The meeting was called to order at 1;30 p.m. in Room 213 Senator Thomas R. C. Wilson was in the chair.

PRESENT: Senator Thomas R.C. Wilson, Chairman
Senator Richard E. Blakemore, Vice Chairman
Senator Don Ashworth
Senator Clifford E. McCorkle
Senator Melvin D. Close
Senator C. Clifton Young
Senator William H. Hernstadt

ABSENT: None

OTHERS PRESENT: Senator James Kosinski
Heber P. Hardy, Chairman Public Service Commission
Joe McKibben, Vice President, Sierra Pacific Power Company
Bill Branch, Treasurer, Sierra Pacific Power Company
Richard R. Garrod, Farmers Insurance Group
David Gamble, Nevada Trial Lawyers Association
Don Heath, Commissioner, Nevada Insurance Division
Robert F. Guinn, Nevada Motor Transport Association
Daryl E. Capurro, Nevada Motor Transport Association
Georgia Massey, Nevada Insurance Division
Bill Coffman, Mt. Wheeler Power Company
C. B. Knaus, Nevada Insurance Division
Stan Warren, Nevada Bell
Chuck King, Central Telephone Company
John C. Walley, Public Service Commission

SB 308 Prohibits utilities from basing any rate upon property being used to provide service for customers.

Senator James Kosinski, the introducer, stated that Senate Bill 308 is based on an Oregon bill. Senator Kosinski explained that after the 1977 Legislature convened, the Public Service Commission chose to permit "construction work in progress", which would permit the Sierra Pacific Power Company to do construction work on the Valmy Plant and bring it into the rate base. He continued that this would mean that consumers would be paying for a plant prior to receiving benefits from that plant. He stated that he had inquired of the Public Service Commission the reasons for these actions and had received a copy of an order, Docket No. 959, which he presented to the Committee (see Exhibit A). Senator Kosinski stated that there was still a question that had not been answered; he explained that "construction work in progress" or CWIP is a formula designed and implemented on the assumption that there will be a long range savings to consumers. He stated that the report shows $105,000,000 to $140,000,000 savings to consumers over the forty year life of the plant; he added that thirty-one states presently permit rate settings based on the CWIP formula, of which about six have restrictions on its use. He explained that an argument against the use of CWIP is that consumers are paying in advance for electricy they may or may not use; another argument is that consumers are subsidizing future users with no return.

Senator Kosinski referred to page 4 of Exhibit A which states that "there is a lack of identity between present rate payers, who benefit in the short run from the uses of AFUDC, and future ratepayers who will benefit from the inclusion of CWIP in rate base. The Public Service Commission is of the opinion that Applicant has the burden to show the benefit, if any, to the present ratepayers during the construction period."

Senator Kosinski continued reading from the exhibit: "One benefit to present consumers is the energy that is being developed for the future, thereby alleviating the chance of blackouts, etc... and savings to the present customer because of the improved quality of earnings and resulting lower cost financing...certain facilities would benfit the ratepayer with the CWIP rate base...this is in the area of facilities which are required because of the current generation's committment to the control of pollution, or its consumption of existing stocks of natural resources."

Senator Kosinski added that the purpose of the legislation is to get the issue before the legislature so that testimony can be heard in justification of the CWIP formula. He continued that he had requested of the Sierra Pacific Power Company a population break out over the 40-year life of a plant to determine whether or not, with increased population and inflation, the impact on the individual consumers would justify the CWIP formula; information from the PSC indicated $105,000,000 to $140,000,000 savings over the forty years to all consumers; but it was not clear just what the effect would be to possibly a greater number of consumers on the one hand, and with the rapid rate of inflation being experienced on the other hand.

In answer to Senator Young's question, Senator Kosinski referred to a list of states which allow CWIP (see Exhibit B), and explained that more than half the states do permit the CWIP in their rate bases.

Heber Hardy, Chairman, Public Service Commission, explained AFUDC (allowance for funds used during construction) as follows: a percentage allowance which the PSC allows the utility to charge for the money invested as they invest it during construction; for instance, if $100,000 is invested during a particular month, at the end of the month 9 percent is added as the cost of investment for that particular month; this accumulates so that at the end of the construction period, the addition to the actual cost of materials and labor is made, the percentage cannot be more than the utility's most recently authorized overall rate of return. Mr. Hardy explained that this is the present practice; however, a different arrangement has been made with the Valmy plant that they will be required to expend $47.7 million before being able to put CWIP in the rate base.

Mr. Hardy explained to Chairman Wilson that money could be borrowed on a short term basis which costs more than the overall return and then replaced with long-term borrowing, but the short-term rate would not be allowed if it were more than the overall rate of return. He continued that the long-term rate would be determined by weighted cost of each component of capital, including cost of common equity,

(Mr. Hardy, continued)

which is 14 percent.

Mr. Hardy explained to Senator McCorkle, that the CWIP approach is that all of the expense during the entire construction period must be added to the cost of the plant; when the entire plant goes into service. This is included for the rate base against which the overall rate of return may be applied, as a part of the amount that must be paid by the ratepayer, In other words, construction work in progress is the amount of money expended for construction of a project during a given period of time; and this is only for materials, supplies and labor. He stated that the AFUDC approach adds the cost of money up to the overall rate of return as the upper limit.

Senator Hernstadt clarified that the CWIP approach provides that the costs are immediately added into the rate base; and the AFUDC approach adds the allowable rate of return for use of money to rate base the day the plant goes into use.

In answer to Senator Young's question, Mr. Hardy explained that the only time the rate base is changed is to file a rate base application by the utility, and this occurs at least once a year. He continued that power is supplied to other states, such as California, and that Nevada consumers do not pay for that.

Mr. Hardy defined "used and useful" as the day the utility begins to supply power to the consumer, it becomes "used and useful". He continued that the $27.7 was what the Tracy III plant had cost and that was the basis in deciding what a major project would be, and whether CWIP would be allowed in the rate base. He said that allowing CWIP provides an easier way to obtain financing for the utility. He stated that he had never known of a utility purposly waiting to build in order to be allowed the CWIP approach.

Senator Young observed that the utility fares better with CWIP than AFUDC.

Mr. Hardy explained that the AFUDC is considered as earnings, but that there is no actual cash, and that it would be just a claim on future income. He continued that a utility, at one point, had 35 percent of its earnings attributable to AFUDC, and that money rating agencies say that the higher percentage of earnings attributable to AFUDC, the lower the quality is of the earnings.

Senator McCorkle stated that with the high cost of short-term money today, there is good reason to have a maximum for the overall rate of return.

H. Joe McKibben, Vice President, Finance and Accounting, Sierra Pacific Company presented prepared testimony in opposition to Senate Bill 309 (see Exhibit C). Mr, McKibben agreed with Chairman Wilson that CWIP means that the period of time and the dollars spent during the construction phase of any project, and it would be allowed in rate base after spending $27.7 million. He continued that the company would get a cash return on the cost of money during the construction phase.

In answer to Senator Hernstadt's question, Mr. McKibben explained that the security analysts and the bond rating agencies understand the importance of cash generation, and they also consider the opinions of the regulators of utilities as the most important part of evaluating a company. He continued that if CWIP were not allowed, the attitude of the financial world would be a disaster to Nevada utilities.

Mr. McKibben explained to Senator Young, that Sierra Pacific had requested that any plant that would require more than 12 months to construct, should be allowed to use CWIP in their rate base, but the PSC thought that would be too general; and decided, instead, to make these considerations on a case to case basis. He agreed with Senator Young that this would be just as effective in the first 12 months of construction as well.

W.C. Branch, Treasurer, Sierra Pacific Power Company, presented prepared testimony in concurrence with Mr. McKibben's and in opposition to SB 308 (see Exhibit D).

Chairman Wilson asked if there is a calculation as to what the effect of diminishing value money is over the 40-year life of a plant.

Mr. Branch answered that evidence has been presented that on a present value basis, the most difficult thing in evaluating money is what interest rate to use.

Mr. Branch clarified that when making the first filing, which will be about $40 million, when using the AFUDC method, the $30 million would consist of $25 million of materials, labor and other expenses, and $5 million of AFUDC; assuming the PSC allows the $30 million in rate base, Sierra Pacific would discontinue charging AFUDC because a cash return would be earned. He continued that would mean that there would be 2 years with no AFUDC and thus a savings in the investment cost of the plant of $6 million.

Senator Ashworth stated that the situation would be that rate payers would be paying in advance for something that they wouldn't use.

Mr. Branch explained to Senator Blakemore that Sierra Pacific generates two-thirds of its power and purchases one-third, and that there was no problem with expansion until 1970 when inflation began to accelerate.

Mr. McKibben stated that Sierra Pacific has suggested not to spend $2 billion at the White Pine Project, but that is there is going to be an outside entity involved in Nevada generation, and using Nevada resources, that entity should use its own money for construction. Mr. McKibben continued that Sierra Pacific had signed a contract with another utility outside of Nevada for the Valmy construction for one-half ownership; a reciprocal agreement was signed with Idaho Power Company stating that at such time as they construct facilities in Idaho, we have the right to participate in Idaho to the same extent that Idaho participates in Nevada; fossil fuel was used for the generation.

Mr. McKibben explained to Senator Blakemore that 12 and 1/2 percent of the White Pine Project had been allocated to Sierra Pacific and 12-1/2 percent to Nevada Power. He added that if Sierra Pacific were to fall into financial straits, it would not be able to tackle long-range programs with high capital cost. It when would have to go to smaller units of 100 megawatts or less; but these small units are inherently gas and oil-fired, very expensive to operate; and the capital cost per kilowatt is much more than a coal-fired plant. Mr. McKibben stated that the capital cost at Valmy per kilowatt is about $800, and the biggest cost at a smaller plant is the operating cost, not the capital cost.

