

Members Present:

Chairman Hayes  
Vice Chairman Stewart  
Mr. Banner  
Mr. Brady  
Mr. Coulter  
Mr. Fielding  
Mr. Horn  
Mr. Malone  
Mr. Polish  
Mr. Prengaman  
Mr. Sena

Members Absent:

None

Guests Present:

Judge John W. Barrett	Second Judicial District
Tod Bedrosian	Assemblyman
William C. Branch	Sierra Pacific Power Company
Frank Daykin	Legislative Counsel Bureau
Les Groth	Nevada Fire Chiefs and Firemen's Associations
Heber P. Hardy	Public Service Commission
Tom Huddleston	State Fire Marshal
Chuck King	Central Telephone Co.
Janet MacDonald	Public Service Commission
Charles H. McCrea	Southwest Gas Corp.
Steve McMorris	Douglas County District Attorney
Geno Menchetti	Attorney General's Office
Dan M. Seaton	Clark County District Attorney's Office
Lowell Smith	Nevada Division of Forestry
Larry Struve	Chief Deputy Attorney General
Stan Warren	Nevada Bell

Chairman Hayes called the meeting to order at 8:05 a.m.

ASSEMBLY BILL 364

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

Assemblyman Bedrosian, primary sponsor of this bill, said he would like to request a further amendment to the bill other than that which had already been submitted to the Committee to include water as one of the utilities that could be considered by the Office of Consumer Advocacy. He said this had been an oversight.

Mr. Bedrosian said the bill just gives a consumer an even chance during rate hike hearings. He said opponents of the bill would argue that the Public Service Commission is able to act as an impartial judge for consumers.

Mr. Bedrosian said that financing of this office would come through the mill levy presently collected by the Public Service Commission. He said presently the mill levy generates about \$686,808. This would be a user tax collected from consumers who would then have representation at Public Service Commission hearings. As an estimation of cost of this office, he said that the Idaho Consumer Advocate Office budget was set at \$200,000 for a year.

Mr. Bedrosian said that the Office of Consumer Affairs in the Public Service Commission handles consumer complaints, but it does not have an advocate position on rate hearings.

Mr. Malone questioned the language in the bill which would appear to show that the Attorney General represents the Public Service Commission in their hearings; yet it states that private counsel "shall" be retained. Mr. Bedrosian noted that Attorney General Bryan had requested the change on Page 2, Line 14 of wording "shall" to "may".

Mr. Polish questioned whether the Office of Consumer Advocacy would intervene in every rate increase hearing as stated on Page 1, Line 5. Mr. Bedrosian said it was the intent to not have to intervene in every rate increase hearing.

Janet MacDonald said she was in favor of the Office of Consumer Advocacy. She said this concept has been accepted in many other states in the country. She said she thought there should be the definition of consumer in this bill. She said that it has been argued that the Public Service Commission does represent small businesses and consumers, but she said this representation would be like a divorce case where a party was not represented. She said she was concerned that this office would have to demonstrate the savings that it obtained for consumers. He said that just being in the hearing and being an advocate for consumers would be what counts.

Mr. Hardy said that in the Governor's inaugural address, a statement was made that government should do more with less and keep costs down as much as possible. This would include not creating unnecessary agencies.

Mr. Hardy said that in theory, the Public Service Commission is supposed to act as a substitute for competition. The Commission is required to grant rates and charges which entitle the public utility to earn a fair and reasonable rate of return compared to companies with corresponding risks. He said the commissioners act in a sense like judges, and they consider all evidence presented before them.

Mr. Hardy said that staff has a different role. He said staff receives, reviews and investigates applications for increases. After making these investigations, he said staff participates fully in every rate proceeding. He said that to his knowledge, staff has recommended substantial reductions in what has been requested by utilities.

Mr. Hardy said he would emphasize the role of cities and counties in the State as advocates for consumers.

Mr. Hardy said he would be opposed to creation of this new office because expertise would have to be developed that is already in the Public Service Commission. He said that rate payers or taxpayers would have to foot the cost of this new office.

Mr. Hardy said that in reference to intervention by cities and counties, these entities have a substantial fund created through franchise taxes that could be used to help bear expenses of intervention in rate hearings. He related the amounts that various entities receive from this tax.

Mr. Hardy noted that the bill would allow the Commission to retain independent counsel in an appeal of a decision. He said that there was no funding at the present time for this type of action, and additionally, he said that the deputy from the Attorney General's Office is the one who has developed the expertise that would aid the Commission and they would not want independent counsel.

In reference to submission of the budget of the Office of Consumer Advocacy to the Public Service Commission, Mr. Hardy said this budget should be submitted to the money committees of the Legislature along with all other State agencies. He said also that if the Commission is reviewing the budget of this office, it then stands to reason that the office is no longer independent of the Commission.

Mr. Hardy said that with the possibility of two exceptions, utilities have never made what the Commission would have allowed them to make.

Mr. Stewart noted that the Federal Act addressed by this bill requires this type of office be created or allow for compensation to consumer advocates who have a bearing in rate hearings. He asked Mr. Hardy what the option might be to creating the Office of Consumer Advocacy. Mr. Hardy answered that cities and counties could be more active in intervening before the Commission with their franchise taxes.

