. May further stated that the changes which are made throughout the bill were for the purpose of keeping the integrity of the proposal all the way through the bill, so that until the parcel map has been approved finally by whatever government agency has final jurisdiction of it, no actual recordation of change of title from on entity to another may take place, but at least the sale can be talked about between the real estate agents and the clients.

In answer to a question from Dr. Robinson, Mr. May stated that the funds on deposit in escrow would continue to be controlled under the sections of NRS which provided for the laws relating to actions of Escrow Agents which are not effected by this change.

Next to speak on this bill was David Thompson of the Division of Real Estate who stated that the only problem they saw with the bill was that there was not a sufficient definition of the word "transfer". He stated that they currently have trouble with people advertising land which is being subdivided and entering into unrecorded contracts of sale and other unrecorded transactions and they felt that this change would only add to those problems.

Mr. Bennet asked Mr. Thompson if he could suggest some other language which would clear up the problems they have about the bill. After some discussion regarding the current problems which come up as the result of unrecorded land transactions, Mr. Thompson stated that he would submit to the committee some language which would take care of their concern regarding the bill. The suggested language is attached hereto and marked Exhbit A.

AB 377: Assemblyman Tod Bedrosian, as sponsor of the bill, was first to address the committee. He first pointed out to the members that Sierra Pacific Power Company had published a newspaper article which purportedly explained the difference in rating between the industrial consumer and the residential consumer. That article is reproduced and attached and marked as Exhibit B, and made a part hereof. He stated he felt that perhaps from a business perspective, lower rates to industry might be logical, but from a residential and conservation viewpoint it is not.

He then went on to explain to the committee that he felt those who were on a limited income would benefit from a life line rate because older people and others on a limited budget would benefit if they used less energy. He also stated that he felt placing a maximum limit on the life line amount available would encourage people to stay within that allowance and thus it would encourage conservation. He also pointed out that no one could be provided service at lower than the life line rate and this would help correct the current practice of industry getting a bigger break on utility rates.

He noted that when he canvassed his district, prior to the elections, the most important area of concern to his electorate was taxation, followed closely by concern over utility rates.

In answer to a question by Chairman Jeffrey, Mr. Bedrosian stated that he was not exactly sure of how the billing would be done after a consumer went past the life line rate maximum allowance.

Mr. Bedrosian also read excerpts from another newspaper article which is attached as Exhibit "C", and from the Public Utility Regulatory Policies Act of 1978 which is attached as Exhibit "D".

In response to a question posed by Dr. Robinson, Mr. Bedrosian stated that he did not feel that the utility companies would be allowed to raise their rates in anticipation of being mandated to institute a life line plan. Dr. Robinson pointed out that he felt there would have to be some sort of fiscal note or economic impact if this type of thing were put into effect because someone would have to make up the deficiency for the utility companies.

Chairman Jeffrey pointed out that not all the utility companies charge a higher rate to the residents. For example in Henderson, where the industrial users actually pay a higher rate than do the residential users. At this point Mr. Bedrosian again referred to the newspaper article explaining Judge Smart's decision effecting this area of rate setting (See Exhibit "C").

Mr. Bill Brookerd, representing the Nevada ACORN organization, was next to speak. His remarks are in text form and are attached hereto as Exhibit "E". Chairman Jeffrey asked Mr. Brookerd how the rate structure would work once the life line rate allowance was exceeded. Mr. Brookerd stated that this bill would allow the PSC to set the threshholds and rates for the life line program and that consumers would be charged that lower rate up to the allowance set by the PSC and once that allowance was exceeded the customer would then pay a higher rate on all other amounts used.

Chairman Jeffrey asked him how he felt this would help in the area of conservation. Mr Brookerd stated he felt people would endeavor to stay under this allowance because they would know that if they went over it they would have to pay a premium. He also said that it would promote conservation of the industrial users because they would realize that they would also be charged more instead of less per unit. Chairman Jeffrey pointed out that he felt some people would not make any conservation efforts if they had been using less than the allowance established and he did not think some people would try to conserve if they found that they were saving on a lower rate; that they would just figure out how much more they could use for the same billing amount.

Mr. Bill Branch of Sierra Pacific Power Company was next to speak to the committee. His remarks in opposition to the bill were in text form and are attached as Exhibit "F". He stated that the concept of life line rates was very palatable to the public, but that they had not worked out, in fact, in those areas in which they had already been instituted. He pointed out that he felt the life line rates were unfair inasmuch as quite often the reduced rates were most beneficial to those people who did not need the financial breaks, i.e. summer homes, families consisting of two people with income and no children or other family members at home during the daytime, etc. He stated that quite often senior citizens, who were home all day and needed a higher rate of consumption to keep their homes warm enough, were the ones who suffered most because they could not limit their use of fuel even if they truly desired to do so.

Mr. Branch elaborated to the committee why some industrial users are supplied at a lower rate than residential users and he pointed out that if the industrial rates are increased by a substantial amount, we will all be paying higher prices for manufactured goods because the manufacturers will simply pass the increase costs on to their product cost to the consumer.

He also pointed out that although their residential rates have gone up approximately 100%, their industrial rates have been increased up to 200% during the same period of time.

In regard to the decision of Judge Smart earlier referred to by Mr. Bedrosian, Mr. Branch stated that he testified in the case and was in the courtroom when the decision was rendered. He said that what is at issue here is not what Judge Smart was dealing with. He stated that what Judge Smart was telling the commission was that they had to go to a cost of service basis and they didn't have the evidence to do so in that case.

Mr. Branch pointed out at this time that there is currently no differential between residential and industrial users in gas rates.