Mr. Branch referred to the chart in Exhibit D, that illustrated that in the case of population growth, within six years the investment returns to the consumer.

Donald A. Rhodes, Research Analyst, Legislative Counsel Bureau, clarified that the per capita cost of the plant now amortized the way it's been projected versus the normal means, would actually be less if projected to 1990 to 2000.

Mr. Branch stated that costs would, of course, be proportionate to the size of the consumer. He agreed to work out a per capita population breakdown projection of Valmy plants numbered 1 through 10. He explained that the kilowatt use for individuals has leveled off because of higher prices, awareness of consumers and the increase in apartment dwellers who use gas for heat; but that usage has a lot to do with the weather because people don't like to be cold in the winter; so if the weather is severe, they'll turn up thermostats or use air conditioners accordingly.

Chairman Wilson closed the public hearing on Senate Bill 308.

AB 355 Consolidates various provisions of the law pertaining to regulation of utilities, railroads and other carriers.

Heber Hardy, Chairman, Public Service Commission, suggested the language of the legislation be amended to include water and sewer services. Mr. Hardy explained that the kind of sewer service meant would be in the collection system and not septic tanks; and that in order to qualify for jurisdiction there would have to be 25 customers or more and $11,000 gross revenues or more. He agreed with Senator McCorkle that any non-profit group such as a homeowner's group would be exempt from PSC regulations.

Chairman Wilson closed the public hearing on Assembly Bill 355.

AB 350 Removes obsolete references to general improvement districts.

Heber Hardy, Chairman, PSC, explained that AB 350 removes obsolete references to general improvement districts that were taken from the PSC's jurisdiction in the last legislature, and that there is no substantive change.

Chairman Wilson closed the public hearing on Assembly Bill 350.

SB 327 Required products liability insurer to make certain reports to the commissioner of insurance.

Richard R. Garrod, representing Farmers Insurance Group, stated that this legislation asked for everything but doesn't provide enforcement. Mr. Garrod explained that the liability that his company provides, covers product liability, although the language of the policy does not distinguish "product". Mr. Garrod stated that the language of the bill is too broad.

Don Heath, Commissioner, Insurance Division, presented an amendment to SB 327 (see Exhibit E) that would allow the Insurance Division by regulation, to establish the kind of statistical information necessary. Mr. Heath explained that he is not sure of the objective of the bill other than to gather information for the purpose of determining if there is a crisis for product liability coverage.

Senator McCorkle stated that he does not think there is a need for legislation for a problem that possibly does not exist.

Mr. Heath clarified that he is not testifying as a proponent for the bill but that if the Committee is considering its passage, he is addressing it, along with proposing the amendment.

David Gamble, representing the Nevada Trial Lawyers', stated that SB 106, a product liability bill, was indefinitely postponed in the Senate Judiciary Committee. He explained that the purpose of SB 327 is to determine if there is a crisis with regard to product liability coverage; and that similar legislation has passed in 6 states. He continued that the bill would require the insurance industry to report to the insurance division the actual amount of claims filed and paid versus the premiums paid in. Mr. Gamble commented that in the state of Kansas, a bill was passed in their last session and the reports have proved that there is no product liability crisis; and that in 1977 the insurance industry in that state collected $13.5 million in premiums and paid out less than $3 million. He explained that it is difficult for manufacturers to obtain product liability insurance.

Robert F. Guinn, representing the Nevada Motor Transport Association, explained that SB 106 had been introduced because manufacturers felt that the present system is requiring premiums that are too high. Mr. Guinn explained that he has been informed that there will be an interim study of the product liability problem.

Chuck Knaus, Property and Casualty Actuary, Insurance Division, explained to Senator McCorkle that the premiums for product liability are now covered by the general rate law which sets standards that provide that when an insurance company wants to change its product liability rates, it must file with the insurance division.

Mr. Gamble stated that SB 327 would give the insurance commissioner the material to determine rates.

(SB 327 - discussion & testimony continued)

Mr. Heath explained that the division already has much of the authority requested in SB 327, and that the division could promulgate regulations that would assist manufacturers to obtain product liability coverage.

Discussion followed revealing that there is need to gather data on which to base a study as to whether product liability insurance is needed in Nevada.

Senator McCorkle stated that the insurance division should not be setting rates and competition should be keeping rates down.

Mr. Knaus explained that incurred but not reported losses is a problem. He stated that there is no time limit during which people can file claims.

Senator Hernstadt stated that abuses in other states raise premiums for everyone, and that he is on the Judiciary Committee, and would have preferred to process SB 106 rather than having the interim study.

Mr. Gamble explained the ad that had been run in national magazines referring to a man using a lawn mower to clip his hedge. He stated that insurance companies feel they should not have to pay for such irresponsible use of a product. However, he continued, no such case had actually happened; and that is why there is need for SB 327, so that real information can be accumulated.

Senator McCorkle reiterated that he does not feel the need for legislation and that the free enterprise system should take care of the problem; and that a law would deal with the symptoms of the problem and not the problem itself.

Senator Hernstadt presented background information on product liability insurance (see Exhibit F).

Daryl E. Capurro, representing the Nevada Motor Transport Association, stated that he does not support SB 327, but there is a definite need for a study of the problem. He explained that the study should include availability, rates, etc.; but that he feels that the information needed is not available.

Mr. Heath clarified that the insurance division has the authority to request the information needed for the study, and that SB 327 might strengthen that authority.

Mr. Gamble stated that SB 327 would give the insurance division the authority to get exact figures on claims settled in Nevada. He explained that if it is the case that insurance companies are reticent in providing information needed for a study, there is surely need for this legislation.

Richard R. Garrod, Farmers Insurance Group, stated that the information required by Kansas included money paid out, the location of

(Mr. Garrod, continued discussion on SB 327)

the claim, the type of claimant and the type or purveyor of goods which the claim was created by, reserves established, and reserves reported. He stated that this is a reasonable request, but the policy holders will have to pay for the cost of collecting the data. He explained that it is Farmers' practice to gather this data, but not to break it down into such specific categories.

Chairman Wilson agreed with Senator Young that in cases like product liability insurance and malpractice suits, there is frustration because statistics seem to be unavailable.

Mr. Garrod, referred to Section 13 of SB 327, and stated that Farmers doesn't know how many of its insureds are manufacturers and it would be impossible to comply with the section; he asked if Section 14 would include mileage and telephone calls, and he stated that Section 15, which includes "The net investment gain or loss.." sounds like a fishing expedition. Mr. Garrod concluded that there are not enough manufacturers in Nevada to support an insurance industry.

Senator Hernstadt stated, for the record, that there is a legitimate amount of information that the insurance commissioner can require, that the interim committee can require, and that it would be hoped that the insurance companies would provide it.

Chairman Wilson closed the public hearing on Senate Bill 327.

AB 353 Consolidates various provisions of the law pertaining to the regulation of utilities, railroads and other carriers.

Heber Hardy, Chairman, Public Service Commission, explained that AB 353 combines several bill requests into one bill. He explained that previously NRS 706 had been separated from NRS 704; and certain provisions had been left out of NRS 706, and that this legislation would put those provisions back into NRS 703 which are applicable to both. He explained that NRS 706 covers transportation and NRS 704 covers public utilities and NRS 703 is the general provisions chapter, relating to appointment of commissioners, term of office, etc. Mr. Hardy stated that Section 6 includes contract carriers as a legitimate area of concern for the division of consumer relations; Section 4 should include "during business hours of the day", after "who does business in this state," and that the rest of the bill made to conform; Section 11 is similar to AB 69's Section 1, and AB 69's language is preferable; he suggested the substitution of AB 69's language for section 11; line 27, page 4, should read "Cooperate" rather than "Cooperative". Mr. Hardy explained that these changes are merely providing that NRS 706 and NRS 704 be equally included in NRS 703, and that no substantive changes are being made except in adding the division of consumer relations investigations into motor carriers; which he believes is already in NRS but is not clear.

(AB 353 - continued)

Mr. Hardy continued that NRS 703.220 which is included in lines 27 through 35, should be repealed. He clarified that Section 14 only amends NRS 703.230, and incorporates the langugage of NRS 703.220. He stated that there would probably be no problem leaving NRS 703.220 in, but the language would be redundant.

Senator McCorkle referred to Section 8, and the language "Cost of recording and transcribing testimony...must be paid by applicant. If a complaint is made pursuant to section 6 of this act by a customer... the complainant is not liable for any costs." Senator McCorkle asked what would happed if the complainant were wrong?

Mr. Hardy explained that is in the present statute and complaints are paid by PSC funds; but the complaints first go through the division of consumer relatinos and are then presented to the PSC which determines if there is probable cause. However, if the division of consumer relations recommends that there is not probable cause, the PSC will deny the complaint. He further explained that "submitted under oath" means verified by an officer of the corporation.

Darryl E. Capurro, Nevada Motor Transport Association, stated that subsection 2 of Section 3 is objectionable because books are not always maintained on a calendar basis, and suggested that the annual report to the PSC be submitted at the same time it is submitted to the IRS. He suggested instead that "at the discretion of the PSC" be added.

Mr. Hardy commented that this allowance be made only for carriers because it would be too difficult to accommodate public utilities.

Chairman Wilson suggested the following language: "calendar year or other year authorized by the PSC with respect to motor carriers."

Mr. Capurro stated language in SB 353 is inconsistent in that "broker" is left out in some areas when referring to "public utility, carrier or broker" and suggested that the language be made to conform and include "broker". Mr Capurro agreed to present a list where all the necessary changes should be made. He explained that a broker is one who arranges transportation services to perform a specific function. Mr. Capurro suggested that in the rewriting of AB 69, the language of Section 11 of AB 353, be made to conform.

