

MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Mr. Craddock
Mr. DuBois
Mr. Jeffrey
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS ABSENT: None

GUESTS PRESENT: Mr. Chuck King, Central Telephone
Mr. Vince Laveasa, Sierra Pacific Power
Mr. Stan Warren, Nevada Bell

TESTIFIERS: Mr. Ralph Townsend, Chairman, Coalition
for Affordable Energy
Mr. Andrew Barbano, Coalition for
Affordable Energy
Mr. John W. Capone, Governor's Office
Mr. Norman Y. Herring, State Public
Defender
Senator Virgil Getto
Ms. Peggy Westall

Chairman Dini called the meeting to order at 8:05 A.M.

Mr. Dini advised the committee that under discussion will be the Initiative Petition, the Governor's proposal and the recommendations of the Legislative Commission's Sub-committee to study the Public Service Commission of Nevada. The committee will have to decide whether additional legislation is necessary. If the Governor's bill is amended, we would have to take the sub-committee's bill and amend that. We have several alternatives available to us as we approach this subject. Mr. Dini explained to the committee and for the benefit of the audience that today's meeting is not a public meeting where we have the general public address us. It is a mechanical type meeting where the proponents of each bill will present to us their case. We will have additional hearings when we get into the mechanical end of it once we have determined which way we want to go.

To lead off, Mr. Townsend and his group will be first on the agenda, Mr. Dini indicated, and asked if there were any questions from the committee. He advised the committee to feel free to ask any questions of the proponents.

Mr. Townsend gave his testimony and a copy of the written testimony is attached hereto as EXHIBIT A, including proposal.

Mr. Mello: Mr. Townsend, you mentioned that you felt that this should be placed in the Attorney General's office to keep politics out of it. In other words, if it went to the Governor's office, there would not be politics? You indicated you recommended the Attorney General's office - for what reasons?

Mr. Townsend replied: Very simply, we feel that the natural adversary relationship between the consumers (rate payers) and the utility and the Public Service Commission should be maintained. The best way to maintain that structure among those three entities would be to place it under the Attorney General.

Mr. Mello said: It is that part that troubles me, as well as the Governor's bill, and I have also not read it as I believe we have just received it. I believe, personally, that if it's under the Governor's office, as well as placing it under the Attorney General's office, it's political. They are both political animals, and I'm not referring to the people that are in the offices, but my feeling is that it should be placed somewhere else. However, I don't feel we should get into that now. Another thing I would like to ask is the appointment process. Could you explain that?

Mr. Townsend explained that the Initiative addressed the appointment as one to be made by the Attorney General and there has to be a certain criteria established. Likely, it would be by the review of other jurisdictions to be a qualified entity and upon receiving a qualified applicant, the Legislature would then confirm it.

Mr. Mello felt that there is where we have problems. Who would handle it, the Assembly or the Senate?

Mr. Townsend answered that it would be the entire Legislature.

Mr. Prengaman requested copies of the budget comparisons that Mr. Townsend spoke of.

Mr. Dini advised that our staff is preparing an outline of the three proposals. He stated that he had problems with the Initiative in that, perhaps, it does not go far enough in covering other areas.

Mr. Townsend stated that one of the things that he feels is going on now is that the PSC is just not provided enough information for the amount of staff they now have or the different perspectives of that information. And that is why we did not address restructuring of the PSC.

We felt that the entire structure of a mill tax should provide representation for those taxed so we took that as a separate concept and dealt only with representation of consumers and we did not restructure the PSC. What you will see when you receive a copy of the presentation is our structure of the office and three separate budgets. The first would be a bare bones budget, the second would be an average salary budget, and the third would be an above-average salary budget. The personnel, of course, would include a director, two legal assistants, a public utilities specialist, a chief economist, a chief engineer and a senior auditor with financial background, and the last person would be a legal secretary. Under the bare bones budget, we have eliminated the chief economist and the chief engineer and the senior auditor, then we have under the second budget, the elimination of the public utilities specialist. The third budget (the above-average budget) would include the seven-person staff.

Mr. Dini noted that the workloads would be very costly for this agency. You might have many requests for rate increases or you might go six months without any work.

Mr. Townsend indicated that one of the things that takes up about one-half of the budget is contract services, and what that means and it's a very important part of any rate examining group, is the fact that you will go out and seek the best possible groups to examine some of that information so that you don't keep 20, 30, 40 people on staff during periods when all you will be doing is paying their salary and they would be collecting dust in a corner.

Mr. Townsend stated that consulting groups would be hired as necessary and that is why part of the budget is for contract services.

Mr. Mello indicated that one thing that really troubles him is where would we find the expertise. At the present time, the PSC has had a very difficult time finding the expertise to help them as far as trying to help the consumer. We can't really compete with private enterprise. Do you have any ideas there, where are we going to find these people. We have the problems of the 95% factor.