In answer to a question by Mr. Horn, Mr. Branch stated that there have been several studies done in recent years of the life line concepts and that he would make those studies available to the committee. He stated that they have also done their own study based upon the actual figures off of the bills sent to customers in the past 12 month period and those are the figures which are reflected in the statistics in Exhibit "F".

Mr. Weise asked Mr. Branch why, if gas rates were all on a flat rate, the electricity rates could not be on a flat rate also. Mr. Branch stated that once the gas lines were put into the ground and the gas was pumped into them, the only cost of supplying the gas was its costs from the supplier and the overhead relative thereto; however, with electricity there are costs of actually manufacturing it, i.e. generator plants, transmission costs, etc., all of which add to the cost of the electricity.

Mr. Branch agreed with a statement by Mr. Tanner that what they do in effect, in regard to selling gas, is the utility buys gas at wholesale cost and resells it to the public at retail.

Mr. FitzPatrick asked Mr. Branch if this bill were passed if the residential users would get a break and have their rate reduced down to that of industrial users, or if all rates would be brought up to the current residential rate. Mr. Branch said that the residential rate would probably be somewhat reduced, but that most likely the life line rate would be a compromise between the two current rates; somewhere around 4¢ per KWH, and the rate for usage over the life line rate would possibly be around 8¢ per unit. He compared this to a current rate for all users in New York City of 8-1/2¢.

In answer to a question by Dr. Robinson, Mr. Branch stated that those who would be making up the deficiency left by the life line rate loss would be all other residential customers not under the life line limits, the small businessman, the large businessman and governmental agencies.

He also agreed with a comment from Mr. Weise which was that the gross revenues don't change and the utility companies will have to have those amount, regardless of where they are generated.

Mr. Branch told the committee that the life line rate established in California is 240 compared to the 500 units in this bill and that the primary objection he had to legislation of this type which sets this kind of limitation is that the legislature is dealing with quantities that they really have not knowledge of and that these levels do not necessarily work in practice. He pointed out that the federal government is going to be investigating life line rates in the next two years and he suggested that the committee hold off any action of this type of legislation until those studies have been done.

Mr. Weise asked Mr. Branch how rates work for users such as apartment complexes. Mr. Branch stated that they generally get a slight break on their rates, but that many times that is not passed on to the residents. He also pointed out that they have had several complaints made to their offices regarding landlords raising rents, purportedly because the untility costs have increased, when, in fact, the costs had not gone up.

He also pointed out that it is extremely difficult for one utility to collect information in an area, relative to electricity and gas customers, when there are two different companies serving the area, such as is the case in northern Nevada.

Dr. Robinson asked Mr. Branch if there were any states in which the life-line rates were tied in to the age, economic status or other factors of the customers. Mr. Branch stated that there had been attempts at doing that but that in Colorado the courts had decided that that was not a function of the utility, but that it should be done out of a tax funding type program.

In answer to a question from Mr. FitzPatrick, Mr. Branch stated that it was terribly difficult for the utility company to determine who was in need of the benefits of a rate decrease and who was not.

Mr. Dave Hagen, on behalf of Southwest Gas, stated that they were in complete accord with the comments of Mr. Branch in opposition to this bill.

Next to speak was Tom Bath, Mt. Wheeler Power, Inc. who also spoke on behalf of the Nevada Rural Electric Association. His comments are highlighted in the attached position letter which is marked Exhibit "G". He strongly pointed out to the members that in rural areas such as his where some households are entirely dependent upon the use of electricity, this type of program would be exceptionally detrimental to the residential user. He explained to the committee that in his area Kennicot Copper was the primary user of power and that when they were under full production, their rate was very low and since they are using less now, their rate is somewhat higher. As the discussion progresses, Mr. Bath pointed out that Kennicot's rate under full production was 20 mils/unit compared with a residential rate of 29 mils/unit; Kennicot's rate is now 30 mils and the residential rate is still 29. He also pointed out that if Kennicot's usage goes back up, their rate will come down somewhat. He stated that the reason for these gradient rates is that their overhead is approximately $1,800,000 per year and these costs are prorated over all their customers, residential and industrial and the higher the number of units supplied, the lower the cost per unit to all the users.

Mr. Bob Warren, Executive Secretary for the Mining Association, stated that he would hope that no bill would be passed which would further increase the costs of mining in Nevada and thought that higher costs was part of the reason for the larger mining companies closing in Nevada. He read from the Mountain States Legal Foundation Action Update which expanded on the January, 1979 legal decision in Colorado. That is attached and marked as Exhibit "H".

Pete Kelly, lobbyist for the Nevada Rural Electric Association was next to speak and stated that he agreed with Mr. Bath's comments that the bill is discriminatory, encourages waste, that whatever savings were available to the low usage households (not necessarily low income families) would have to be made up by other users. He pointed out that the program was tried in California and in Florida and that it hadn't worked as planned in those states. He also stated that as a representative of the Nevada Retail Association he was also opposed to the bill.

In rebuttal, Mr. Brookerd stated that he felt the PSC could set the life line rates and that they perhaps could set separate rates for those homes which were all electric. He also pointed out that he felt conservation was the prime concern here and that the committee must keep in mind the scarcity of fossil fuels and the situation in the Middle East.

AB 412: Chairman Jeffrey stated that this bill would be held, and that there would be a hearing on it February 28.

Mr. Bremner stated that there would be a sub-committee meeting on AB 98 on February 28, after the regular meeting and that there would be a report back to the committee probably on Thursday, March 1.

Mr. Horn stated that he would be getting the balance of the amendments to AB 150, and that he would be bringing it back to the committee on Wednesday, February 28.