Mr. McCrea said that the question would seem to be to him whether or not staff of the Public Service Commission was doing its job. He said if the job was being done, there should not be a need for creation of another agency in State government. However, if staff was not doing its job, he asked

if it was fair to taxpayers to create the new State agency that would get involved in rate hearings. He said he did not think staff was doing its job. He said he did not think the Committee could name any utility that had earned its allowed rate of return.

Mr. Branch presented a prepared statement (Exhibit A) to the Committee.

Mr. Struve presented proposed amendments (Exhibit B) on this bill to the Committee. He said that the amendments would allow the flexibility and discretion in the Office of Consumer Advocacy so that the office does not have a duty to intervene in every rate hearings that is considered by the Public Service Commission. He said that the budget for this division would have been reviewed by the Legislature before its submission to the Public Service Commission. He said that a March 14 fiscal note on this bill had placed the annual cost at \$171,123.

ASSEMBLY BILL 483

Revises method of selecting grand juries in larger counties.

Judge Barrett said this bill had been introduced last session and passed in both houses, but amendments were never considered in a conference committee. He said that presently the selection of the grand jury is entirely random. He explained the process whereby 100 individuals are selected through a questionnaire process. He said that all 100 individuals were in the courtroom during the selection of the grand jury which was done at random.

Judge Barrett said that this bill would still provide for the random selection of the first 100 individuals for consideration on the grand jury. After these names would be selected, the district judge or judges would select 36 names by examining the questionnaires submitted by those 100 selected. The final selection of the grand jury would be at random from the 36 selected by the judges.

Mr. Menchetti said that the bill presumes that there is more than one judge in a judicial district. He said that Judge Beko had requested that a clarification in this manner be made. He made the following suggestions for amendments to the bill:

Page 1, Line 22, after the period, add: "In districts having more than one judge,".

Page 2, Line 2, after "district", add: "judge or".

Mr. Seaton said there were two effects to consider when selecting the grand jury. Those were getting the job done and relating to the public. He said there are problems in getting 100

names for consideration by sending out questionnaires in lots of 100. He requested that the Committee consider allowing counties to send out questionnaires in lots of 1000 names. This would hopefully reduce the time required now for selection of the grand jury. He said that he and the Clark County District Attorney would continue to support a totally random means of selecting the grand jury.

Mr. Seaton said the question has arisen of bringing all 100 individuals into the courtroom. He said there is the cost effect of doing this, but on the other hand he felt that it has a good effect on bringing in all of the people.

Judge Barrett said that some people do not realize the work involved in the grand jury until they become involved, and then they want out of the job. He said this was a reason judges should also be involved in the selection process.

ASSEMBLY BILL 486

Clarifies penalties for certain batteries.

Mr. McMorris said that this bill would not be necessary with proposed Senate amendments to A.B. 316.

ASSEMBLY BILL 488

Increases penalties for assault with deadly weapon and battery upon a police officer or firefighter.

Mr. McMorris said this bill increased assault with a deadly weapon from a gross misdemeanor to a felony. Also, the penalties for battery on peace officers were increased.

Mr. Menchetti described a situation that had occurred the day before this meeting at the prison where an inmate had attacked a guard, but no bodily harm had resulted. He said the prisoner who may be serving ten years in prison is not deterred because of possible penalties due to the fact he can only be charged with a misdemeanor. He said changing this to a gross misdemeanor would hopefully be a better deterrent to this type of activity.

Chairman Hayes said she was concerned about the applicability of this statute with the wide category of peace officers. Mr. Menchetti stated that he did not feel this was a problem, and he felt this statute would only apply to a peace officer when he is performing his duty.

Chairman Hayes said she felt this bill was very broad. She said she did not think there was a danger in other situations that a peace officer might encounter. She said she thought that these types of laws were desired to protect the State from false arrest suits.

ASSEMBLY BILL 487

Includes willful and malicious burning of natural flora in crime of arson.

ASSEMBLY BILL 512

Includes willful and malicious burning of natural and cultivated flora in crime of third degree arson and redefines certain other related offenses.

Mr. McMorris said that presently in State law there is no statute that specifically covers willful and malicious setting of a fire on a forest. He said there had been a case in Douglas County where third degree arson was charged in setting a forest fire under NRS 205.020. He said the court ruled that this did not apply because it was not specific enough to include the forest. The court's opinion was that NRS 475.040 applied.

Mr. McMorris asked that the Committee consider A.B. 512 over A.B. 487. In Section 1, Subsection 2 of A.B. 512, he said it was specifically set out what would be included in third degree arson. Section 2 noted changes that would make it clear in NRS 206.015 that these sections would not apply to arson type crimes. He said that people representing fire-fighters would ask that on Line 7 of Page 1 that the wording "or other flammable material" be added.

Mr. McMorris said that in Section 3, amending NRS 475.040, the wording "without malice" had been added to address the accidental setting of a fire.

Mr. Daykin explained the possible conflicts with S.B. 9 if either of these bills are passed, and he gave the Committee recommendations on how to work out the conflicts. He said he would be glad to "dump" A.B. 487 in favor of A.B. 512.