Chairman Wilson closed the public hearing on Assembly Bill 353.

AB 261 Removes distinctions based on sex from insurance license applications.

Georgia Massey, Nevada Insurance Division, stated that there is no objection to AB 261, except that the division will have to revise all of its applications.

(AB 261 - bill action)

Senator Hernstadt moved that AB 261 be passed out of committee with a "Do Pass" recommendation.

Seconded by Senator Young.

Motion carried.

Senator Close absent.

AB 353 Consolidates various provisions of law pertaining to regulation of utilities, railroads and other carriers.

The following amendments were suggested to AB 353: page 1, line 21, "during business hours" be added; Section 11, use the preferred language from AB 69, Section 1.

Discussion followed regarding the date that reports be required for motor carriers. It was suggested that page 1, line 15, should read "The reports required by this section must be prepared for each calendar year or other year and report date ordered by the commission with respect to motor carriers only", and delete "and submitted not later than April 15 of the year following the year for which the report is submitted." It was decided to add "broker" where suggested by Mr. Capurro. The first reprint of AB 353 corrects Mr. Hardy's reference to "Cooperate".

Senator Blakemore moved that AB 353 be passed out of committee with a "Amend and Do Pass" recommendation.

Seconded by Senator Ashworth.

Motion carried.

Senators Close and Hernstadt absent.

AB 350 Removes obsolete references to general improvement districts.

Senator Blakemore moved that AB 350 be passed out of committee with a "Do Pass" recommendation.

Seconded by Senator Young.

Motion carried.

Senators Close and Hernstadt absent.

AB 355 Permits each board of county commissioners to regulate certain suppliers of sewer services.

Discussion followed regarding lines 5 through 8. It was decided that the language is clear.

(AB 355 - bill action)

Senator Young moved that AB 355 be passed out of committee with a "Do Pass" recommendation.

Seconded by Senator Ashworth.

Motion carried.

Senators Close and Hernstadt absent.

SB 327 Requires products liability insurer to make certain reports to commissioner of insurance.

Discussion followed regarding the need for SB 327. It was decided that Don Heath's amendment is good, and would replace the bill.

Senator Blakemore moved that SB 327 be passed out of committee with an "Amend and Do Pass" recommendation.

Seconded by Senator Close.

Motion carried unanimously.

Senator Blakemore explained to the Committee a situation at the Hawthorne Ammunition Depot in which the Army is proposing to put everything out to contract, which would eliminate the civil service there, and asked if the Committee would introduce a Senate Joint Resolution to prevent this.

Senator Blakemore moved for Committee introduction.*

Seconded by Senator Young.

Senator Hernstadt dissented.

Motion carried.

BDR 57-1896** Relates to motor vehicles and motor vehicle insurance; raising the threshold for tort liability based on medical benefits paid to the insured person.

Senator Blakemore moved for Committee introduction.

Seconded by Senator Young.

Motion carried unanimously.

BDR 53-1409† Sets requirements for notice of hearing before closing of certain cases by the Nevada PSC.

*SJR 17 +SB 384
**SB 381

BDR 53-1408* Requires the NIC to amend certain forms providing for the submission of appeal forms to certain claimants.

BDR 53-1407** Provides a procedure for certain hearings before the NIC requiring that the appeals officers and state industrial attorney prepare budgets.

Senator Blakemore moved for Committee introduction of BDRs 53-1409, 53-1408, and 53-1407.

Seconded by Senator Young.

Motion carried unanimously.

BDR 58-1544+ Relates to public utilities' regulations; changing certain procedures required for an increase in rates and for the use of deferred accounting.

BDR 58-1545++ Relates to certain public utilities allowing new application for a change of rate that is part of a pending application; abolishing the requirement of posting new or amended schedules in their stations.

BDR 58-1546° Exempts additions to existing plants and certain other facilities from requirements of the utility environmental protection act.

Senator Hernstadt moved for Committee introduction of BDRs 58-1544, 58-1546 and 58-1545.

Seconded by Senator Young.

Motion carried unanimously.

BDR 58-1534°° Allows the deputy public service commissioner to conduct public hearings on the direction of the commissioner.

Senator Young moved for Committee introduction.

Seconded by Senator Close.

Motion carried unanimously.

BDR 54-783- Allows issuance of limited licenses to practice medicine to resident physicians in certain post-graduate programs; authorized county hospitals to institute and maintain programs.

Senator Blake moved for Committee introduction.

Seconded by Senator Hernstadt.

Motion carried unanimously.

*SB 383 ++SB 385 -SB 389
**SB 382 °SB 386
S Form 63 °°SB 388
+SB 387

BDR 54-1590* Provides for the regulation of retail sale of certain non-narcotic and non-prescriptive drugs.

Senator Young moved for Committee introduction.

Seconded by Senator Blakemore.

Motion carried unanimously.

AB 50 Increases maximum compensation payable to member of the Nevada board of nursing and license fees for nurses.

For previous testimony and discussion on AB 50, see minutes of meeting of March 21, 1979.

Senator Hernstadt moved that AB 50 be passed out of committee with a "Do Pass" recommendation.

Seconded by Senator Blake.

Motion carried unanimously.

AB 51 Sets certain requirements for continuring education of nurses.

For previous testimony and discussion on AB 51, see minutes of meeting of March 21, 1979.

Discussion followed regarding the availability of courses for continuing education, and the feeling among nurses about the need for legislation. There had been much response in favor and against.

It was suggested that Sections 3 and 4 be deleted, and the remainder of the bill conformed. It was suggested to replace "30 hours" with "15 hours". It was decided to postpone action on AB 51 to a later date.

No further business, meeting adjourned at 5:00 p.m.

Respectfully submitted,

Betty Kalicki, Secretary

APPROVED:

Thomas R.C. Wilson, Chairman

*SB 390

SENATE Commerce and Labor COMMITTEE

GUEST LIST

DATE: Monday, March 26, 1979

NAME	AGENCY OR ORGANIZATION
Joe McKibben	Sierra Pacific Power Company
BILL BRANCH	SIERRA PACIFIC POWER COMPANY
Bill Coffman	Mt. Wheeler Power, Ely Nevada
DAVID GAMBLE	Nevada Trial Lawyers Assoc
G B KNAUS	NEVADA INS DIVISION
BOB HEATH	NEVADA INS DIVISION
Georgia Massey	Nevada Insurance Division
C O Mellon	Sav. R.R. Assn.
Richard K. Sproul	Farmers Ins Group
STAN WALKER	NEVADA BELL
CHUCK KING	CENTRAL TELEPHONE
HEBER P. HARDY	P.S.C.
JOHN C. WALLEY	P.S.C.
DARYL E. CAPURRO	NEVADA MOTOR TRANSPORT ASSN.
ROBERT F. GUINN	NEVADA MOTOR TRANSPORT ASSN.

BEFORE THE PUBLIC SERVICE COMMISSION OF NEVADA

In Re Application by SIERRA PACIFIC POWER COMPANY for an Order authorizing the adoption of Rule No. 23 for its Electric Department, applicable only to new major generating electric power plants requiring more than 12 months to construct, relating to the treatment of construction work in progress in all Nevada electric rate increase applications.	Docket No. 959 (Filed: November 3, 1976)

Heard: March 1, 1977
Carson City, Nevada

Decided: July 18, 1977

APPEARANCES:

For the Commission:	Heber P. Hardy, Commissioner Chauncey L. Veatch, Esq. Administrative Assistant
For the Commission Staff:	Robert L. Crowell, Esq. Staff Counsel
For the Applicant:	John Madariaga, Esq.
For the Intervenor: The Anaconda Company	N. C. Whitehouse

OPINION

By application filed November 3, 1976 with the Public Service Commission of Nevada (hereinafter "Commission"), Sierra Pacific Power Company (hereinafter "Applicant") seeks an order authorizing the adoption of Rule No. 23 for its Electric Department. Proposed Rule No. 23 provides for the inclusion of construction work in progress (hereinafter "CWIP") for its new major generating electric power plants, requiring more than 12 months to construct, in rate base.

The aforesaid application was properly noticed to the public and a hearing was held on March 1, 1977 in Carson City, Nevada. The record consists of 189 pages of transcript and 8 exhibits.

APPLICANT'S CASE

In its application the Applicant proposed that the Commission adopt Electric Department Rule No. 23 by reference which would allow for the inclusion of CWIP attributable to all major generating electric power plants, requiring more than twelve months to construct, in rate base. Applicant presented two witnesses in support of its application.

The first witness, Mr. H. J. McKibben, Applicant's Treasurer, testified that the Commission presently allows Applicant an allowance for funds used during construction (hereinafter "AFUDC") which is capitalized as an element of plant cost. There is a corresponding non-cash credit component of earnings in the income statement. However, this treatment of AFUDC represents a claim for future cash flow not current cash flow. McKibben testified that Applicant's construction program has not been of the magnitude or length (for a single project) that created any significant quality of earnings or cash flow problems because of the Commission treatment of AFUDC. Applicant's concern is for its proposed North Valmy Station which consists of two 250 megawatt (hereinafter "MW") electric generating units which will be constructed over a six to seven year period and estimated to cost in excess of $367 million. (As of the date of this Opinion the Commission has approved the permit to construct Valmy Unit No. 1 in Docket No. 732 upon compliance with certain conditions.) McKibben estimated that by 1981 AFUDC credits could total $15 million, which could represent as much as 75% to 100% of its common stock earnings in both 1980 and 1981. In McKibben's opinion this situation would considerably impair the quality of earnings and Applicant's ability to obtain additional financing.