Chairman Jeffrey asked the committee for approval on several matters for committee introduction; there were no objections. Mr. Bremner moved for committee introduction, Mr. Bennet seconded the motion and it carried.

Mr. Bremner made a motion to request a bill draft on the naturpathy proposal, Mr. Bennet seconded the motion and it carried.

There being no further business to come before the committee, Chairman Jeffrey adjcurned the meeting at 4:45 p.m.

Respectfully submitted,

Linda D Chandler

Linda D. Chandler
Secretary

Date of Hearing 2-22-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

PRINT

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
W. C. BRANCH	#377 ~~[illegible]~~ SIERRA PACIFIC POWER	✓	
D. W. HAGEN	#377 SOUTHWEST GAS	✓	
[illegible]	588 Co		✓
Tom Bath	Mt Wheeler Power Inc. #377	✓	
David Thompson	REAL ESTATE DIVISION	IF NEC.	
Susan D. Simmons	REAL ESTATE DIVISION		
Vince Laveaga	Sierra Pacific Power Co.		✓
Wm H. Brookerd	NEVADA / ACORN	✓	
ANNA MARKE	NEVADA ACORN	✓	
W.E. Adams, P.E.	Southwest Gas Corp		✓
Warren T. Fowler	Retired Public Employees of Nev.		
Roger J. Boise	NV ACORN		

STATE OF NEVADA
CAPITOL COMPLEX
DEPARTMENT OF COMMERCE
REAL ESTATE DIVISION
201 S. FALL STREET
CARSON CITY, NEVADA 89710
(702) 885-4280

ROBERT LIST
GOVERNOR
JAMES L. WADHAMS
DIRECTOR
DEPARTMENT OF COMMERCE

JAMES K. JONES
ADMINISTRATOR
REAL ESTATE DIVISION

February 26, 1979

MEMORANDUM

TO: Assemblyman Paul W. May, Speaker

FROM: David E. Thompson, Division of Real Estate

RE: AB 366

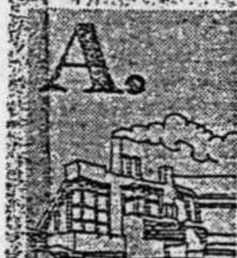
The proposed bill would be entirely satisfactory if the word "transfer" is defined.

Suggest NRS 278.010 (definitions) include: "Transfer" means to convey, lease or assign legal or equitable right, title or interest in real property from one person to another by contract, agreement, deed or any other method or form recorded or not.

DET:mjs

EXHIBIT "A"

Is inflation one of the biggest problems?



Inflation—and its effect on the cost of fuel—is definitely one of our biggest problems. It hurts us all. It costs us three to five times more today to build a power plant like Valmy than it did five years ago. The labor costs, the cost of materials and supplies, taxes—they are all higher today.

Why do the "big guys" get a break on electric rates?

The public service commissions set rates according to how much it costs to provide service to a customer. Some of our large customers pay different rates than the individual homeowner or small businessman because it costs far less in equipment and manpower to deliver electricity to industrial customers.

Are existing ratepayers having to pay for gas and electric extensions into new subdivisions?

No, in each new subdivision the contractor or homeowner pays the cost.

We hope these answers are helpful. If you have other questions about your Sierra Pacific Power service, or if you'd like energy conservation materials to help keep your energy costs down, please take the time to call our Consumer Information Center. The number is 789-4242.

from a business perspective that is logical

from a Residential consumer

Big Users May Benefit 1976

1478 PSC

Power Rates Ruled Improper

By CY RYAN

CARSON CITY (UPI) — In a number of far reaching decisions Saturday District Judge Stanley Smart ruled that the state Public Service Commission improperly ordered higher natural gas and electric rates for large industrial users while reducing bills for the small homeowner.

The three cases involve millions of dollars for the customers of Sierra Pacific Power Company and Southwest Gas.

Judge Smart also ruled invalid the order of the PSC eliminating reduced rates for retired and present employees of Sierra Pacific Power Company. He said the PSC interfered with the internal management of the Reno-based utility and based its decision on a study which was filled with errors.

Judge Smart took nearly 90 minutes, in a rare Saturday session, to read his decisions to the attorneys representing Sierra Pacific Power, Southwest Gas, large industrial users both in Northern and Southern Nevada, the state Public Service Commission and the Nevada Tax Commission.

In one of the cases, Southwest Gas sought a $7.2 million rate increase from its Northern and Southern Nevada users in 1975. The Public Service Commission allowed only $1.6 million. But the commission ordered the rates be redesigned so that residential customers and other small users would enjoy a reduction of about $4 million. The commission ordered the rates for the large power plants and major industrial users be boosted by more than $4.4 million.

The large industrial users filed suit seeking to overturn the PSC decision, contending they were paying more than their fair share for the cost of power. Judge Smart said the state commission never gave sufficient notice in the rate request case that it was going to redesign the rates. He said the plan adopted by the PSC was invalid.

The PSC at that time started on a program to "flatten" the rates so that large users would not pay less for their power than the small customer.

In the second case, Sierra Pacific Power asked to boost electric, natural gas and water rates by $13 million in 1975, but the state agency allowed only a $3.7 million increase. Sierra Pacific filed suit seeking an additional $1.5 million.

In vacating the decision by the PSC, Judge Smart said the agency never had a regulation on which to base its disallowance of certain expenses for Sierra. He said Sierra, with state approval for 40 years, had given a 50 percent reduction in rates for its present and retired employees.

By eliminating this discount, the state commission put Sierra Pacific in a position of either violating the federal law on labor contracts or violating the state's order. The company and the union had negotiated the lower discount rate as one of the benefits for the employees.