Mr. McMorris said that it was important that this bill become effective before the fire season, and that was the reason for adding the section making the bill effective on passage and approval.

There was concern raised by the Committee concerning an individual who might lawfully wish to burn foilage on his own land. Mr. Daykin suggested adding the wording "not his own property" on Page 1, Line 7.

Mr. Smith stated that he was requesting the additional language as stated earlier by Mr. McMorris because many people discard burning materials that are not vegetation and cause fires. He said he felt it was very necessary to have all of the steps which are included in A.B. 512.

Mr. Groth said that the Nevada Fireman's and Fire Chiefs Associations supported A.B. 512.

Mr. Huddleston said he was in support of A.B. 512 with the suggested amendments. He said that it is hard enough to prove arson of this type in court, and he said it is totally disheartening to lose a case on a technicality.

ASSEMBLY BILL 486

Mr. Malone moved to indefinitely postpone A.B. 486; Mr. Stewart seconded the motion. The Committee approved the motion on the following vote:

- Aye - Hayes, Stewart, Brady, Coulter, Horn, Malone, Prengaman - 7.
- Nay - None.
- Absent - Banner, Fielding, Polish, Sena - 4.

ASSEMBLY BILL 487

Mr. Malone moved to indefinitely postpone A.B. 487; Mr. Stewart seconded the motion. The Committee approved the motion on the following vote:

- Aye - Hayes, Stewart, Brady, Coulter, Horn, Malone, Prengaman - 7.
- Nay - None.
- Absent - Banner, Fielding, Polish, Sena - 4.

ASSEMBLY BILL 483

Mr. Stewart outlined the following amendments to this bill:

- Page 1, Line 10: Change "100" to "up to 1,000".
- Page 1, Line 22: Before "The district judges", insert the wording, "In districts having more than one judge".
- Page 2, Line 2: After "district", add "judge or".

Mr. Stewart moved to Amend and Do Pass A.B. 483; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

- Aye - Hayes, Stewart, Brady, Coulter, Horn, Malone, Prengaman - 7.
- Nay - None.
- Absent - Banner, Fielding, Polish, Sena - 4.

Chairman Hayes adjourned the meeting at 10:50 a.m.

Respectfully submitted,

*Carl R. Ruthstrom, Jr.*  
Carl R. Ruthstrom, Jr.

Secretary

(Committee Minutes)

505



BEFORE THE ASSEMBLY JUDICIARY COMMITTEE - MARCH 22, 1979

TESTIMONY OF WILLIAM C. BRANCH, TREASURER  
SIERRA PACIFIC POWER COMPANY IN OPPOSITION TO A.B. 364

This is my second appearance before this Committee in opposition to A. B. 364.

Based on the testimony of the proponents of this bill, there is no question but that its introduction is a direct implication that existing regulation is inadequate because of the rapidly escalating utility rates since 1973.

With this in mind, I would like to briefly address such rate increases as they apply to Sierra Pacific Power Company.

In 1974, Sierra's average electric rate charged to customers was 2.14¢ per kWh. Today, five years later, this same average rate per kWh has increased to 4.55¢ per kWh, or an increase of 113%. Similarly, gas rates have risen from 12.67¢ per therm in 1974 to 31.45¢ per therm in 1979, or 148%.

With these statistics alone, we in the utility industry clearly understand the public outcry and the massive anti-utility legislation that has been introduced in the State legislature in 1977 and in this current legislature. There has been pure frustration by the public and great concern that the cause of this increase is inefficient operations by companies and/or inadequate regulation by the Nevada Public Service Commission.

The single culprit that has affected this drastic cost increase to Sierra's consumers and all utility consumers in the United States is the cost of basic fossil fuels required to generate electricity and heat homes. You must understand that these cost increases are absolutely beyond any control by Sierra or its regulators. Sierra's natural gas costs are heavily affected by the stated pricing policies of the Canadian Government. As you are all aware, in





October 1973, the Arab oil embargo caused the world price of oil to more than double. This event had the same effect on United States domestic oil prices.

Please refer to Exhibit No. 1 which illustrates the average costs paid by Sierra for oil and natural gas.

Now, please refer to Exhibit No. 2 which shows that the same thing has occurred to the costs of power purchased from Pacific Gas and Electric Company and Utah Power and Light Company.

I have prepared Exhibit No. 3 to illustrate how the energy costs I have just discussed compare to the consumers price index over the past eight years. I have also shown what has occurred to all other costs of doing business in Sierra. From this you can see two important things:

- (1) The energy costs have accelerated at approximately 4 times the rate of the Consumer Price Index.
- (2) All other costs which for the most part are controllable by Sierra and by the Public Service Commission have increased at a rate below the Consumer Price Index.

My final Exhibit No. 4 graphically illustrates that the utility cost increases experienced by our consumers have for the most part been caused by energy cost increases.

Through rules established by the Nevada Public Service Commission, Sierra's consumers are guaranteed that all energy cost increases will be passed on a dollar for dollar basis. That is to say, that not one cent of other costs or profits can be included in energy charges to our customers. Just as important, no energy cost pass along is authorized by the Public Service Commission without a public hearing and a complete audit by the Commission staff.