Mr. Townsend said that this area has grown so drastically that the amount of expertise is growing every day. It is a new field, one that is drawing a tremendous amount of people at the graduate level. We have provided here again an above-average budget to try to compete with private enterprise.

Mr. Mello indicated that the Cresap report shows that there is a real problem as far as the Personnel Division of the state of Nevada is concerned in regard to the PSC. And that is the same kind of problem we are going to be facing here. By law, we have to go through the State Personnel Department and they have not really cooperated as far as to what expertise has been available for hire.

Mr. Townsend said that he would be the first to say that the first four months ahead on budgetary matters will be a really monumental one for this committee. He indicated that he could not address this issue and that he could not provide the expertise.

Mr. Andrew Barbano was introduced next and he stated that they had been in contact with rate experts in the United States and that Mr. Townsend is entirely correct in his contention that it is a budding and burgeoning new field. There are advocate experts who do nothing else but utility advocacy work. They are being turned out by the thousands and the environmental agency has a list of three or four hundred experts that are available. There are about forty jurisdictions now that have consumer advocacy and it's growing all the time. The state personnel problems will not be necessarily germane because you've got people that are on a crusading trip here.

Assemblyman Prengaman: What has been the success of states that have consumer agencies? Have you been able to do any kind of a check?

Mr. Townsend said that in further committee action, we would present a rather extensive examination of that. In the case of Missouri where you had a \$300,000 office last year, which would be much higher than what we have, the office of consumer advocacy very simply turned back 6.2 million dollars. That is net, and beyond what the PSC recommended as rollback.

Mr. Prengaman asked in cases where the PSC, or its equivalent, had in various states already reduced the amount of return that they would allow, have the consumer advocate offices gone in and reduced that even further?

Mr. Dini stated that for the information of the committee, there is a statement here from Attorney General Bryan that he wrote sometime ago that points out that there are forty-four states providing an office of consumer advocate, which I would like made part of the record and put in the minutes. A copy is attached hereto as EXHIBIT B. In the New Mexico office established in 1977, it saved the rate payers approximately \$25,000,000. It points out that in New York, for every dollar expended in the operation of the consumer advocate program, the rate payers have got a \$53.00 return for each \$1.00 expended. In Michigan, it

indicates that the savings has been about \$370 per \$1 spent to operate the program. There is some historical background here and we will pursue it even further which show that the states who have gone this way have had a good return for their money. Statement is attached hereto as EXHIBIT B.

Mr. Andrew Barbano, with the Coalition for Affordable Energy group, spoke next. He stated that with respect to the question raised on the confirmation process, his group has pointedly in the four months spent redrafting AB-364 from the last session, addressed who to construe the confirmation process and he said, "we decided to leave it as broad as possible so that the Legislature could set up its own confirmation process while it's in session, so if the Legislature decides to appoint two or three members from each house to be the confirmation committee, that can so happen. The reason for the confirmation process in the Initiative is because in the ACR-22 committee meeting that was held in this building last August 29, a compromise was struck to allow legislative confirmation of the office of consumer advocacy. That's where the idea originated. The idea being that it would help take politics out of the office. At that point, we assumed we had a compromise struck with the Governor's office for going ahead and agreeing with the Governor having purview over the consumer advocate's office. We decided that there still needed to be politics taken out of it so the confirmation process by the Legislature seemed to be a good way to provide a better check and balance. The Governor did not seem to exactly like the idea. We could never get the Governor to go along with it. Mr. Mello, in our original concept, we agree, upon consultation with Attorney General Bryan, that the office should be as independent as possible. The way to make the office as independent as possible would be to not put it under the Attorney General or not put it under the office of the Governor. The only other place you've got to go is the Legislature, or else you start hiring independent contractors under some other state agency. Most states put it under the Attorney General. The ACR-22 committee in their wisdom essentially told us this: 'We want to come down every two years and to do as much damage as we can. We don't want to get into minding the store and having oversight and executive responsibility over what should be an executive function'. So the feeling of that committee, and we accepted the feeling of that committee as being indicative of the feeling of the Legislature, was simply that the Legislature wanted nothing to do with an executive function. So, in lieu of legislative oversight, we decided to go along with putting it in one of the executive branches, in this case, the Attorney General, but also providing for legislative confirmation, since the legislative committee did not have an appetite for taking the reins of the consumer advocate's office which they viewed as an executive function. So that is how the confirmation process got into the Initiative.

Mr. Mello noted that what Mr. Barbano really is saying is that he really doesn't care where it's placed, as long as it does the job designed by the Initiative Petition.