Judge Smart also said the past and present employees of Sierra were not given any notice their rates would be affected before the hearings on the rate request, making the order invalid.

He also said that a study which showed employees of Sierra used

(See UTILITIES, Page 3, Col. 1)

Utilities

(Continued from Page 1)

more power than other residential customers was defective. He said such things as size of family and size of the home were not taken into consideration.

One of the premises for eliminating the employees' discount was that it would lead to conservation of energy. But Judge Smart said, "Greater consumption does not equal waste."

The judge also overturned the PSC's decision to "flatten" the Sierra's rates to charge the large industrial customers more. He said the state commission in this area also did not give sufficient public notice that this would be considered in the case. He said the issue of conservation of energy was improperly considered by the commission at that time, although it was later put into Nevada law.

In the third case, Judge Smart ruled the state Tax Commission had set the assessed value of Sierra Pacific Power Company in 1974-75 at $1.7 million too high.

The company paid the $68,000 extra in taxes that year but filed suit. In each subsequent year the utility has also protested the valuation, and it appears it will be entitled to a tax rebate of several hundred thousand dollars. In that case there was an absence of proper state regulations, the judge said.

In giving his decisions, Judge Smart stressed that the state agencies should adopt clearly defined rules with exact definitions so utility rate requests and tax formulas can be measured to determine if they are justified.

He said complex problems have arisen in recent years, but the Nevada Legislature has left the solutions up to the administrative agencies without expressed guidelines. "This has put the agencies on the spot," he said.

And when the cases judicially appealed, Judge Smart said the courts too often choose to sidestep the issues.

Smart apologized for taking a long time in reaching his decisions, but he said he wanted to make them all at the same time because there were common areas.

The cases will be appealed to the Nevada Supreme Court, and Smart said he hoped the high court would use the cases to "as a vehicle to clear up a great number of extremely critical issues of administrative and public utility law which is either unclear or non-existant."

The status quo will be maintained and rates will not be changed until the Supreme Court rules.

EXHIBIT "C"

The Public Utility Regulatory Policies Act of 1978

The public utility regulatory policies within the ambit of this act, for the most part, provide for new programs covering a variety of areas that directly affect the nation's electric and gas utilities. The act requires that programs be established for: (1) increased conservation of electric energy; (2) increased efficiency in the use of facilities and resources by electric utilities; (3) equitable retail rates for electricity; and (4) the conservation of natural gas while ensuring that rates to natural gas consumers are equitable. It also determines that improvement is needed in: (1) programs for the wholesale distribution of electric energy; (2) the reliability of electric service; and (3) the procedures concerning consideration of wholesale rate applications before the FERC, and the participation of the public in matters before the FERC.

The provisions of the conference report on utility regulatory policies, H. R. 4018, as approved by Congress and which relate most directly to electric and gas utilities are outlined below.

Rate-making and Additional Standards. State regulatory agencies would be pressured to consider different types of rate structures to force more energy conservation. Within two years of enactment, state regulatory authorities must hold hearings to consider the appropriateness of time-of-day rates, seasonal rates, cost-of-service pricing, interruptible rates, load management techniques, and prohibitions on declining block rates unless they are cost justified. Generic hearings on these standards must be completed within three years, or the state authority must consider those standards in the next rate case. Moreover, within two years, the state regulatory authorities also must have hearings on the appropriateness of prohibitions or restrictions on master metering, procedures for reviewing automatic adjustment clauses, procedures prohibiting rate discrimination, prohibitions against abrupt termination of service, prohibitions on recovery from nonshareholders of the costs of promotional or political advertising, and promulgation of lifeline rates.

The evaluations are to focus upon appropriateness to each utility under the jurisdiction of the state authority. Nonregulated utilities also are to consider these standards. Findings must be made available to the public, and intervenors are entitled to have access to all relevant information whether or not the state authority or utility has implemented the standard. Each state authority must report to DOE one year after enactment and annually thereafter for ten years on the actions taken regarding each standard. DOE will then have eight months from the first year deadline in which to submit a report to Congress. Coverage applies to utilities with annual sales above 500 million kilowatt-hours. This constitutes approximately 94% of the nation's electric utilities.

Intervenor Rights and Judicial Review. Ratepayers, affected utilities, and DOE are allowed to intervene as a matter of right in regulatory proceedings. Compensation will be awarded to consumer intervenors if their intervention substantially contributes to the success of ratepayer contentions. But persons with similar interest may be required to have common legal representation if the state does not have an alternative program for compensation. Decisions in original proceedings may be appealed to state courts by ratepayers, affected utilities, and DOE, but only if they intervened in the original proceedings. If the state courts refuse to hear an appeal, the appeal may be made to a federal court to enforce the right to be heard in the state court.

EXHIBIT "D"

New Federal Authorities. The federal energy department will be empowered to order certain utility power-sharing arrangements - interconnection, pooling, and wheeling - to aid power-short public utilities, but first the department must show that the power sharing will not impair the reliability of service by any utility and would significantly increase conservation.

Interconnections may be ordered if the FERC finds it is in the public interest and: (1) encourages overall conservation of energy or capital; (2) optimizes efficient use of facilities and resources; or (3) improves the reliability of a system subject to the order. However, interconnections may not be ordered if they would: (1) result in uncompensated loss to the utility; (2) place an undue burden on the utility; (3) unreasonably impair the reliability of the system affected by the order; (4) impair utility ability to provide adequate consumer service; and (5) compel the enlargement of generating facilities.