Unlike many other states, there are no automatic energy cost pass alongs in Nevada.

The point I am leading up to by presenting all of the foregoing information is that the establishment of a consumer protection agency would not have reduced the costs of energy to Sierra Pacific Power Company and its customers over the past five years.

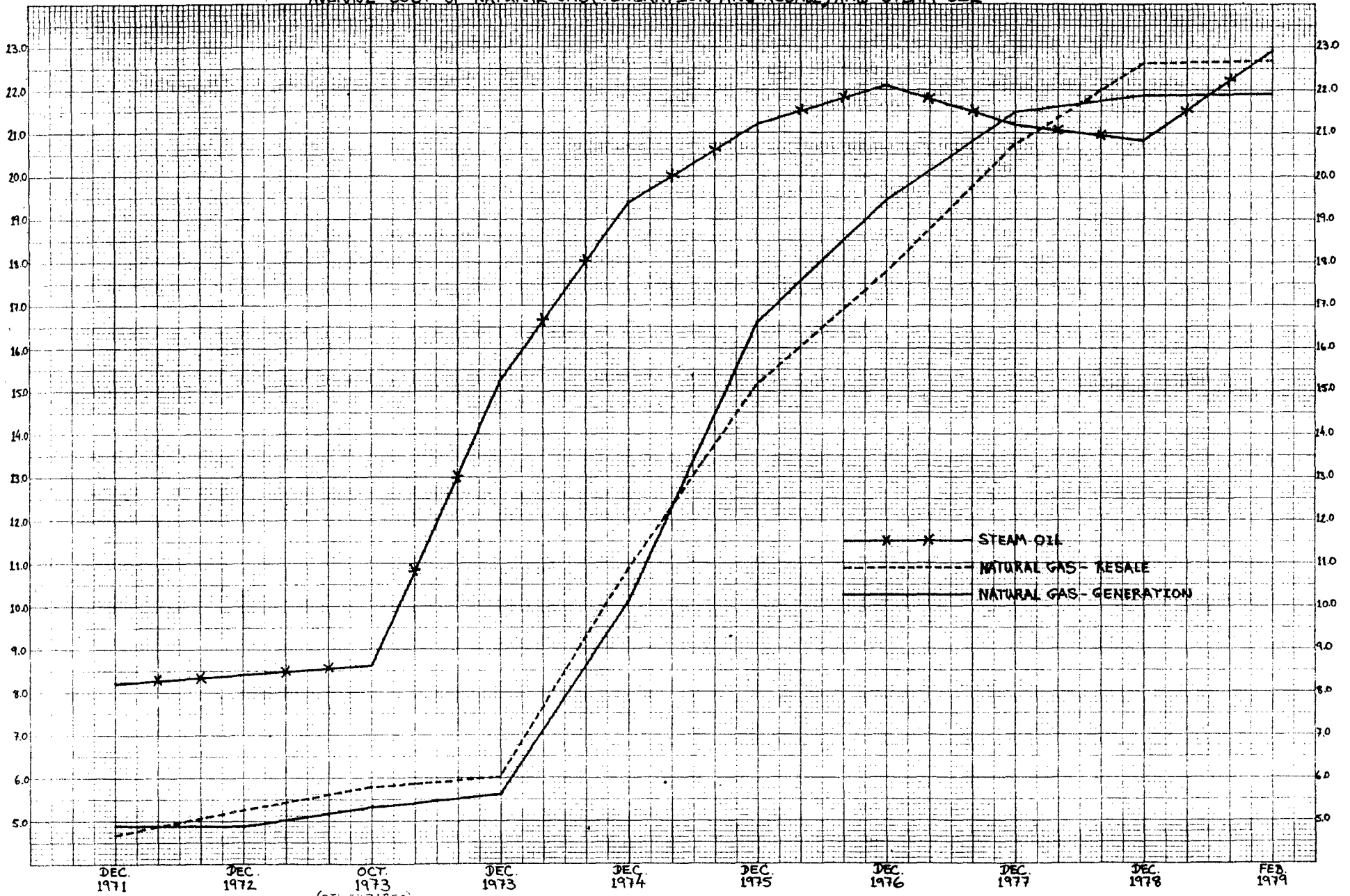
Additionally, the enactment of this proposed legislation would provide for duplicate costs and services, and perhaps conflicting responsibilities by two separate executive departments reporting the the Chief Executive of the State.

The amended bill provides that the P.S.C.N. should subsidize the operation of the Attorney General's Consumer Advocate Office in a total amount not to exceed one mill on each dollar of gross operating revenue derived from intrastate utility operations. Based on 1978 data, this would amount to \$500,000.

Nevada ratepayers are paying for the services provided by the Nevada P.S.C. and its staff. Neither the ratepayers or taxpayers should be burdened with any unnecessary and additional costs, particularly at a time when the public outcry against such conduct is loud and clear.

I strongly urge that A. B. 364 not be passed.