The second witness was Mr. William C. Branch, Applicant's Manager - Financial Planning and Regulatory Affairs. He presented testimony and exhibits showing the comparative effect to Applicant's ratepayers of including CWIP in rate base for major generating plants. Mr. Branch sponsored Exhibit 6 which

showed three different treatments of AFUDC or CWIP, (1) the conventional method now allowed by the Commission, (2) the inclusion of CWIP in rate base instantaneously on a monthly basis and (3) the inclusion of CWIP in rate base on December 31 on an annual basis. The result under methods (2) and (3) is that less total dollars are spent. Branch testified that assuming a seven year construction program for Valmy Unit No. 1, and an AFUDC rate of 8.5%, the difference in the revenue requirement between the conventional method and method (3), which was advocated by Applicant, is $105,743,000 over the 37½ year service life of the facilities. Exhibit 1, page 7 graphically shows that under methods (2) and (3) the revenue requirements are higher than under method (1) during the period of construction because of the inclusion of CWIP in rate base, but are lower over the service life of the plant. The total costs are lower under methods (2) and (3) because AFUDC has not been included as a component in the cost of construction thereby reducing the total investment and revenue requirement over the service life of the facilities (37½ years for Valmy Unit No. 1).

Applicant thus concluded that its electric ratepayers would benefit in the long run from the adoption of proposed Rule No. 23.

Staff presented no direct case in this proceeding.

DISCUSSION

Applicant presented significant evidence that there is a savings over the service life of an electric generating plant by including CWIP for said facility in rate base rather than including AFUDC as a component in the cost of the facilities. This was illustrated in Exhibits 1 and 6 sponsored by Applicant. Exhibit 3, Docket No. RM75-13, Order No. 555, "Order Adopting in Part Construction Work In Progress Rule Making and Terminating Proceedings" issued by the Federal Power Commission (hereinafter "FPC") on November 8, 1976 stated that a utility with large amounts of AFUDC may be required to pay more for capital than it

would if it had an equivalent amount of cash earnings from the inclusion of CWIP in rate base. The Order states,

> "Under such circumstances, including CWIP in the rate base will benefit consumers by the lower cost of both new and equity capital which are reflected in the rates. In addition, ratepayers will have lower rates in the future under CWIP, because the rate base will then not be inflated by capitalization of AFUDC."

Both Mr. McKibben and Mr. Branch agreed on cross-examination that there will be a substantial intangible benefit to Applicant's customers because of the strengthened quality of earnings and ability to finance if a large percentage of its earnings are in cash rather than non-cash credits.

However, the FPC Order goes on to discuss its concern that there is a lack of identity between present ratepayers, who will benefit in the short run from the use of AFUDC, and future ratepayers who will benefit from the inclusion of CWIP in rate base. The Commission is of the opinion that Applicant has the burden to show the benefit, if any, to the present ratepayers during the construction period.

Applicant's witness McKibben testified that the dollars associated with CWIP will be added to rate base as construction proceeds. The expenditures would be low at first then escalating to approximately $200 million by 1981 so that the impact will not hit consumers all at once. Mr. McKibben testified that one benefit to present consumers is the energy that is being developed for the future thereby alleviating the chance of blackouts, etc. And, from a financial standpoint, there will be a savings to the present customer because of the improved quality of earnings and its resulting lower cost financing. Mr. McKibben also stated that Applicant's commercial paper rating could be upgraded as a result of the increased cash flow.

The FPC recognized the seriousness of the identity of present and future ratepayers and limited its acceptance of including CWIP for all utility facilities in rate base. The FPC allows for the inclusion of CWIP in rate base for only certain facilities which benefit the present ratepayer. The FPC states at page 8 of its Order (Exhibit 3) that

> "(t)his is in the area of facilities which are required because of the current generation's commitment to the control of pollution, or its consumption of existing stocks of natural resources."

However, the FPC Order does not allow CWIP in rate base for new coal fired electric generating facilities. The Commission considers it significant that subsequent to the issuance of the aforementioned FPC Order President Carter announced his national energy policy. The National Energy Plan, issued by the Executive Office of the President, Energy Policy and Planning, on April 29, 1977 states on page 63,

> "Federal Policy should stimulate the expanded use of coal, ...
>
> Oil and natural gas are scarce, and generally they are needed by other sectors of the economy. Industry and electric utilities can convert to other energy sources more readily than can other users; therefore, a large-scale conversion by industry and utilities from oil and gas to more abundant resources is needed.
>
> Coal constitutes 90 percent of U. S. conventional energy reserves, ..."

Therefore, this Commission is of the opinion that it should encourage the use of coal fired electric generation facilities rather than those that use natural gas or oil. With this in mind the Commission has granted a permit to construct Valmy Unit No. 1 (Docket No. 732) upon compliance with certain conditions by Applicant. The investment for Valmy Unit No. 1 will be approximately $200 million for this single generating unit and its associated transmission lines and facilities. This is a significant investment in terms of the

financial capabilities of Applicant and without the inclusion of CWIP of these facilities (Valmy Unit No. 1 and proposed Valmy Unit No. 2) in rate base, 75% to 100% of Applicant's earnings in 1981 may be in the form of non-cash credits. This could create a financial emergency for the Applicant and could very well result in increased rates because of the high cost of financing.

The inclusion of CWIP in rate base necessarily involves a judgement that it is equitable for present ratepayers to provide funds that under present Commission policy would be provided by future ratepayers. In considering the evidence of record regarding the dollar savings over the service life of the generating plants, intangible benefits of a higher quality of earnings, together with benefits of using coal as an energy source, the Commission is of the opinion that in limited circumstances including CWIP in rate base is a benefit to the present customer. Rule No. 23 as proposed herein by Applicant does not allow the Commission the opportunity to investigate all of the factors relevant to allowing CWIP in rate base, therefore Rule No. 23 should be denied. Hereinafter the Commission will determine whether in inclusion of CWIP in rate base is appropriate on a case by case basis.

The Commission is limiting its approval of allowing CWIP in rate base to Applicant's North Valmy facilities which will represent the greatest cost and which will provide the most benefit to the present ratepayer. In order to alleviate any future misunderstanding as to which costs should be included as CWIP in rate base, only those amounts which are classified to the Uniform System of Accounts, Electric Plant Accounts - 2. Production Plant. A. Steam Production, accounts 310-316, shall be included by Applicant.

The tremendous cost and time required for construction sets the North Valmy facilities apart from Applicant's other generating plants such as Tracy #3 which cost $27,774,000. (Exhibit No. 1). Applicant testified that those amounts of AFUDC associated with the Tracy #3 unit did not cause any financial

difficulties. Therefore, the Commission is of the opinion that until the amounts expended for the North Valmy facilities exceed the $27.7 million expenditures for Tracy #3 Applicant should not be allowed to commence including the applicable CWIP as a separate factor in calculating an appropriate rate base.

Applicant's proposed North Valmy Station facilities will also be under the jurisdictions of the California Public Utilities Commission and the Federal Power Commission for rate making purposes. Neither of these commissions, at the present time, has allowed the Applicant to place CWIP in rate base. The Commission is therefore concerned that the CWIP amounts in rate base or the AFUDC allowance are properly accounted for between jurisdictions so that the Nevada jurisdictional customers pay only their share. Applicant must present evidence in any future rate proceeding which includes CWIP in rate base, as to the Nevada jurisdictional amounts, and the corresponding amounts charged to Applicant's other jurisdictional customers.

FINDINGS AND CONSLUSIONS

WHEREFORE, the Commission being fully advised in the premises finds and concludes:

1. That the application on file herein comes within the purview of the statutes of the State of Nevada and within the regulatory jurisdiction of the Commission;
2. That the inclusion of CWIP in rate base for Applicant's North Valmy facilities is in the best interest of present and future ratepayers;
3. That proposed Electric Department Rule No. 23 as set forth in Exhibit "B" should be denied;
4. That Applicant should issue a separate work order specifically for steam production expenditures (as set forth below) and that only those amounts classified according to the prescribed Uniform System of Accounts as set forth herein shall be included as CWIP in rate base in any future rate application filed by Applicant:

   Electric Plant Accounts-2. Production Plant.

   A. Steam Production

   310 Land and land rights
   311 Structures and improvements (see electric plant instruction 8)
   312 Boiler plant equipment
   313 Engines and engine-driven generators
   314 Turbogenerator units
   315 Accessory electric equipment
   316 Miscellaneous power plant equipment

5. That Applicant shall not commence to include CWIP as a separate factor in calculating rate base unless and until the cost exceeds $27.7 million. At such time Applicant will include the above referred CWIP as a separate line item in the rate base calculation in each of its rate increase applications.

6. That Applicant shall cease charging AFUDC on amounts of CWIP included as a factor in calculating an appropriate rate base for the North Valmy facilities. Cessation of AFUDC shall occur on the last day of the month prior to the effective date of the Opinion and Order of the Commission approving the rate increase application of the utility to include CWIP in rate base as set forth in said rate which is determined by the Commission in said Opinion and Order.

An appropriate Order will be entered.

BEFORE THE PUBLIC SERVICE COMMISSION OF NEVADA

EXHIBIT A

In Re Application by SIERRA PACIFIC POWER COMPANY for an Order authorizing the adoption of Rule No. 23 for its Electric Department, applicable only to new major generating electric power plants requiring more than 12 months to construct, relating to the treatment of construction work in progress in all Nevada electric rate increase applications.	Docket No. 959

At a general session of the Public Service Commission of Nevada, held at its offices in Carson City, Nevada, July 18, 1977.

PRESENT: Chairman Heber P. Hardy
Commissioner Evo A. Granata
Commissioner Janet S. Mac Donald
Secretary Wm. W. Proksch, Jr.