Wheeling of power by one utility for other utilities may be ordered if wheeling is found necessary or in the public interest. The order is subject to the same conditions as for interconnections, but it must result in significant energy conservation and increased efficiency, and must preserve existing competitive relationships between the affected utilities. Upon application, the FERC may order a wholesale seller to provide transmission capacity increases to its wholesale customer when the seller is unwilling or unable to provide electric service to the requesting customer if: (1) the applicant is ready and able to pay reasonable wheeling charges; (2) opportunity for hearing is provided; and (3) conditions similar to those for interconnections are met.

Voluntary pooling may be recommended to utilities by the FERC, which will have power to exempt utilities from state laws or regulations that prohibit pooling. The act requires the FERC to conduct an 18-month study of the advantages of pooling and report its findings to Congress.

Other Provisions. The FERC will conduct a nine-month study on: (1) providing expeditious handling of on-the-record rate hearings; (2) preventing pancaking; and (3) improving procedures designed to prohibit anticompetitive or unreasonable differences between wholesale and retail rates. A 60-day period is required between filing with FERC and the effective date of any rate increase.

FERC will review automatic adjustment clauses to determine whether they provide incentives for the efficient use of resources and whether they reflect any costs other than those susceptible to periodic fluctuations. Within one year, the FERC will prescribe rules to encourage cogeneration and ensure that cogenerator rates: (1) are just, reasonable, and in the public interest; (2) do not discriminate against cogeneration; and (3) provide for excess power to be sold to utilities by qualified cogenerators. An authorization for fiscal years 1979 and 1980 of $80 million will provide grants for state commissions and nonregulated utilities to carry out provisions of this act.

EXHIBIT D -

February 22, 1979

TESTIMONY IN SUPPORT OF AB 377 -- ASSEMBLY COMMERCE COMMITTEE

My name is Bill Brookerd. I reside at 530 Winston Drive in Reno. I'm appearing this afternoon in behalf of Nevada Association of Community Organizations for Reform Now (ACORN), an organization of 18 neighborhood groups of low and moderate income people. ACORN is supported by the membership dues of over 800 families in Washoe County.

The time for utility rate reform is now. The primary reason is the need for energy conservation. AB 377, the Lifeline rates bill, addresses our present situation in a forthright and progressive fashion. It does this by changing the obsolete and unjust basis on which gas and electric rates have been fixed in our state.

There's a widely quoted saying that utility rate structures are 90% philosophy and 10% math. There are essentially two philosophies upon which rate structures are based. One is what we'll call the"widget theory" and the other is a theory of the real world.

The widget theory began in the 1920's when every new power plant was cheaper to build than the last one and coal and oil were a glut on the market. Under this theory a kilowatt-hour (kwh) is just like the widget in introductory economics: each additional unit tends to cost less to produce.

The "real world" theory deals with our actual situation. Fossil fuels are continually being depleted and the cost is rising. Power plants

NEVADA ASSOCIATION OF
COMMUNITY ORGANIZATIONS FOR REFORM NOW
195 North Arlington Street . Reno, Nevada 89501 (702) 323-0781
Affiliate of the Association of Community Organizations for Reform Now

cost half a billion dollars, routinely, and will cost more in the years to come.

Which of these two theories is used by the Nevada Public Service Commission?

The energy charge to a residential user of 1 kwh from Sierra Pacific Power Company is about 4.8¢. The energy charge to the largest commercial user is 3.4¢. Residents pay about 40% more on the energy charge for the kwh than the large users do. So obviously the PSC is still using the widget theory.

AB 377 would get us off widgets and into brass tacks. It says the Nevada Legislature is serious about energy conservation and demands that the PSC start getting serious too. It rewards all users for conservation and penalizers all users for wastefulness. Ordinary horse sense would indicate that those users consuming the most power now have the greatest ability to conserve. Tax structures and capital markets already give large users the greatest capacity for investment in energy conservation; AB 377 would give them the greatest incentive too.

There is a major deficiency in the current utility statutes. They do not indicate a system of priorities for consumption. ACORN urges you to pass AB 377 because residential heat, light, cooking and refrigeration must have the highest priority. Presently the residential consumer, whether a working family or a fixed-income couple, is charged more per unit than the largest corporations in the state, because human needs does not have any priority in the rate-making process. The widget theory is not only unrealistic, it makes for cruel and unusual punishment to low and moderate income people.

AB 377 is not an experiment by any stretch of the imagination. California adopted this rate reform in ~~195~~ 1975 and implemented it in 1976; there has since that time been a significant reduction in the rate of growth in energy consumption without damaging the economy or the profitability of the utility companies. Even from the point of view of the largest user, the experience with Lifeline has proven that the effect on corporate budgets is not very large.

EXHIBIT E

A study by Sierra Pacific Power itself last year showed that the cost due to the Lifeline concept to non-Lifeline users was 0.215¢ per kwh. A business that used 1 million kwh would pay an additional $2150. When we talk about corporations that write off $100,000 a year on their buffets, that amount seems rather small.

Let's take that illustration a little further.

If a Reno business is using 1 million kwh and 1000 kilowatts of demand, its charges, not counting taxes and add-ons, look like this:

Demand charge	$2,547.50
Energy charge	34,004.00
Total	$36,551.50
Per kilowatt-hour:	3.65515¢

If a senior citizen uses 300 kwh a month, which many seniors do, the same charges look like this:

Demand (customer)charge	$1.15
Energy charge	14.34
Total	$15.49
Per kilowatt-hour:	5.163¢

Is that justice? Should the government of the state of Nevada fix rates that way?