SIERRA PACIFIC POWER COMPANY  
AVERAGE COST OF NATURAL GAS (GENERATION AND RESALE) AND STEAM OIL



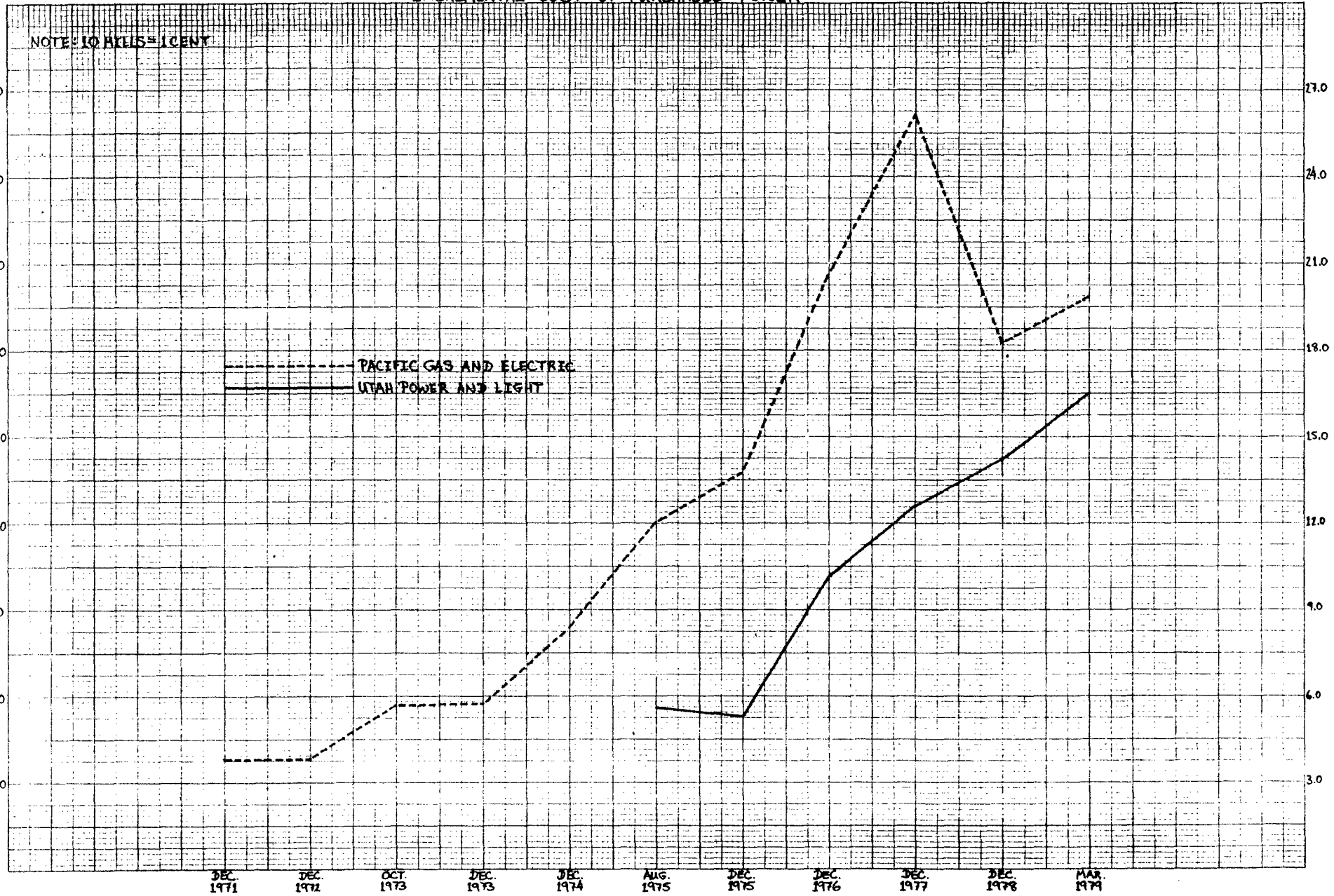
SIERRA PACIFIC POWER COMPANY  
INCREMENTAL COST OF PURCHASED POWER

EXHIBIT 2

EXHIBIT A  