Mr. Barbano said that they had to make a decision in the first part of September as to what form the Initiative would take. The ACR-22 committee gave us the feeling that they didn't want any part of managing this office. The Governor's office refused to acknowledge any compromise. The compromise which was struck is legislative confirmation in exchange for our agreement in putting in the Initiative the consumer advocate under the Governor. The Governor's office would not respond to any inquiry and they would not confirm or refuse to confirm the compromise which their representative agreed to. So we had no place else to go but the Attorney General's office because the Governor did not accept the compromise that we went with in committee. The Legislature didn't want management authority over the office and so the Attorney General's office was the only place left to go. The committee did not want the office under the Legislature.

Mr. Mello commented that he was not so sure that the sub-committee represents the feelings of this committee.

Mr. May congratulated Mr. Barbano, Mr. Townsend and the other people who worked so diligently in this area. Whatever the outcome may be, whether it may be the acceptance of your particular program or some modification thereof, you have certainly done the people of the State of Nevada a great favor. But, Andy, I am sure your research in this area is much fresher than mine. An Initiative Petition accepted by the Legislature cannot, by state constitution, be amended for three years (from the date it is passed). So, if this body and the Assembly were to accept this and the Senate concurrently, then the exact language in here is not subject to change in the next regular session of the Legislative, but must wait at least one year beyond that point. Is that correct?

Mr. Barbano agreed.

Mr. Schofield asked that relative to the forty-four states that have provided the office of consumer advocate, what experience have you had with it being in the Attorney General's Office?

Mr. Barbano stated that each state varies, state to state. With utilities being such a hot area, there is a lot of political footballing with this type of an office. For instance, one of the best consumer advocate offices was the office under the Attorney General of Arkansas. The fourth budget that we have submitted which was developed by the Attorney General's office in 1979, was based upon 60% of the budget of the Attorney General

of Arkansas. The new Republican governor of Arkansas did not like the idea of a consumer advocate office, so he started to dismantle the department of energy there and has also started to dismantle the consumer advocate office despite its record.

In fourteen jurisdictions, there is an independent structure which is a non-public service commission, and usually under the Legislature. In some cases, for instance, it is under a State Department of Commerce. In only three jurisdictions (North Carolina, Delaware and Minnesota), the Governor's office has direct purview over an office of consumer advocacy. In North Carolina, the Attorney General still intervenes. The Attorney General offices seem to have the best track records of getting rate increases rolled back below the recommendations of even public service commission staffs. Mr. Barbano stated that his group feels that this is a fair yardstick by which to go.

Mr. Redelsperger asked if Mr. Barbano had found any indication, for instance, where we hear there are going to be price controls and you will see quite a surge of prices prior to that. With an advocacy group coming in to a state that is approved, do you feel that, maybe, some of these agencies would come in with a higher amount than they normally would to the particular agency that would be covering that. In other words, would they feel that they would be cut back, so they come in with a higher rate to begin with, because of the new agency being formed?

Mr. Barbano said that it has been their experience that public utilities always come in with a lot more than they really want or really need. So that would definitely not change things. It would simply balance out the adversary process.

Mr. May stated that he also wanted to include that this type of legislation is not subject to amendment for three years from adoption. It is also not subject to repeal within that same three year period. Mr. May indicated he would research it further.

Mr. Dini stated that such legislation can also be amended by another initiative.

Mr. John Capone was introduced and he indicated he was representing Governor List. He pointed out Mr. Norm Herring, who with him, were members of a committee put together last year by the Governor to examine the concept for an independent representative entity to represent the consumers of the State of Nevada. Mr. Capone gave the committee a prepared outline of the Governor's proposal in the form of two charts that describe the structure of the retained Public Service Commission and the newly created utility customer representative agency. The charts are attached to the minutes of this meeting as EXHIBIT C. He indicated that from all the publicity and public outcry that we have heard during the past

months, there are certainly more than 38,000 people concerned about the rising cost of energy and various other matters that fall within the purview of Public Service Commission regulations and are waiting to see what the Legislature will do for them in terms of reestablishing in their minds a secure feeling about how their interests are being represented before the Public Service Commission. I will try to outline briefly the reasons why the Governor feels that the administration proposal is the better proposal and should be adopted by the Legislature. First of all, we need to keep in mind just exactly what an advocate does and how an advocate represents the public in matters such as those we are involved with before the Public Service Commission. There are certain things that an advocate has little or no control over in terms of rate increases. There are certain pass-through costs that are created by ever rising energy expenses, created by the costs of fuels increasing. When we look at the examples of consumer advocate programs in other states and we talk about how successful they are, what you are going to see, historically, is a growing concern and action on the part of commissions and regulatory bodies themselves without necessarily the impetus from a specific advocate or advocate's office to take a hand in trying to control as best they can utility costs to the consumer. So when we look at the pros and cons of an advocate in the Attorney General's office, or an advocate representative agency, as the Governor is proposing, I ask you to please keep that in mind. Success can be similar in either concept and the factors that either entity has to deal with are essentially the same.