ORDER

Pursuant to the foregoing Opinion which is hereby referred to and made a part hereof,

IT IS ORDERED That proposed Rule No. 23 is hereby DENIED: and

IT IS FURTHER ORDERED That CWIP for Applicant's North Valmy generating facilities shall hereinafter be included as a factor in calculating an appropriate rate base for Applicant as set forth in the Findings and Conclusions, and in all other respects said application is hereby DENIED; and

IT IS FURTHER ORDERED That the Commission retains jurisdiction in the premises for the purpose of correcting any errors which may have occurred in the drafting of this Opinion and Order.

By the Commission,

/s/ Heber P. Hardy

HEBER P. HARDY, Chairman

/s/ Evo A. Granata

EVO A. GRANATA, Commissioner

/s/ Janet S. Mac Donald

JANET S. MAC DONALD, Commissioner

Attest: /s/ Wm. W. Proksch, Jr.

WM. W. PROKSCH, JR., Secretary

Dated: Carson City, Nevada
July 21, 1977

(SEAL)

STATES WHICH ALLOW CONSTRUCTION WORK IN PROGRESS TO BE USED IN DETERMINING UTILITY COMPANIES' RATES

ALABAMA	
ARIZONA	Either construction work in progress or interest charged to construction is allowed, not both.
CALIFORNIA	Same as Arizona.
COLORADO	
CONNECTICUT	Construction work in progress only allowed for determining telephone utility rates.
DELAWARE	
D.C.	There are several exceptions.
FLORIDA	Based on the facts and circumstances of the case in question.
GEORGIA	
ILLINOIS	Decided on a case by case basis.
IOWA	Decided on case by case basis.
KENTUCKY	
LOUISIANA	There must be a test of reasonableness.
MARYLAND	
MICHIGAN	
MINNESOTA	There are many restrictions.
MISSISSIPPI	
NEW JERSEY	Case by case basis.
NEW MEXICO	
NEW YORK	
OHIO	
OKLAHOMA	Case by case basis.
PENNSYLVANIA	
SOUTH CAROLINA	

TENNESSEE	
TEXAS	
VERMONT	
VIRGINIA	
WASHINGTON	Only in extraordinary circumstances.
WEST VIRGINIA	Only in extraordinary circumstances.
WISCONSIN	Case by case basis.

31 d/o permit
- several exceptions

2020

1999
book

2000
$1.16 mil

Sierra Pacific Power Company

TESTIMONY OF H. JOE McKIBBEN, VICE PRESIDENT
FINANCE AND ACCOUNTING, SIERRA PACIFIC POWER COMPANY
IN OPPOSITION TO S. B. 308

Mr. Chairman, Members of the Senate Commerce and Labor Committee--

In Sierra's long history of utility business in Nevada, the question which has been addressed in S. B. 308 has not been a great concern.

The largest single project ever constructed by Sierra was its 110 MW generating plant at Tracy Station east of Sparks. This plant had a total cost of $27.7 million and was constructed within a three year period--completed in late 1974.

The growth experienced in our service territory and the projected increased electric demand indicated to Sierra the necessity of constructing additional generating facilities. The size of the first unit would be some 2½ times larger than any previously constructed units which, among other factors, would allow our customers the economy of scale. This facility would burn coal, the lowest cost boiler fuel available (at today's price, about one-half the cost of oil or gas) and the most plentiful fossil fuel known. Our decision is also in line with the stated Federal policy of reducing the nation's dependency on foreign oil and gas.

I would like to add at this point that when our decision was made to construct a coal-fired generating facility at Valmy, all other alternatives had been thoroughly evaluated and eliminated.

There were two major impacts which had to be faced that were severely different than anything we had ever faced before:

1. The total cost of the project, which includes two 250 MW generating units, was estimated at approximately $370 million. The cost of this project alone would equal the total plant investment the Company had experienced since the origin of the Company in the early 1900's.

2. The period of time required to construct each unit of this station was to be approximately 7 years, compared to prior plants taking some three years.

I would like to explain in more detail our concern about these two factors. The financial community views such large capital expenditures for Companies the size of Sierra with grave concern. With such a substantial undertaking, Sierra would be expected to be able to internally generate at least 35% to 40% of the cash required for construction. Also, with the construction period being 6 to 7 years, there would be a deterioration in the quality of earnings during that period of time--that is to say, that money costs would be increasing substantially each year, putting a large drain on cash without any revenues to support this cash drain. The result of what I

have just described would be to place a higher risk upon any securities Sierra would issue--this risk assessment would be made by security analysts and the Bond Rating Agencies. Consequently, any securities issued would be at a higher cost rate than we would deem proper, and ultimately would have to be paid by our consumers.

Sierra decided to apply to the Nevada Public Service Commission for something which, at that time, had been allowed by some 35 other State Commissions in the nation--"Construction Work in Progress in Rate Base". Basically, what was requested was to allow the Company to receive currently the money costs that would be incurred while the plant was being constructed.

I have brought with me today a complete copy of our filing, testimony and exhibits, transcript of the hearing, and the opinion and order issued by the Nevada Public Service Commission regarding this matter. For anyone on the Committee who wishes a copy, I will have it for you following this meeting.

Needless to day, this package of material addresses the subject in great detail and is complex in nature. It represents the efforts of Sierra, extensive review by the legal, engineering and audit staff of the Nevada Public Service Commission, and extensive review and examination by the Commissioners themselves.

I will not attempt to cover this material in any detail, however, the following is a summary of the study, results, and findings of the Nevada Public Service Commission:

(A) Applications, Testimony and Exhibits - Sierra Pacific Power Company

1. Sierra demonstrated the need for Construction Work in Progress in Rate Base.

2. Sierra pointed out regulatory positions taken on this matter throughout the country.

3. Sierra testified that from a financial standpoint this will be a savings to the present customer because of the improved quality of earnings and resultant lower cost financing.

4. Most importantly, Sierra presented studies showing that, assuming adoption of Construction Work in Progress in Rate Base related to Valmy Unit #1, ratepayers would receive benefits in the form of reduced rates in the amount of approximately $106 million over the life of the facility.

(B) Opinion and Order - Nevada Public Service Commission (Docket No. 959)

The following are all direct quotations from the Opinion and Order dated July 21, 1977, unanimously approved by Commissioners Heber H. Hardy, Evo A. Granata, and Janet S. MacDonald.

1. Page 3.

"Applicant presented significant evidence that there is a savings over the service life of an electric generating plant by including CWIP for said facility in rate base rather than including AFUDC as a component in the cost of the facilities."

2. Pages 6 and 7.

"The inclusion of CWIP in rate base necessarily involves a judgement that it is equitable for present ratepayers to provide funds that under present Commission policy would be provided by future ratepayers. In considering the evidence of record regarding the dollar savings over the service life of the generating plants, intangible benefits of a higher quality of earnings, together with benefits of using coal as an energy source, the Commission is of the opinion that in limited circumstances including CWIP in rate base is a benefit to the present customer. Rule No. 23 as proposed herein by Applicant does not allow the Commission the opportunity to investigate all of the factors relevant to allowing CWIP in rate base, therefore Rule No. 23 should be denied. Hereinafter the Commission will determine whether in inclusion of CWIP in rate base is appropriate on a case by case basis.

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3. Page 8 - Item Number 2.

"That the inclusion of CWIP in rate base for Applicant's North Valmy facilities is in the best interest of present and future ratepayers."

I would now like to turn the presentation over to Mr. Branch who will discuss in detail the savings to the consumer which has been mentioned in my prepared statements.

When Mr. Branch has completed his discussion, I would like to make a brief final statement.

Final Statement

With the knowledge that this legislature is very concerned about the cost of utilities to consumers, I would very seriously recommend that S. B. 308 be defeated.

I believe such action would serve as a vote of confidence to the Commissioners and encourage them to take advantage of any and all measures to reduce utility rates to consumers, even though on the surface these measures may appear not to be pallatable to the less informed public.

Sierra Pacific Power Company

TESTIMONY OF W. C. BRANCH, TREASURER,
SIERRA PACIFIC POWER COMPANY
IN OPPOSITION TO S. B. 308

Mr. Chairman, members of the Senate Commerce and Labor Committee--

My remarks today are a logical extension of Mr. McKibben's testimony, which you have just heard.