Page 5 of 8

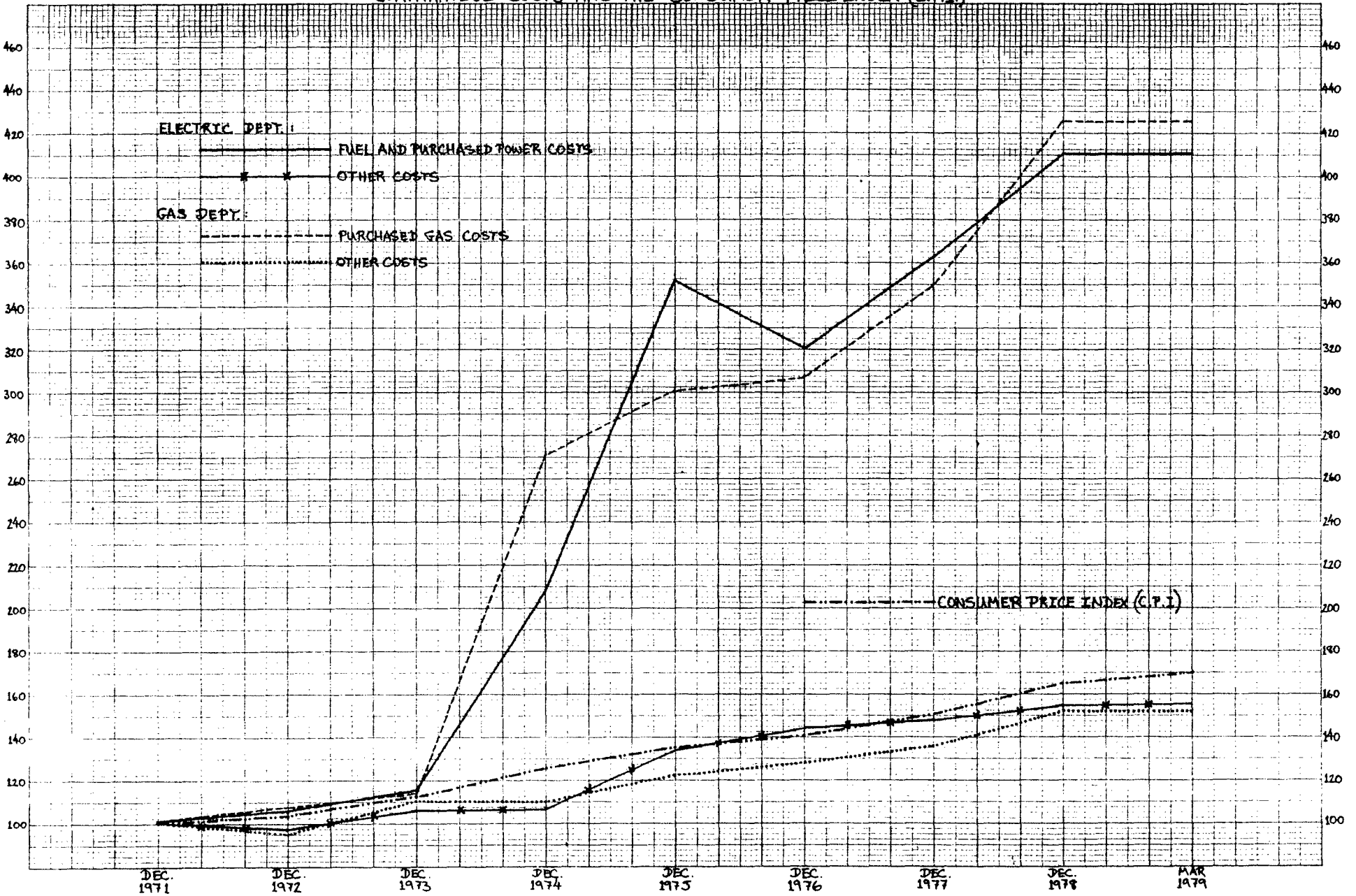
MILLS PER KWHR

1/2" 8.5x10.5 INCH 47 1150  
1/2" 8.5x10.5 INCH 47 1150  
NUMBER 5 1500000



SIERRA PACIFIC POWER COMPANY  
COMPARATIVE COSTS AND THE CONSUMER PRICE INDEX (C.P.I.)