In 1975 the Legislature ordered a "formal study" of the PSC's work. Dr. Robinson was one of the sponsors of the resolution and Assemblyman Weise was one of the members of the subcommittee that made the study. The study was released on September 15, 1976.

On page 52 it states, "Flat rates are what the Nevada Public Service Commission has described as its goal. It is basically a strong step in the right direction. It is a political economic decision (sic), and there is still a long way to go to get to flat rates."

Over two years later there is still a long way to go, unless anyone is of the opinion that the rates in the above example are "flat".

Continuing from page 52, "In the long term, if longrun incremental costs stay higher than average costs, inverted rates will protect the earning power of the utilities, and at the same time protect the consumer from frequent rate increases."

The PSC has yet to act on that logic.

Quoting further from page 4 of that report, "A thorough investigation should be made concerning the feasibility of implementing a lifeline rate structure, and should be considered separate from a general rate hearing."

ACORN pointed out this passage to the PSC in the Sierra Pacific hearings last year. Instead of doing their own investigation and holding separate hearings, the PSC told Sierra Pacific to do the study! Of course, the company's study was not independent. It was also shoddy, almost illegible and filled with an irrelevant sociological study of the elderly. Even so, the PSC still has not held a hearing on it.

The PSC has eliminated the declining block rate to encourage conservation. This is one move toward justice in the rate structure. All power to them, no pun intended. But when we ask them to do more, to eliminate the inequities between classes of customer as well as within them, they say the courts won't let them under the judges' interpretation of present Nevada law.

There would seem to be an answer to that.

Change the law.

EXHIBIT E

BEFORE THE COMMITTEE ON COMMERCE - FEBRUARY 22, 1979

TESTIMONY OF WILLIAM C. BRANCH, TREASURER,
SIERRA PACIFIC POWER COMPANY, IN OPPOSITION TO
"LIFELINE RATES" AS PROPOSED IN A.B. 377

The lifeline rate concept is a proven disaster!

That statement is not made lightly, nor is it made as a result of someone else's study or opinion. Sierra Pacific Power Company has had first hand experience with lifeline rates, along with all the other electric and gas utilities operating in California. The results of these experiences clearly show that the declared goals of the California lifeline policy, i.e., providing for the welfare of low-income consumers and inducing conservation in household uses of electricity and gas, are far from being achieved. Instead, what has occurred is a massive redistribution of income via this form of utility rate restructure which has resulted in financial inequities between classes of utility customers, i.e., residential, commercial, industrial, agriculture, governmental, etc., and within the residential class itself.

Proponents of lifeline rates advocate that electricity or gas should not be treated as a product or service, which, of course, both are. Like air or water, energy, under this philosophy, is a basic human right. Further, lifeline proponents claim it is the responsibility of the Public Service Commission and/or the utility company to solve the social welfare problems of low and fixed-income customers in meeting continually rising utility bills. The fact that this can only be done through subsidization by larger residential, commercial, industrial, farm, and governmental customers is a point that is frequently avoided and/or overlooked by lifeline advocates. Finally, it is assumed by lifeline supporters that the low-income, the fixed-income, and the elderly consumers use the least energy and, therefore, should pay the least; and conversely, the higher income consumer and businesses must use the most and, therefore, should pay the most.

Considerable evidence exists from the California lifeline experience that this concept does not accomplish what its proponents claim it will. In fact, in certain circumstances, it works in reverse, as the information set forth below will show. The comments which follow respond to the basic philosophies espoused by lifeline proponents.

(1) The philosophy that energy is a basic human right is subject to argument. In today's society energy is a necessity, but so are food, clothing and shelter. Electricity and gas are necessary services which utilities are required to provide to all customers at rates based on cost of service.

(2) Neither the Public Service Commission nor the utility company should assume the responsibility for redistributing income or indulging in any form of social welfare through changes in ratemaking policies. On January 29, 1979, the Colorado Supreme Court ruled* that the Colorado Public Utilities Commission had no power to make social policy through rate structures, no matter how attractive the social policy or deserving the group benefitting from the rate design may be. This opinion sustained a 1978 lower court ruling. The Colorado Supreme Court supported the view that the PUC is not an agency endowed with the power to administer the state's welfare programs and that the legislature is the appropriate body to fund such programs from tax revenues.

* Mountain States Legal Foundation vs. Colorado Public Utilities Commission

(3) The California lifeline experience is indicative of the impact of subsidization as between classes of customers as well as within the residential class. In a recent Pacific Gas and Electric Company gas rate case, the Company reported a negative two percent rate of return for residential customers as compared to a 42% rate of return for large industrial customers. In other words, residential customers were being provided gas service at less than the price of the gas they were consuming.

Sierra Pacific's experience in the Lake Tahoe Basin was similar. A February 1978 over-all rate increase of about 12% translated into a zero percent increase for lifeline quantities, 25% for non-lifeline residential customers, and up to 40% for commercial and industrial customers.

We all know that there is no "free lunch" today. The above two examples--and there are many, many more that could be cited--mean simply that subsidization of lifeline rates by commercial, industrial, or farm customers will result in higher prices of goods and services provided by such customers to offset the higher energy costs. Two members of the California PUC commented on such subsidy as follows:

> "....The cost of this subsidy will be the indirect kind that is hidden in every can of orange juice and in every sack of potatoes, and consumers will never know what is hitting them...." **

(4) The blanket assumption that low-income, fixed-income, and/or elderly customers use the least quantities of energy is a fallacy. Numerous studies made by utilities, governmental agencies, and leading economists have shown that, in general, this is untrue.