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

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

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

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

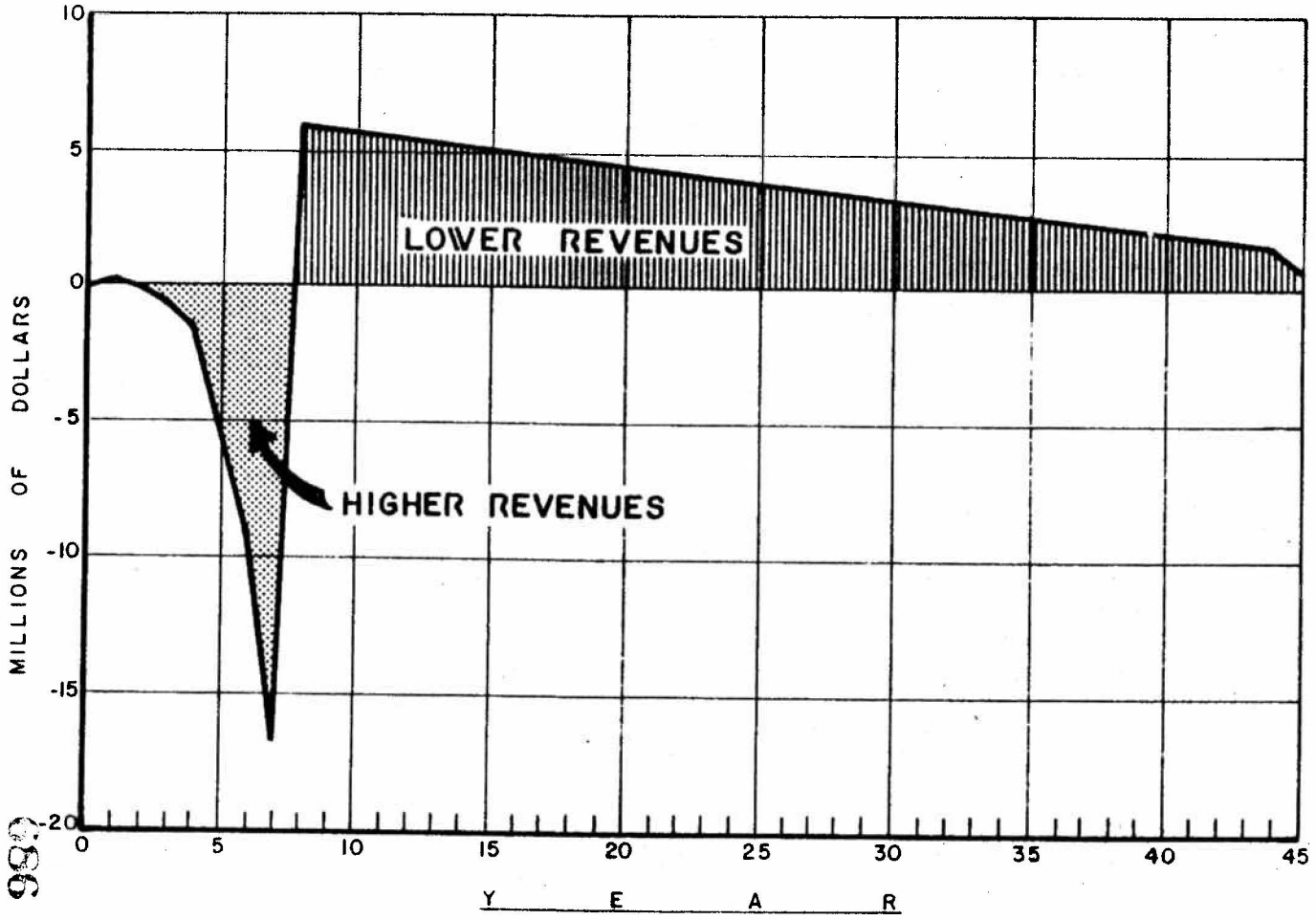
I would like to point out to this Committee that a great majority of utility company and regulatory decisions are made based on economic measurement over the long-run rather than the short-term. For example, decisions made relating to analyses of investment alternatives, power supply options, operating problems, and rate design are generally based on the optimum benefits to all ratepayers over a period of time. That period of time may be based on the expected life of a power plant (37½ years), a computer (8 years), a purchased power contract (5, 10 or perhaps 45 years), etc. An arbitrary, or emotional decision providing immediate or near-term benefits to ratepayers at the expense of greater long-term penalties to the same ratepayers would, in our opinion, be imprudent, indefensible, and certainly uneconomical.

Sierra Pacific's request and subsequent Commission approval to include Valmy construction work in progress in rate base was founded on the basis that optimum benefits would be provided to our ratepayers by adopting this rate-making approach.

I urge this Committee to not pass S. B. 208.

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

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



ASSUMPTIONS

1. 8.5% AFUDC rate
2. Capital Structure

		Cost
Debt	55%	10%
Preferred	15%	10%
Common	30%	14%

3. 37 1/2 Year Plant Life
4. Straight Line Depreciation
5. 48% Income Tax Rate
6. CWIP added to rate base each Dec. 31 during construction period AFUDC calculated on interim expenditures.

EXHIBIT D-1
FIGURE 1

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

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

*Based on monthly consumption of 750 kWh.

SENATE BILL NO. 327-COMMITTEE ON
COMMERCE AND LABOR

Referred to Committee on Commerce and Labor

SUMMARY - Requires products liability insurers to make certain reports to commissioner of insurance. (BDR 57-1238)

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

AN ACT relating to casualty insurance contracts; requiring insurers who issue policies covering the liability of manufacturers or sellers for defective products to report certain information relating to those policies to the commissioner of insurance; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 690B of NRS is hereby amended by adding thereto a new section which shall read as follows:

On or before March 1 of each year every insurer who issues policies of insurance covering the liability of manufacturers or sellers for defective products shall submit a report on an approved claim reporting form to the commissioner.

Exhibit F

THE DEVILS IN THE

High insurance costs, changing laws, new standards

The costs of product liability are becoming a horrendous problem for U. S. industry. Last year alone manufacturers and retailers paid an estimated $2.75 billion for product liability insurance, compared with an estimated $1.13 billion in 1975—and with rising deductibles they are self-insuring still more, though nobody knows by how much. Some even speculate that the U. S. is on the way to becoming a "no-fault" economy, in which producers and sellers will be held responsible for all product injuries.

"We're getting closer and closer to making the manufacturer into the full insurer," says Robert J. Steinmeyer, legal vice-president at Beckman Instruments Inc. Paul Nelson, senior counsel for product litigation at International Harvester Co., agrees: "There's an increasing disinclination of the public to accept responsibility for its acts."

In what some insurance executives concede was a "moment of panic" three years ago, insurance companies posted overnight liability premium increases of 1,000% for some manufacturers. What prompted the dramatic rise was the fear that a major, but little understood, transformation of U. S. product liability law would open all companies to potentially limitless financial risk. Although the insurance panic is over now—indeed, some companies' premiums are dropping—the law continues to change sharply.

Spearheading this legal revolution are state supreme court judges. Beginning in California, they have announced in state after state a new rule of law in cases where users of products sue for injuries caused when something goes wrong. The judges have tossed out the old rule—that manufacturers or sellers are liable only when they are negligent, or unreasonably careless, in what they made or how they made it. In its place the courts borrowed a much tougher standard—"strict liability"—from earlier cases involving products such as dynamite. In effect, strict liability puts the product itself, including its packaging and promotion, on trial.

By easing the plaintiff's burden in proving a case, injured persons are winning—or settling on favorable terms—suits that might never have even been filed before. At the same time, the courts have been liberalizing procedures to make it easier for plaintiffs to get to court and have been casting a colder eye on traditional defenses. The result has been cases like these:

■ To scent a candle, a teenager poured perfume made by Faberge Inc. over a lit wick. The perfume ignited, burning a friend's neck. Claiming that Faberge had failed to warn consumers of the perfume's flammability, the friend won

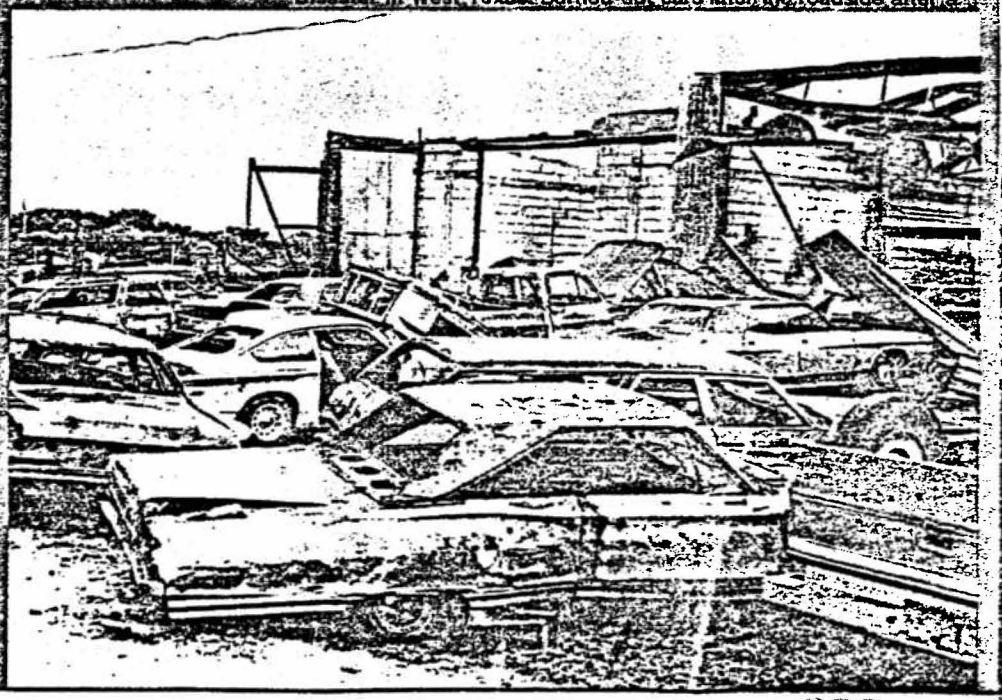
How the law drained

Until the spring of 1975, Lubbock Mfg. Co. had little experience with product liability law. Since its founding in 1937, the Lubbock (Tex.) maker of assemblies and tanks for hauling hazardous materials settled its few claims outside the courtroom in amounts that never exceeded a few thousand dollars. But on Apr. 29, 1975, a tractor driver pulling one of Lubbock's pressurized tanks made a fatal error that led to a $50 million judgment, the highest ever assessed by a Texas jury.

To avoid colliding with a car ahead of him, he rounded a curve of a winding road on the outskirts of Eagle Pass, in West Texas, the tractor driver swerved into the lane of oncoming traffic, then veered back. The tank he was hauling, brimming with 9,000 gal. of flammable liquefied propane, broke loose from the fifth wheel connecting it to the tractor, overturned, and skidded upside down for 120 ft. before slamming into a concrete canal abutment, which tore into the tank with the ease of a beer can opener. The propane gushed out in a fireball that killed 16 people, including the driver, and injured 44 more.