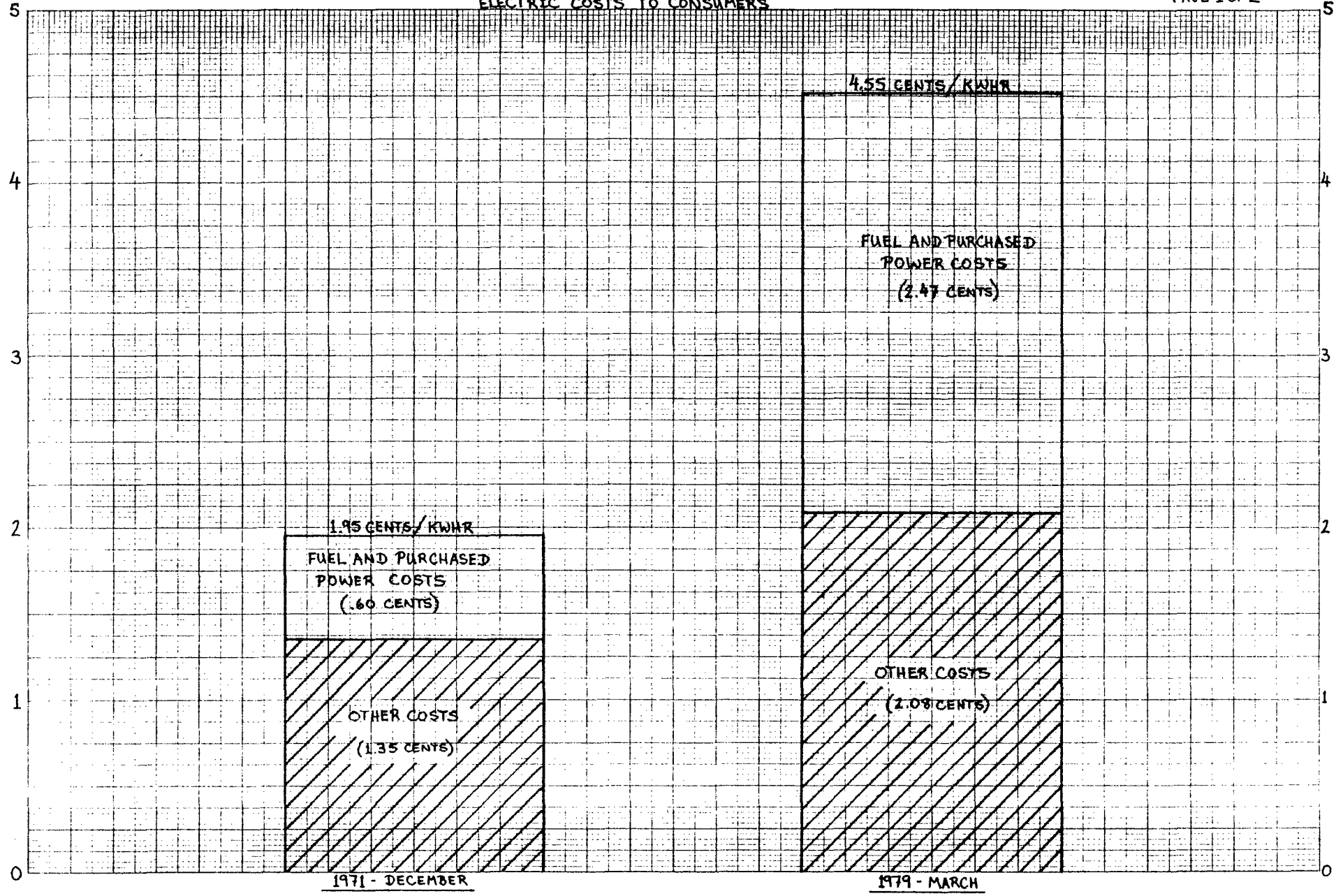
INDEX



SIERRA PACIFIC POWER COMPANY  
ELECTRIC COSTS TO CONSUMERS

11.25 x 8.5 INCH 47 1120  
SIERRA PACIFIC POWER COMPANY

CENTS PER KWHR



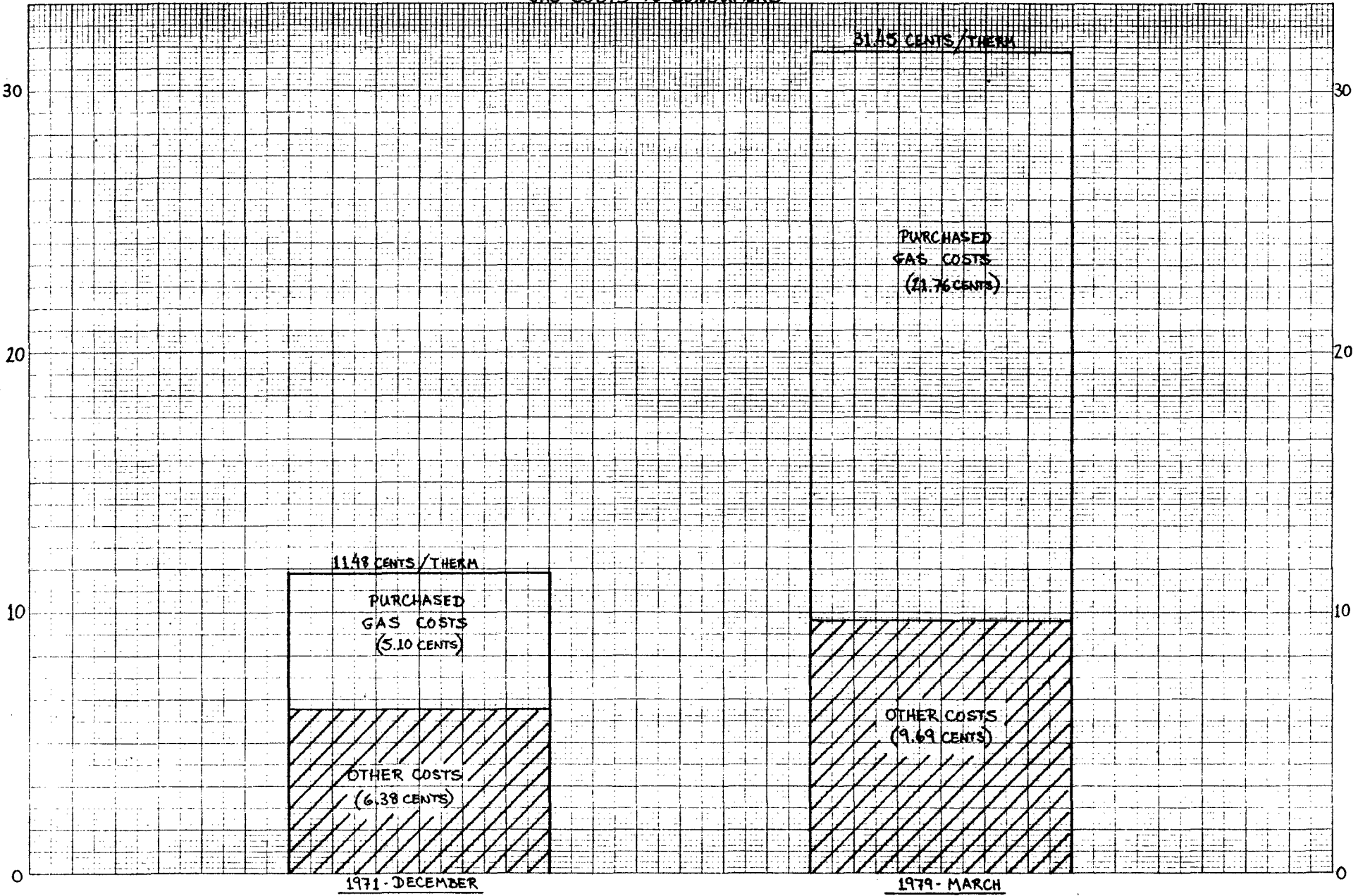
SIERRA PACIFIC POWER COMPANY  
GAS COSTS TO CONSUMERS