Mr. Capone continued by saying that the Governor is proposing to establish an agency of sufficient size and with sufficient expertise to effectively represent the consumer, not only in terms of utility rate matters, which obviously have been in the public eye most frequently, but also in terms of other matters that affect the consumer and fall within the regulatory authority of the Public Service Commission. The big difference between the Governor's proposal and the Initiative Petition proposal is that comprehensiveness that the Governor's proposal attempts to achieve. Obviously, when you are being asked by the public on almost a daily basis what can be done by the state to help the consumer, you don't want to tell the consuming public that we are going to come up with an economical, nice little entity that will be there to look out for your interests in front of the Public Service Commission and stand opposite that giant utility on the other side of the room. What the proposal is trying to do is restore in the public's mind the fact that there will be an entity large enough to do an effective job, a comprehensive job, of representation at all levels of utility representation, as well as transportation areas that are also under the purview of the Public Service Commission, and also have an impact in one way or another on the consuming public.

Mr. Capone indicated that, currently, the structure really does not allow for an independent presentation by the Public Service Commission staff on any matter, i.e., rate increase requests being heard before the Commission. The staff is between a rock and a hard place, because in making a recommendation to the Commission, they have to keep in mind not only a public interest but also the interest of fair rate of return for utility stockholders and other interested parties to the utility. They have no room to vary, if you will, in that consideration. Yet, it is still up to the Commission itself and under the Governor's proposal and under Mr. Barbano's proposal, it would still be up to the Commission to decide what is a fair and reasonable return, how the public can best be served, keeping in mind the other factors that have to be considered. The difference in the Governor's proposal from the current situation is that this new representative agency would have the independent authority to intervene in all matters before the Commission, to state their true and honest opinion on the propriety of a particular rate increase being requested, or rates being charged by transportation entities to the public. They would be available and have in their office a consumer affairs division that would handle complaints, investigate complaints and have the authority on their own initiative on behalf of the public to present all those kinds of matters to the Commission for Commission action, and also, an independent right to appeal any decisions or orders that they feel are adverse to the public interest.

I am talking about creating an autonomous entity; detaching that entity from any existing regulatory agency. The Governor recognizes that no matter where you put this particular entity, as Mr. Mello pointed out quite accurately, if it's under any type of political office, there is the risk that people will feel that you are politicizing that particular issue. However, in many other regulatory areas where the public interest is being served by a state department or agency, there are heads of those agencies that are appointed by the Governor and serve at his pleasure and are answerable to the Governor. But more importantly, answerable to the public for the type of service that they perform and that their agency performs. When we talk about who is going to mind the store, the public, gentlemen, is going to mind the store. The executive director of this new agency is going to be answerable ultimately to the consuming public of this state. You will hear about it as legislators, the Governor will hear about it as the chief executive, we will all hear about it and we will all be answerable to that ultimate judge of how effective this program is working.

I want to address a couple of points that were raised in the previous presentation. Regarding personnel, four to seven people in a staff, including some clerical support, I don't feel and the Governor does not feel, is an adequate representative group to

square off against the kind of opposition that one finds at the Public Service Commission level. Talking in terms of \$700,000 or less, if that figure is correct, it is not a sizable pocketbook to work from, if you are truly saying that you are going to represent the general public. There are those people in the public sector that cannot afford legal counsel, that will not have independent interveners to come before the Commission on their behalf. We want to give this new entity the wherewithal, the clout to do the job and do it right. We are, in essence, talking about establishing a truly quasi-judicial review process. We envision the utility representatives presenting their side of a particular case, or any petitioner to the Public Service Commission, presenting the pros and cons of their particular request, and we envision the consumer customer representative office making sure that it is a good faith representation, making sure that the petitioner has done his homework and has truly taken all possible steps to minimize any adverse impact on the general public.

When you analyze the overall concepts and compare these concepts, it is interesting that in many respects we are all saying the same thing. We are all talking about restoring public faith, that the public interest is being independently and autonomously represented. Perhaps, that is the real issue, but I think that what we are also saying in the Governor's proposal is that for that representation to be effective, it needs to be complete, it needs to be comprehensive, it needs to be on a sound base and we can accomplish those things by simply creating out of, in some respects, existing resources, a new, independent authority to act on behalf of the consuming public.

A couple of references have been made today as to what to do with the staff in the slow periods when we, maybe, don't have a rate hearing in progress. I perceive the public never senses there is a slow period in regulatory practice. Somebody at any time of the year might feel in one way or another that they need to express themselves before the Public Service Commission in some manner and this body, this representative agency, will not be without work. We will not have seasonal periods. It is a constant vigil.

Mr. Capone answered another question raised about the effectiveness of other entities and the point was made that historically we have to look at the difference between what was allowed and what a particular staff or advocate recommended and see how much of a true savings to the public was resultant from activity by that advocate or that agency. There are some interesting statistics and I failed to make these available to you before the meeting, but I'll make sure that you have them. A copy is attached hereto as EXHIBIT D. This exhibit will also include a short synopsis of the Governor's proposal.