** Opinion of Commissioners Sturgeon and Symons, California PUC Decision No. 86087.

Such studies have confirmed that low-income households often use rather substantial quantities of electricity and gas. Low-income individuals were found occupying houses having inefficient heating systems, undersized air conditioning, and lacking adequate insulation.

Sierra Pacific's experience in this area is as follows. The South Lake Tahoe Senior Citizen Group has registered protests at our California rate hearings and held informal discussions with the Company regarding the impact of lifeline rates on their electric bills. These consumers are heating their homes with electricity and as high residential electric users are subsidizing other Lake Tahoe low use customers, who, in most instances are not low-income or on fixed income. The low use residential customers in this area occupy apartments or small condominiums, may dine out frequently, and in many instances have two incomes (husband and wife) contributing to the support of the household. As a result, such customers find it easy to confine their use of energy to the basic lifeline allowance and thereby receive an unneeded income transfer.

(5) In California, the legislature intended to allow lifeline quantities of electricity and gas to tenants of master-metered apartments, and provision has been made to comply with such intent. There is no guarantee that any energy cost advantages gained by landlords in such situations have been or will be passed on to tenants in the form of lower rents. In Reno and Sparks, we have found many instances where landlords and other businesses use Sierra Pacific's electric, gas, and/or water rates as an excuse to raising rents. This occurs whether or not the actual energy or water rate increase has actually been experienced; or the actual increase is represented by the landlord to be greater than it is.

(6) In many areas of California, different utility companies provide electric and gas service. This leads to residents claiming electric water heating and space heating lifeline allowances even though they use natural gas for these purposes.

In cases where the same utility provides electric and gas service, there is lifeline duplication for cooking allowance applicable to customers receiving both services.

(7) In San Francisco, the climate is generally mild year-round, and the average size of the apartments and houses are relatively small. Therefore, in that city, the basic lifeline allowance is adequate for total usage of electricity by about two-thirds of Pacific Gas and Electric customers. The situation in Fresno, located in the central valley, where average winter temperatures

are below those of San Francisco and where summers are hot, is drastically different since the basic lifeline allowance covers only a small proportion of usage. Here we have a vivid illustration of the typical inequities that the lifeline concept creates within the residential class of customers served by the same company.

The above comments generally relate to only a small portion of the dilemma created as a result of the 1975 California legislature adopting the lifeline rate concept. Severe criticism of this concept has emanated since its inception in 1976 and continues today. Its inequitable and harmful effects have been voiced by all types of residential consumers, utility companies, and by commerce and industry. Additionally, its critics have included California legislators, academicians, and two of the five California Commissioners serving at the time of the legislature's lifeline mandate. It has been an administrative nightmare and, as I stated earlier, a disaster. My testimony is extremely negative about this concept because I can find nothing positive about it.

Let me show you what the impact of A.B. 377, as proposed, would be on Sierra Pacific Power Company and its electric and gas customers.

Section 3.2 of the proposed amendment provides that

> "....The lifeline amounts may not be less than 500 kilowatthours of electricity per month and 10,000 hundred cubic-feet of natural gas per month...."

First, I would comment that it appears an error has occurred in setting the minimum lifeline amount of gas. The amendment refers to 10,000 hundred cubic-feet of gas--this quantity is so substantial that I have assumed it was meant to be 10,000 cubic-feet, a more reasonable level.

Impact on Sierra Pacific's Customers

Electric

Based solely on the proposed 500 kWh lifeline allowance and utilizing actual 1978 data, the following would have been the impact on Sierra Pacific's electric customers of such proposed lifeline policy:

(1) Approximately 39%, or 46,000, of our 117,000 Nevada electric customers used 500 kWh per month or less during the year 1978. This means that at such consumption levels each of the 46,000 customers' bills would be frozen under the lifeline concept and future rate increases would be borne by all other customers.

(2) Since all residential customers would qualify for the 500 kWh minimum allowance, approximately 459.0 million residential kWh would be exempt from future rate increases. This represents 60% of Nevada residential consumption and 20% of Nevada electric

consumption by all customers, meaning future rate increases would be spread over 80% of Sierra Pacific's Nevada kWh sales.

This can be illustrated as follows: Assume a $10.0 million rate increase (about 10% overall). If that rate increase were spread on the same basis as Sierra Pacific's 1978 increase, it would amount to $.0044 per kWh of Nevada sales, based on 2.279 billion kWh sales. Under the lifeline concept, 459 million kWh sales would be exempt from the increase, therefore, the unit increase applicable to non-lifeline sales would be $.0055 per kWh, or 25% higher than under pre-lifeline circumstances. This additional increase would be absorbed by residential electric heating customers, small businessmen, large businesses, farmers and governmental agencies, including schools, public buildings, etc.

(3) It should be pointed out that the substantial growth in housing in our Reno-Sparks service area is predominantly in multiple dwelling units, which are not large users of electricity. Present -day costs to connect new customers are the highest in the history of the Company and continue to increase almost daily. To provide energy to such new customers at lifeline rates would mean simply that they would not bear any portion of the additional costs incurred as a result of their addition to the system. Consequently, a terribly inequitable apportionment of revenue requirements would be imposed on non-lifeline residential and all commercial, industrial, agricultural, and governmental customers.

Gas

(1) The impact on gas utility service is even more staggering than for our Nevada electric department. Approximately 75% (33,000) of our 44,000 gas customers would have their bills frozen under the lifeline concept based on 1978 consumption levels. Approximately 25.0 million therms of gas would be exempt from future rate increases. This represents 80% of residential consumption and 35% of total gas consumed by all customers, meaning that future gas rate increases would be applied to 65% of Sierra Pacific's gas sales.