EXHIBIT 4  
PAGE 2 OF 2

EXHIBIT A  
Page 8 of 8

BY: K. S. B. / MCH 47 1120  
DATE: 11/11/79

CENTS PER THERM



1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Assembly	AMENDMENT BLANK
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to	Assembly
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Bill No.	364 <del>Joint Resolution No.</del>
Date:		Date:		BDR	18-1017
Initial:		Initial:		Proposed by	Committee on Judiciary
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>		
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>		
Date:		Date:			
Initial:		Initial:			

Amendment N<sup>o</sup> 201



Amend section 1, page 1, by deleting lines 3 through 16, inclusive, and inserting:

"The division of consumer advocacy is hereby created in the office of the attorney general. The division shall:

1. Review all applications filed with the public service commission of Nevada by all electric, natural gas and telephone utilities proposing increases in rates, construction of utility facilities, or regulations which may affect rates or construction of utility facilities.

2. Move to intervene before the public service commission of Nevada and all federal regulatory agencies in all matters relating to subsection 1 which the division deems to be of potentially significant impact upon the consuming public.

3. Where warranted, commence or intervene in an action in a court of competent jurisdiction to obtain judicial review of or extraordinary relief from any final order or other official act of the public service commission of Nevada issued in proceedings

To: E & E  
LCB File  
Journal  
Engrossment  
Bill

Date 3-1-79 Drafted by JSP:ml



Amendment No. 201 to Assembly Bill No. 364 (BDR 18-1017) Page 2

---

relating to any application mentioned in subsection 1.

4. Where warranted and allowed by law, take or participate in appeals from district court decisions relating to orders of the public service commission of Nevada issued in proceedings relating to any application mentioned in subsection 1.

5. Represent the interests of the people of Nevada and the rate-paying public in all hearings and other proceedings in which the division participates pursuant to subsection 2 and in all actions and appeals brought pursuant to subsections 3 and 4."

Amend section 2, page 2, by deleting lines 14 through 16, inclusive, and inserting:

"3. The commission may retain independent counsel for any legal action commenced by the division of consumer advocacy of the office of the attorney general pursuant to NRS 704.540 to 704.580, inclusive, or NRS 704.895.

4. The attorney general shall submit to the commission prior to the start of each fiscal year the budget approved by the legislature in the attorney general's administrative fund for the operation of the division of consumer advocacy of the office of the attorney general relating to the activities of the division in the next ensuing fiscal year pertaining to the review, interventions, and legal actions generated by the applications

Amendment No. 201 to Assembly Bill No. 364 (BDR 18-1017) Page 3

---

of electric, natural gas and telephone utilities for increases in rates, the construction of utility facilities, or regulations proposed in connection therewith."

Amend the bill as a whole by adding new sections designated sections 3 and 4, following section 2, to read as follows:

"Sec. 3. Chapter 703 is hereby amended by adding thereto a new section which shall read as follows:

The commission shall pay all claims and bills submitted by the attorney general for operation of the division of consumer advocacy of the office of the attorney general pursuant to the budget submitted to the commission in a total amount not to exceed 1 mill on each dollar of gross operating revenue derived from the intrastate operations of the electric, natural gas and telephone utilities in the State of Nevada in the calendar year immediately preceding the fiscal year in question.

Sec. 4. NRS 704.039 is hereby amended to read as follows:

704.039 Money in the public service commission regulatory fund shall be used only to defray the costs of:

1. Maintaining a competent staff and equipment to regulate adequately all public utilities subject to the provisions of NRS 704.033 to 704.039, inclusive.

Amendment No. 201 to Assembly Bill No. 364 (BDR 18-1017) Page 4

---

2. Participating in all rate cases involving such utilities.
3. Investigations, inspections, audits, reports and publication of notices in connection with such regulation and participation.
4. All salaries, travel expenses and subsistence allowances of commission members and staff.
5. Carrying out the provisions of chapter 706 of NRS.
6. The division of consumer advocacy of the office of the attorney general pursuant to the budget submitted to the commission."

Amend the title of the bill to read:

"AN ACT relating to public utilities; creating a division in the office of the attorney general for the protection of utility customers; requiring the public service commission to pay the expenses of this division; authorizing the commission to employ independent counsel in certain circumstances; and providing other matters properly relating thereto."