They are significant on this point. A breakdown over the past twelve months ending this past December 31, shows six different rate actions that were reviewed by the Public Service Commission. Without going into a lot of detail in terms of numbers, etc., the current staff of the Public Service Commission recommended an overall percentage of an average of 27.4% of what was asked by a particular petitioner at the hearing. The Commission under its guidelines and after due consideration of the proposals and the staff recommendations approved 58.4% of the requests submitted by the utility. So even now, we have some evidence of that tougher attitude starting to pervade the regulatory issue. Independence, autonomy from the Commission, where there is no feeling that the same person is approving your budget, is also going to sit and listen to your recommendations. The independence to appeal and act on your own initiatives will provide a heightened response of that type.

In addition to the governor's proposal, there will be some follow-up materials that will be presented to further add information to the brief outline that you have before you. The Governor's Proposal is attached hereto as EXHIBIT E.

Mr. Dini indicated he would like to get back to the justification of the Governor's appointment factor against the Attorney General's.

Mr. Capone indicated that if it is under the Governor's purview or the Attorney General's purview, or within the Legislature's control, there is always the potential argument that there is a political involvement. We have to look at other areas of responsibility that the Chief Executive's office has assumed and has been expected to assume in the past. Areas of equal importance, Aging Service, services to the blind, the whole Human Resources area, etc., where, historically, the Legislature has seen fit to recognize that the Governor has some room for appointment of those individuals to head those divisions. Ultimately, it is the public who is the final judge of success and we all try to respond to that public impetus, and that, I think, is the kind of control mechanism that we would have in effect if the position were put under the Governor.

Mr. Mello said that, first of all, I believe you made a statement that at the present time, the Public Service Commission does not have or could not have a representative for the consumer. In other words, appear before the Public Service Commission for rate increases.

Mr. Capone stated that he did not mean to give that impression and, perhaps, he had misstated it. He said that he was referring to the fact that Commission staff, as is currently directed in

representing a position or a recommendation to the Commission itself, is looking at both sides of the argument and is under a mandate to weigh the good and bad of both arguments, rather than advocating without any consideration for the utility position - what the public interest is in that matter. There are opportunities for independent representatives of the public to come in as interveners on matters.

Mr. Mello said that Mr. Capone had given the impression to him that at the present, the Public Service Commission cannot hire an individual to appear before the rate increase request to cite a case for a customer. That they could not hire someone that could be a voice for the consumer. I believe we passed legislation in 1977 establishing a consumer's division of the Public Service Commission.

Mr. Capone stated that we have a division that handles consumer complaints and represents consumer complaints to the Commission.

Mr. Mello said that if Mr. Capone would read it carefully, he would see, at least our legal staff and Mr. Daykin agree with the way I read it, that the Public Service Commission could have hired someone to represent the consumer at these hearings. I spoke to the chairman of the Public Service Commission, that's one reason we are here today, and he does not believe that, but our legal staff believes that it is written broad enough to where the consumer could have been protected in many of these rate hearings by having some type of representative there. So, the language is broad enough to where one could have been hired long before now.

Mr. Capone said that having not reviewed that, he would have to defer to Mr. Mello's research.

Mr. Mello stated that this is what makes me wonder, if that is indeed the case, and right now the Public Service Commission is under the guidance of the Executive Office. Why hasn't this been done, and perhaps, we wouldn't be here today. That's what's in my mind.

Mr. Capone stated that, perhaps, there needs to be a distinction between a single voice, a position with some small support, as opposed to setting up an actual agency to do a full force representation. Even if there were a possibility of taking on a consultant to act in that capacity, I'm not sure that we would have the comprehensive kind of representation that I think we are all looking for.

Mr. Prengaman asked that of the sixty-person staff in the second page of your chart, how many would you say would be directly involved in representing the consumer at rate increase hearings. I can only find four or five.

Mr. Capone said that in terms of actual presentation of a case before the Commission, you would most likely be talking of staff counsel or their assistants in the actual physical representation of a case. In the preparation of that case on behalf of the public, it would involve any number of those additional technical people as support staff for those counsel presenting the case, and it would also be conceivable that an individual in a capacity of a technical staff person would be able to testify as an expert on a particular matter on behalf of the staff. So, in terms of physical presentation vs. support for the presentation, I think there needs to be a distinction. In essence, all these people in one way or another would be representing the public's case.

Mr. Prengaman said that the more responsibilities you give this particular office, the more they are going to get bogged down in doing other things. For instance, you have transportation people here, consumer representatives who take complaints on a wide variety of matters; you have a lot of people here who will not be directly involved, representing the consumer. We are distorting, we are getting away from what we are trying to do. You are giving this office a lot of functions which are not germane to the problem at hand, and that is getting consumers better representation at rate increase hearings.