Prior settlement. Ninety plaintiffs sued Lubbock and six other defendants for $125 million. After a four-month trial, the jury found that Lubbock bore partial responsibility because the tank's center of gravity was too high, causing it to tip over when the tractor driver veered. The jurors ruled that Lubbock should pay 25% of the judgment and Fontaine Truck Equipment Co., which manufactured the fifth wheel, found to have been defective, should pay 75%.

But quirks in Texas law and adroit legal maneuvers by the other defendants have thrown most of the burden on Lubbock. State law prohibits juries from prorating judgments and requires defendants to pay equal sums of any judgment rendered against them. The trial judge, therefore, ordered Lubbock to pay $25 million to the plaintiffs. The jury was apparently also unaware that



Disaster in West Texas: Burned-out cars litter the roadside after a

PRODUCT LIABILITY LAWS

are exposing U. S. manufacturers to unprecedented risks

a $27,000 judgment. Despite its argument that there was no way to foresee that someone would pour perfume onto an open flame, Faberge lost its appeal.

■ A construction worker was riding a forklift truck, which was not equipped with a roll bar, on steep terrain when the truck capsized and injured him. In a unanimous decision, the California Supreme Court last year ruled that the burden is on the manufacturer to demonstrate that the forklift's benefits outweighed its risks. Otherwise, said the court, the operator's injuries show that it was defectively designed.

■ In 1975 a paralyzed high school football player won a $5.3 million judgment against Riddell Inc., a maker of football helmets. A Miami jury came in with the verdict even though the helmet was never introduced at trial. Today, 14% of a Riddell helmet's cost is due to insurance, litigation, and settlements; before the Florida case, these factors cost 1%.

As a result of these and scores of other cases, a counterrevolution is just beginning. Legislatures in several states are trying to close off the more extreme outgrowths of the law, which threaten to leave industry exposed to completely open-ended risk. Nevertheless, there is no doubt that a time-honored legal concept is vanishing—that a defendant is responsible for injuries only when his wrongful conduct has caused them.

Some courts have moved so far that in a 1972 case, the California Supreme Court rejected the law that it pioneered in earlier decisions and which now applies in about half the states. That law says that an injured person can win a suit only if the product is "unreasonably dangerous" and if injuries resulted from its "intended use." But even in states where this rule is still valid, it is becoming increasingly difficult for corporate defendants to prevail—even against plaintiffs who use products stupidly. Says Richard A. Epstein, a University of Chicago law professor: "It is possible to argue that any product which can be made safer, regardless of cost, is a product which the jury can find unsafe."

Continuing liberalization of the laws could lead to a ruinously high price tag and significantly slower product innovation. "The pendulum is swinging so that the consumer is the all-important thing," argues Robert H. Rines, president of the Franklin Pierce Law Center in Concord, N. H. But, he adds, the consumer "will wake up one day with nothing to consume."

How realistic these fears are remains an open question. Misinformation is far easier to come by than reliable statistics. One set of numbers cited often—that 1 million product liability suits were filed in 1976—has proved to be grossly

a tank manufacturer's profits

Fontaine had settled all claims against it for $5.3 million prior to trial. Under an agreement (outlawed in some states) with plaintiffs obliging it to testify against Lubbock, Fontaine now stands to recoup the entire sum from Lubbock's eventual payments. And a third potential defendant, a Mexican company that owned the truck and employed the driver, liquidated its business and tendered unconditionally its $1 million of insurance to the court for distribution to plaintiffs. Lubbock officials are incensed that the trial judge, declaring the money a "windfall," refused to reduce the judgment by that amount.

propane tank (right) overturned and exploded, killing 16 and injuring 44.

(Three other companies—International Harvester, manufacturer of the tractor; Laredo Diesel, which sold it, and Modern Machine, which mounted the fifth wheel—succeeded in transferring their trials to Dallas, where cases are pending.) Lubbock has made various settlements to reduce its maximum exposure to $11 million, and $4 million could be eliminated if a planned appeal succeeds.

Company sales—$10 million to $14 million annually—have not dropped, but profits have vanished for the past three years. Before the accident, Lubbock paid $30,000 for $20 million worth of insurance; today, a $3.5 million policy is the most Lubbock can afford, and the premium for this equals the company's expected profit of $350,000 to $400,000. Lubbock's suppliers are leery of extending credit. Sales are flat because potential customers are afraid the company could fail, leaving the tanks without a warranty.

Lubbock still manufactures tanks with the same materials and without changing the center of gravity "because the quality of the product already exceeds all standards," says Robert Rogers, senior vice-president. But to minimize future losses, the company is expanding into other products. Says Rogers: "We intend to survive unless someone else piles on top of us."

attorney and consumer spokeswoman. But with a federal bill to engage their attention that may change.

Critics and students of product liability have identified more than 30 reform possibilities. Of these, six loom largest in the state and federal bills.

STATUTES OF REPOSE. One of the most frequently voiced concerns is the length of time a product may circulate before a suit is filed. In 14 of the 16 states to act so far, so-called statutes of repose, ranging from 6 years in South Dakota to 10 to 12 years elsewhere, eliminate this "long tail." Many products with long lives, especially capital goods such as presses used in manufacturing, may cause injuries decades after they are first sold. By then they may have been altered or badly maintained by subsequent owners. Data from the ISO closed-claims survey show that "some 4% of bodily injury claims, involving 10% of ultimate payment dollars, still have not occurred eight years after the date of manufacture" of the machine involved.

The insurers' fear, says Hofstra Law School Professor Aaron D. Twerski, that they "cannot close their books because there is no finite limit to claimsmanship." And even if most suits are lost, defense expenses can be considerable.

Commerce's model bill would impose liability on the product seller beyond the "useful safe life" of the product and defines this period as "the time during which the product reasonably can be expected to perform in a safe manner," with five factors for the judge or jury to consider. After 10 years, a court must presume the product to have outlived its useful safe life, and an injured plaintiff could rebut the presumption only by "clear and convincing evidence," a more difficult burden than usual. For workplace injuries, the model bill would prohibit a worker from suing the manufacturer 10 years after the product was first sold; but it would permit a suit against the employer if the worker could show "by the preponderance of evidence" that the product was unsafe.

STATE OF THE ART. Because engineers are constantly developing safer designs and methods of production, a product introduced on the market today may be unsafe by tomorrow's standards. Many manufacturers fear that they will be held liable for failing to adhere to an advanced "state of the art," because court rules in many states permit plaintiffs to introduce evidence of design changes not technologically feasible when the original product was made.

Some years ago, for example, Black & Decker Mfg. Co. realized that metal housings on power tools sold to consumers could present a shock hazard. The company "changed to plastic as soon as the state of the art got to the point where plastics could take the abuse," says Eugene Allen, vice-president for legal affairs. But in a suit after the changeover for an injury caused by a tool housed in metal, the company could have been in a difficult legal position.

Many of the new state laws prohibit technological advances to be held against a manufacturer, if it was truly impossible to use the new technology earlier. According to Keeton, however, these new provisions change little if anything, because a "careful reading of the cases" shows that the courts have never adopted the view that the defendant should have done better than the known "state of the art."

But some of the new laws go further, by defining "state of the art" to mean industry custom as well as technical knowledge. Twerski says that those pushing this view "come close to outright lying" about the direction of the law. "It has never been the law that custom is binding," he says. Nor should it be, adds New York University Law School Professor Sheila L. Birnbaum, a product liability expert and counsel to the New York law firm of Skadden, Arps, Slate, Meagher & Flom. "A whole industry can be wrong," she notes.

The Commerce model bill distinguishes between state of the art and industry custom. To overcome manufacturer fears that modernizing will be used against them, the bill would permit custom to be introduced at trial, but not evidence of changes in the state of technical knowledge after manufacture.

PRIVATE AND PUBLIC STANDARDS. Before the recent legislation, failure to comply with private industry or government-set standards has virtually guaranteed a manufacturer's liability, but strict adherence to such standards has not necessarily been a defense. Some of the state statutes now allow such a defense. For example, the Michigan provision enacted last December says that the defendant is off the hook if it can demonstrate that all aspects of the product, from design through marketing, conform to the tougher of either generally recognized nongovernmental standards or state and federal regulations in effect at the time the product was sold or first delivered.

Such immunities make plaintiffs' trial lawyers apoplectic. Says Melvin Block, former president of the New York Trial Lawyers Assn., "It is ironic that industry, which is the last group in the world to want government regulation, is the first to want regulations telling how to make products."

Under the federal model bill, com-

Gwendolyn Stewart

'The federal model code is a neutral law: That's what the state legislatures want, and that's what they've got.'

Victor E. Schwartz, chairman, Task Force on Product Liability & Accident Compensation, U.S. Commerce Dept.

pliance with certain standards would create a presumption that the product was free from defect. But not many current standards would likely pass muster under Commerce's strict guidelines.

ALTERATION. Many injuries occur because customers alter a product's original design. Producers of industrial machinery are particularly open to suits because injured factory workers, barred by workers' compensation laws from suing employers, claim damages from the original manufacturer, even if the employer was largely at fault for modifying or failing to maintain the machine. Farrel Co., now a division of USM Corp., was recently sued when a rubber mill it manufactured chopped off seven of the operator's fingers in 1970. He could not sue his employer, so he sued the manufacturer and all subsequent owners. Farrel built the machine in 1911. The mill had changed owners six times, and the only original piece of equipment left on it was the frame, with the maker's nameplate stamped on it. Because the company could prove that the mill had never been under contract for maintenance, repair, or service and that it had been totally altered, Farrel won its case—but at legal costs of $20,000.

Many of the new state laws bar suits when substantial modifications beyond the seller's control have been made to the product. So does the model federal bill, although it would permit a suit when the seller should have anticipated that modifications might be made.