Assuming a $2.5 million rate increase (about 10%), the following comparison can be made. Under present conditions, that increase would translate into a unit increase of 3.5¢ per therm of gas sold. By lifeline standards, the $2.5 million increase would be spread over 65% of non-lifeline sales (approximately 47.0 million therms) resulting in a unit increase of 5.3¢ per therm, or 51% higher than the previously calculated 3.5¢ per therm. Such higher increase would be absorbed by residential gas heating customers in single-family dwelling units, small businessmen, large businesses, schools, public agencies, etc.

Section 4.0 of the proposed amendment (A.B. 377) states

"....No public utility may charge a customer of any class for electricity or natural gas at a rate which is less than the lifeline rate...."

At the present time, Sierra Pacific's rate structure consists of separate rates for various classes of service, i.e., residential, small commercial, large commercial, irrigation (farmers), large industrial, street lighting, etc. Such rates are different for the various classes and, except for small commercial customers, the residential rate is the highest, since the cost to serve such customer is higher.

The effect of Section 4.0 as proposed requires a drastic restructure in rates wherein the lifeline rate could not be frozen at the existing residential rate level. An arbitrary shifting of revenues between customer classes would have to be made to accomplish this, resulting in an immediate windfall in the form of a reduction to residential customers at the expense of all others. Such revenue shift could amount to more than $5.0 million, or 5% of total Nevada electric revenues. How this can possibly be supported and justified defies the imagination.

In my opening remarks in this testimony, I stated that the lifeline rate concept is a proven disaster. I firmly believe this and have outlined a number of facts and comments in my testimony in support of my contention. I have provided this information so that you will have at your finger-tips hard facts upon which to view this proposed legislation.

Lifeline rates, contrary to what many believe, do not work! The California experience is living proof of this.

I strongly urge that A.B. 377 be killed.

Tom

Nevada Rural Electric Association

P.O. Box 365
Wells, Nevada 89835

February 20, 1979

Nevada Rural Electric Association takes the following position:

AB 364 Creates division for protection of utility customers in office of attorney general and defines its duties.

Nevada Rural Electric Association opposes AB 364 on the following points:

1. Unnecessary duplication of functions of the Nevada Public Service Commission, creating:
   - A. Duplication of work.
   - B. Additional regulation costs to the State.
   - C. Friction between State departments.
2. Attorney General's office is not familiar with Utility regulation.
3. This Bill will nearly double the cost of rate filings for Utilities which is an unnecessary burden to the rate payers.

2/22/79
3PM
Room 240
of Legislative Bldg

AB 377 Requires certain amount of electricity and natural gas to be delivered to residential users at a minimum rate.

Nevada Rural Electric Association opposes AB 377 on the following points:

1. Discriminatory to other rate payers.
2. Provides unfair rate relief to people with vacation homes since they would receive relief for two homes.
3. There is no cost justification for this rate.
4. Encourages wastefull use of electricity and natural gas.
5. Many low income families use high amounts of power. The price differential which would have to be made up in sales over the "lifeline" maximum would reverse any savings. 500 KW
6. Study conducted by Albin J. Dahl, Professor of Ecomomics, University of Nevada, and published in the Nevada Review of Business and Economics (Winter 1977) concludes:

   "In brief, social welfare should be provided for openly through tax and welfare programs. Welfare assistance should not be concealed in a highly discriminatory energy utility rate design. Rate structure should not be designed to accomplish a welfare goal."

EXHIBIT "G"

MOUNTAIN STATES LEGAL FOUNDATION

ACTION UPDATE

1845 Sherman Street • Denver Colorado • 80203 • 303/861-0244

Bob

MSLF WINS MAJOR COLORADO SUPREME COURT VICTORY

DENVER--The Colorado Supreme Court ruled on January 29, 1979, that the Public Utilities Commission (PUC) had no power to make social policy through rate structures, no matter how attractive the social policy or deserving the group benefiting from the rate design may be.

In a 5-2 decision the court addressed a case, Mountain States Legal Foundation v. Colorado Public Utilities Commission, filed by the Foundation on behalf of Colorado homeowners and other users of natural gas who were ordered to pay the administrative costs and a 50% subsidy in natural gas rates for the elderly and disabled poor. A lower court struck down the preferential and discriminatory rates last March, and the Colorado Supreme Court affirmed that decision.

At issue was not the giving of assistance to poor and elderly people, but rather the use of a regulatory agency to dictate social policy through rate structure. It is the Foundation's contention, and the Court supported this view, that the PUC is not an agency endowed with the power to administer the state's welfare programs. While many contend welfare reform is needed, welfare programs are not improved simply by creating an additional burden on those who heat their homes with natural gas.

The stand the Foundation took is that the problem of aid of elderly and disabled persons should be considered by the legislature, those elected officials who have the authority to fund such programs from tax revenues. If the Court had not sustained the lower court ruling, regulatory agencies could have forced their regulated industries to develop welfare programs or other social programs by using varying rate schedules to redistribute costs and wealth.

* * * *

The controversy received a great deal of national attention because of its political ramifications and the pressures brought about by increasing energy costs. The Mountain States Legal Foundation, on behalf of Utah non-elderly homeowners, is presenting a similar case to the Utah Supreme Court.

The Foundation requested a hearing by the Utah Supreme Court after the Utah Public Service Commission adopted discounted electric rates for all elderly residents of the State in 1978. The Foundation believes the discounted rates in Utah are even more discriminatory than the rates granted in the State of Colorado, because there is no income requirement in the Utah program. It is possible that a poor family in Utah could be paying an additional amount for this program to the benefit of a wealthy elderly person.

EXHIBIT "H"