Mr. Capone agreed that we are taking on more responsibility than just representation at rate increase proceedings. The Governor's feeling is that, although that is a significant issue at hand now, there are other issues that also need to be watch-dogged much in the same fashion as existing staff attempts to do now. Not all of these individuals would be involved in the rate increase activity. The consumer services agency, for example, may have daily ongoing contact with the consumer and with the Commission, but in a different facet, not in terms of the rate increase activities. We are talking about maintaining a vigil over diverse numbers of areas, all within the purview of public service utility regulation. It is a breakdown of responsibility.

Mr. Capone continued by saying that the main thrust of a lot of these technical people is going to be towards the rate hearing matter, and I think that there is an effective number of staff here to do that.

Mr. Jeffrey asked how many positions there are in the Public Service Commission at the present time.

Mr. Capone answered that he thought that the breakdown presented to the committee is based on almost exactly the number we are talking about, with the addition of an executive director and a couple of support staff.

Mr. Jeffrey said that what we are really talking about is the reorganization of the Public Service Commission.

Mr. Capone indicated that he did not think so, in the sense that what we are talking about is that we are taking positions out from under the administrative control, the budgetary oversight and all the other administrative activities that the commissioners also do now. We are taking that activity out and we are separating that, making it autonomous, self-sufficient, if you will, so that they can focus on an independent representative role, so that they are not in essence testifying to the same person that has to approve expenditures of travel claims or money for consultants to come in to testify. I can see where you are coming from, I just don't like to talk about reorganization, because I think what that is going to be viewed as is that we are not changing anything and I disagree with that. I think we are making a significant step forward in terms of creating this independent and autonomous agency.

Mr. Jeffrey said he still wondered that you have the new agency with a total of sixty positions making recommendations to the Public Service Commission and you say that in either case, the Public Service Commission makes the final decision. The Public Service Commission, including the three commissions, has a staff of twenty. It just doesn't seem to balance out in my mind too well.

Mr. Capone said that this was a concern that the committee did have initially when we addressed the overall concept. I don't think that there can be any question that the bulk of the preparation and ground work for, say, a rate hearing, is doing your homework; it is examining the presentation of the other side and doing the best you can to determine if it's an accurate presentation. All of that precedes the presentation of the case to the Commission. As a quasi-judiciary entity, in other words, the Commission will not have a large amount of preparation leading up to the presentation. The support staff that is being left with the Commission is deemed to have sufficient technical balance, if you will, that they will be able to provide any guidance to the Commissioner or Commissioners hearing that particular case to answer any technical questions. But it is still left to the Commission or commissioners as a group to make the final determination of the appropriateness of the application or the position of the consumer or customer representative.

Mr. Nicholas indicated he had a number of questions but would only ask one at this time, understanding that we will have other opportunities to discuss this. In a lean year of this type, it has to be a difficult project to come in for a request for a brand new agency, especially one as highly staffed as this, but how many positions that will be transferred into this new agency actually exist at this time.

Mr. Capone said that he would say the vast majority of them exist at this time. I think that we could safely quote a figure of around \$200,000 as the actual additional costs that are not represented already and in staffing levels of salary, etc.

Mr. Nicholas asked what other departments will be involved in transfers to this new agency, as an example of that. Are you going to be bringing people in from what other departments, i.e., Commerce.

Mr. Capone said they were basically thinking about positions that currently exist, with a couple of exceptions, under the existing Public Service Commission structure. There isn't any proposal in the Governor's plan to draw any outside staff in to supplement those positions.

Mr. Nicholas asked that there would not be, then, consumer advocates from other departments transferred to this department?

Mr. Capone answered that the consumer advocate function, as it might exist now under the Public Service Commission, will still exist under the new concept. We are not going to draw any outside representation from wherever it might exist from any outside source.

Mr. May indicated that he would like to discuss the options available to the Attorney General vs. the Governor. Going back to the origination of the monopolistic utility service and then the creation of a citizenry representation to oversee and to affix their rates; at that point, the so-called "watchdog" philosophy came in to play where you had a utility company who might be granted a monopoly in a particular area. And to make sure they stayed within reason and did the job which they were supposed to do, the public service commissions came into being. These were pretty much people who were there to regulate and to watchdog that utility operation. Those opeople, in Nevada at least, were appointed by the Governor. Now, for some reason, it appears that, perhaps, some people find that the Public Service Commission is not doing the job, so they want to have a bigger watchdog to watch the little dog to watch the utilities. Now, there is the point I want to make. You have one so-called watchdog situation appointed by the Governor. You want to put

another watchdog in the picture appointed by the Governor. I have no preconceived notions, but it seems to me it might be wise that if you are going to have two watchdogs, you ought to have two different owners.

Mr. Capone said that they want the watchdog to give birth to a puppy, so to speak. We want to have not a second watchdog, but in essence, we want to take the teeth of the present watchdog and give them to another dog. We want to take the existing staff resources and truly commit those to representation.