FAILURE TO WARN. Increasing numbers of product liability suits turn on whether the seller provided the user with adequate warnings of potential risks. Proper warnings, though often strenuously resisted by industry because they clash with marketing strategies, can reduce legal exposure. For example, since 1964, when by law the Surgeon General's warning was put on every cigarette pack, no tobacco company has lost a cigarette cancer case.

Lawyers are increasingly bringing cases based on a company's failure to post proper warnings of potential hazards in using products, because it is much easier to show an ineffective warning than a defect in design. But critics argue that corporate defendants are being judged by hindsight in cases where the plaintiff misused the product. Several of the new state statutes permit a company to defend a case by showing that it could not have foreseen how a plaintiff would misuse the product.

The federal model code is more rigorous. It would require juries to assess the likelihood that customers will misuse a product and the seriousness of harm. The more serious the potential injury and the greater the probability that it will occur, the greater the legal duty to warn.

CONSUMER MISUSE. Closely related to product alteration is the user's own negligence. Consumers expect too much from new products and make unreasonable demands on them, says Spencer J. Traver, assistant treasurer in charge of risk management at B. F. Goodrich Co. He cites the example of drivers who underinflate tires and sue when the tires blow out. David R. Williams, an Akron lawyer, cites the case of a man who was awarded $6,000 after losing part of a foot in a lawn mower. The user manual warned not to cut wet grass, but he did it anyway and his foot slipped.

Gary Miller

'Accident investigation is in the Neanderthal stage in America.'

Aaron D. Twerski, professor of law, Hofstra Law School

But strict liability often allows consumers who act foolishly to win. Indeed, one of the reasons that strict liability was adopted was to get around a common law rule that threw a plaintiff's suit out of court if he was in the least bit negligent himself. The theory behind strict liability is that manufacturers can better absorb the cost of safety than can the injured plaintiff. But it has come to the point, says Chicago's Epstein, that "the plaintiff who neglects a warning or disregards a safety precaution may still be able to recover full tort damages." Reacting against this, a number of states and the model federal code are adopting "comparative fault" laws, which reduce the plaintiff's award by the percentage of his culpability for causing the injury.

Twerski concedes that comparative fault will probably carry the day, although he is uncomfortable with the doctrine because it undercuts the very premise of strict liability. "We shouldn't cut a plaintiff's recovery by X-percent because he's a *schlemiel*, when the reason for saying there's a design defect in the first place is that it didn't protect the *schlemiel*," he says.

Provisions in many state bills would also limit the seller's liability to injuries that occur when the consumer uses the product as the manufacturer "intended" it to be used, rather than when the use was "foreseeable." Paul D. Rheingold, a New York City product liability lawyer, complains that such provisions are "reactionary." Under these bills, he says, "you couldn't win a case if a screwdriver shattered while you were opening a can of paint with it."

Beyond these major areas of reform are a host of other issues with vociferous advocates on both sides. Jury reform is one. Many critics charge that jurors, believing that well-known, large companies are capable of paying any amount, give the injured plaintiff the benefit of every doubt. The statistics are inconclusive. ISO figures show that only 21% of claims that go through trial result in awards to plaintiffs, but they do not show how many large companies are included in those verdicts. But the jury tradition is so deep that major change is not probable.

On the federal level, what has perhaps the best chance for passage is a set of tax incentives to alleviate the pressure of rising insurance premiums. Last year, Congress extended from 3 years to 10 the period for deduction from previous taxable income operating losses that result from product liability suits and payments. Resulting tax refunds, Commerce Secretary Juanita Kreps noted last July, should enable companies to buy insurance. But Charles Stewart, president of the Machinery & Allied Products Institute, thinks the tax carryback provision is "pitifully inadequate." He and others are pressing for a tax

EXHIBIT F

change that would permit companies
finance a self-insurance program
putting money, which would be deduc
ible, into a trust to be used for produ
liability suits. One of Representati
LaFalce's four bills would permit this.

If companies set up such self-insu
ance trusts, the result could be a maj
change in the incentive to investiga
accidents and claims. Companies gene
ally rely on their insurers to look in
the facts of most claims, because t
usual policy covers defense and settl
ment costs as well as judgments. B
much of the preliminary work
perfunctory. "Accident investigation
in the Neanderthal stage in America
says Twerski. Texas-based Johnson La
der Co. used to have great difficul
getting its insurance company to show
exact figures of settlement payout
Finally it gave up and formed an insu
ance company with other ladder man
facturers. "The straw that broke t
camel's back," says President Jack Du
lop, "was a case in which our insuran
company settled for $200,000 a
million claim against us for a defecti
ladder we never manufactured."

The bane of many executives—t
contingent fee system that allows la
yers to pay all costs of a suit and to
compensated only if they win—w
almost certainly not be changed signi
cantly. Without this system, few injur
plaintiffs could afford litigation cost
Philip H. Corboy, a well-known Chica
product liability lawyer who has su
GM, Ford, Sears, Hertz, Searle, a
Standard Oil, among others, says th
an average well-documented case c
easily cost $25,000 to bring to trial.

At bottom, the legislative reforms no
pending may alter the character
outcome of some suits, but they will n
deter most Americans who have be
seriously injured from seeking out som
one to sue. When the daughter
Seymour W. Croft, senior attorney f
International Harvester, lost her leg
an accident in October, 1971, on a Yam
ha motorcycle, Croft hired Corboy
represent her. Corboy says that his be
evidence in that case was presented
Yamaha's chief designer, who testifie
that the motorcycle was originally bui
with a safety guard for sale to the Tok
police, but it was sold in the U. S. wit
out the guard. The jury bought Corboy
demonstration at the trial last May th
a safety guard would have lessened t
injuries or even prevented them.

Croft says his attitudes in dealin
with product liability for the manufa
turers' side have not changed. Bu
retorts Corboy, speaking generally, "A
these corporation lawyers and executive
complain and cry about strict liabilit
but when a tragedy occurs to then
they're the first to use it so they can
compensated for their losses."

S. B. 308

SENATE BILL NO. 308—SENATOR KOSINSKI

MARCH 7, 1979

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits public utilities from basing any rate upon property not being used to provide service to its customers. (BDR 58-1311)

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

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

AN ACT relating to public utility regulation; prohibiting public utilities from basing any rate upon property not being used to provide service to its customers; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 704 of NRS is hereby amended by adding thereto a new section which shall read as follows:

A public utility shall not in any way base a rate or charge upon any real or personal property which is not currently being used to provide utility service to its customers.

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

S. B. 327

SENATE BILL NO. 327—COMMITTEE ON COMMERCE AND LABOR

MARCH 13, 1979

Referred to Committee on Commerce and Labor

SUMMARY—Requires products liability insurers to make certain reports to commissioner of insurance. (BDR 57-1238)

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

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

AN ACT relating to casualty insurance contracts; requiring insurers who issue policies covering the liability of manufacturers or sellers for defective products to report to the commissioner of insurance; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 690B of NRS is hereby amended by adding thereto a new section which shall read as follows:

On or before March 1 of each year, every insurer who issues policies of insurance covering the liability of manufacturers or sellers for defective products shall submit a report to the commissioner on an approved claim reporting form.

S. B. 350

SENATE BILL NO. 350—SENATOR BLAKEMORE

MARCH 21, 1979

Referred to Committee on Commerce and Labor

SUMMARY—Provides penalty for failure of producer-promoter of entertainment production to obtain permit and post bond with labor commissioner. (BDR 53-1494)

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

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

AN ACT relating to compensation, wages and hours; providing a penalty for the failure of a producer-promoter of an entertainment production to obtain a permit from the labor commissioner and post a bond for payment of wages; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 608 of NRS is hereby amended by adding thereto a new section which shall read as follows:

Any person who fails to comply with the provisions of NRS 608.300 to 608.320, inclusive, is guilty of a misdemeanor.

(30)

ASSEMBLY BILL NO. 355—COMMITTEE ON GOVERNMENT AFFAIRS

FEBRUARY 7, 1979

Referred to Committee on Government Affairs

SUMMARY—Permits each board of county commissioners to regulate certain suppliers of sewer services. (BDR 58-402)

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

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

AN ACT relating to the regulation of public utilities; permitting each board of county commissioners to regulate certain suppliers of sewer services; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. NRS 704.681 is hereby amended to read as follows:

704.681 The board of county commissioners of any county may regulate by ordinance any person [or firm] furnishing water *or sewer service, or water and sewer services,* for compensation to persons within [such] *that* county except those persons [or firms] regulated by the commission, the service furnished to its residents by a political subdivision, and services furnished to its members by a nonprofit association in which the rights and interests of all its members are equal.

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT **A. B. 353**

ASSEMBLY BILL NO. 353—COMMITTEE ON GOVERNMENT AFFAIRS

FEBRUARY 7, 1979

Referred to Committee on Government Affairs

SUMMARY—Consolidates various provisions of law pertaining to regulation of utilities, railroads and other carriers. (BDR 58-404)

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

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

AN ACT relating to utilities, railroads and other carriers; consolidating various provisions of law pertaining to their regulation; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 703 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

SEC. 2. *Every annual report, record or statement required by law to be made to the commission must be submitted under oath by the proper officer, agent or person responsible for submitting the report, record or statement.*

SEC. 3. *1. Each public utility, common and contract motor carrier and broker which is regulated by the commission shall:*

(a) Keep uniform and detailed accounts of all business transacted in the manner required by the commission by regulation, and render them to the commission upon its request.

(b) Furnish an annual report to the commission in the form and detail which it prescribes by regulation.

2. Except as provided in subsection 3, the reports required by this section must be prepared for each calendar year and submitted not later than April 15 of the year following the year for which the report is submitted.

3. A motor carrier may, with the permission of the commission, prepare the reports required by this section for a year other than a calendar year which the commission specifies, and submit them not later than a date specified by the commission in each year.