Mr. May asked the Chair if he could digress for one second. He said, little dogs grow up. I only received this bill this morning, but on Page 61, under Sec. 90, Chapter 712 of NRS No. 1, Whenever an application for a warehouse permit is filed, the agency shall conduct an investigation concerning: (a) The financial ability. . . (b) . . . sufficient assets. . . (c) . . . sufficient experience in and knowledge of warehouse storage of household goods. . . You have already given a brand new agency brand new duties that the Public Service Commission has not even thought about at this point. So, I guess that's what concerns me. Yes, you have a little watchdog, and pretty soon you've got a big watchdog, bigger than the first one. These are the things I am trying to get into, that type of problem.

Mr. Capone stated that he also had Mr. Norman Herring with him who would like to say a few words.

Mt. Herring said he would make his comments very brief because his presence has been requested upstairs. He said that as a member of the Governor's cabinet, we had an opportunity to review a number of options, one of which was the consumer advocate agency and the other is the one that the Governor has chosen to present to the Legislature. If we had come in to give you what everybody else has got, sure, we could have adopted a very easy approach to it and adopted a consumer advocate agency and presented that to you in a very brief fashion. However, in our study of the situation throughout the country, we have studied a number of consumer advocate agencies, some of which have not been successful and some of which have been bounced out of power, if you will. One of which is in Idaho, the other is in Utah, which has been totally emasculated in its efforts to protect the consumer. It was our purpose, however, to provide an adequate staffing level for an agency that was here to do the same thing that I think we are all talking about, providing some protection in our utility rate paying structures. In doing so, we examined the North Carolina plan very closely, because it is a relatively new plan, one that hasn't received a great deal of publicity and is not a traditional plan. In our examination of that, we found that the North Carolina plan

has proved immensely successful in providing protection to rate payers, the consuming public. We are trying to provide an adequate staffing level. The sixty personnel provided in this diagram is going to provide an adequate personnel level. Now, with respect to Mr. Prengaman's question of what these other people are doing, in an agency that has an immense amount of responsibility, we struggle with that concept, too. Where we are going to put these people that have a responsibility. They do have the responsibility of the operation of the utilities and individual claims, transportation, whatever. Those people, where better to put them but in an agency who has the responsibility to be a consumer watchdog. Ultimately, everything rolls down to an executive director's decision to say 'let's get on this'. If we are going to be an advocate, let's handle all of these areas in the best interests of the public in general. All of these areas, I think, are something that eventually concern a part of our population... transportation regulations, people who move intra-state have to deal with intra-state carriers. That is a part of the Public Service Commission's responsibility to regulate those carriers. If, in turn, there is a customer complaint concerning a transportation carrier, where better to take it than to an agency that is responsible for protecting the consuming public. That is the reason we place those agencies under this directorship. It is a whole concept of advocacy for the individual customer, all of these types of services. That is the reason we adopted this proposal. I am sure that there are a number of parts of the legislation which will need to be changed. In the legislative plan, this draft gives us flexibility in dealing with the problem, the Initiative does not. With the Initiative, we have all or nothing. With the legislative proposal, we can work with it and we can change it to the needs of the people of our state as dictated by your direction.

Mr. Dini asked that in any way under this structure will the Public Service Commission draw from the staff of the consumer representative agency?

Mr. Herring said that that was a question that came up in the ACR committee meetings, as to whether there would be some inter-relationship passage of information. I am a defense attorney - the state public defender. Obviously, my thought on that, and our understanding of this legislation, would be 'no'. We don't want anybody backdooring the Public Service Commission. We don't want that information flowing from one side without the other side having it available to them. It is unfair. As a defense attorney, I'm going to be outraged by a prosecutor who goes in to the judge's chambers and says 'Look, Judge, here's the way I see it'. Or, in this case, let's equate the Public

Service Commission and staff to a defense attorney representing you and I. I am going to be outraged by them taking a personal initiative and going in with private communications.

Mr. Dini asked how the Public Service Commission is going to analyze the rate increase proposed by a utility without this support staff which is in the other agency.

Mr. Herring said that our perception of the Public Service Commission is that it is a quasi-judicial agency. They are up there to hear facts and if you go to a Public Service Commission meeting, there is a great deal of testimony and evidence presented in those meetings. They take a transcript of the proceedings just like here today, and that is their responsibility to analyze the evidence as presented to them, and for that purpose, we have left them with a small technical staff to go over financial accounting procedures and provide the customer with a decision. That is their province, to make a decision.

Mr. Mello stated that he cannot see much difference between this and what we already have today, other than the fact that you are taking a lot of the support staff of the Public Service Commission and taking them away from the Public Service Commission. I perceive that if this is adopted, the Public Service Commission will come back next session and say that they do not have proper support staff, and they will be adding more to this particular diagram you have here. That's the problem that I have with this, I really don't see that we have any more with this than what we presently have. The Public Service Commission just hasn't used the Nevada statute to their benefit.

Mr. Herring said he had a different perspective on that, simply because of the adversary relationship I'm in everyday. If I had to work for a judge and he had power to fire me, obviously, that's going to temper my presentations. And that is what currently exists under the Public Service Commission. Bad counsel is hired and fired by the commissioners. That is a significant factor in our choice of this particular plan. Free the Public Service Commission from the administrative control and administrative control of the staff. Once again, we perceive them as a quasi-judicial agency. They are there to make decisions, not hire people to make presentations to the Public Service Commission. That is our perception of that problem.

Mr. Mello indicated he understood. He also said: I understand the problem we have had with the Public Service Commission. I have gone over their budgets numerous times.

Mr. Craddock asked what functions would Mr. Herring view the engineering service groups indicated on the diagram as doing.

Mr. Herring said that the benefits have to be considered long term. In the North Carolina experience, that proposal was for a long term separation of powers of the existing public service commission. The consumer was to be ultimate beneficiary of the expertise that already existed in the public service commission staff. We have engineers currently on line serving you and I, supposedly, under the Public Service Commission guidelines. Those people have expertise. They currently testify, offer expertise to the Public Service Commission in the rate hearings. That's their job and we expected by using the currently existing personnel and their expertise, it would be significantly more efficient for you and I.

Mr. May asked if the chairman of the Public Service Commission or members thereof serve at the pleasure of the Governor or are they term appointments?

Mr. Herring advised that they are term appointments.

Mr. May then said he would make a hypothetical case. Let's say that state "X", under the proposal before us, has a new agency director serving at the pleasure of the Governor. Let's say he comes on board and does a super job and he begins to instill a feeling of confidence back in the voters of the state. Now at this point, both agencies being appointed by the Governor, the Public Service Commission comes to the Governor and starts saying that your office over here is putting too much heat, so let's shut them down a little bit. But, of course, elections are coming close and the governor has some tough decisions to make. I'm not trying to belabor a point, but I see lots of problems where you have both of those positions under the very same jurisdiction and I hope that the chamber will allow us to get into it as everyone begins to peruse this in further detail. It's a philosophical thing that I have described, but there could be problems with it.

Mr. Herring said: I understand that and I am not too sure that the Governor's committee didn't have the same types of problems in analyzing it. However, in my estimation, and this is a personal feeling, I believe that the director of this agency should also receive a term appointment, as opposed to serving at anybody's pleasure, which is similar to what has been proposed in the Initiative. I find real difficulty in an adversary position. We are going to be out there fighting in the trenches, so to speak, and an individual who does not have job security will have problems. I feel that as a state public defender. I like to believe that I have job security, to know that if I do something unpopular, nobody's going to jerk me up by the short hair and say, 'O.K., Mr. Herring, we've had enough of your lip today'.

Mr. Dini asked if there were any additional questions. This was the end of Mr. Herring's testimony.

Mr. Dini called a ten-minute recess at 9:40 A.M.

Mr. Dini called the meeting back to order at 9:50 A.M. He indicated that the next presentation would be made by Mrs. Westall, who was on the interim study group and a prime sponsor of some legislation at this session.

Mrs. Westall stated that the ACR sub-committee had several of the points that they wanted to see in a bill. The main one was total and utter separation of the agencies from the Public Service Commission. She stated that she believed that this is the only way the public would have any confidence in the agency. Mrs. Westall indicated that they wanted to be sure that each of the agencies, the Public Service Commission and the consumer agency, had adequate staff. The third thing was that they did not want it to cost a fortune. They didn't feel that any more of the money should have to come out of the consumers' pockets in order to save them any because that would be no savings whatsoever. The other thing that was urgent was that the Public Service Commission had the ability to sue, but how can you win in a court if you did not have a presentation during the hearing because the only thing the court is able to look at is the hearing's minutes.

Mrs. Westall said that to answer Mr. May's question, it was at her insistence that the bill have the director serving at the pleasure of the Governor. Mrs. Westall further stated that her thinking was that she wanted him to be able to be fired today if he isn't doing an adequate job. One of the problems that the public has had is the fact that they haven't had any faith in the commissioners and yet they have a four-year term, and nobody wants to fire someone when you have hired them for a term, so this was at my insistence. Mrs. Westall stated that she disagreed with the comments that have been made that twenty is not enough for the Public Service Commission or that sixty is either not enough or too many for the agency. Mrs. Westall stated that they wanted to leave the Public Service Commission with adequate staff to analyze both of the presentations from the utilities and from the agencies and she stated that she felt that the twenty was adequate to do that. She stated that the agency would be doing the investigating and the Public Service Commission the analyzing only. She indicated that they wanted the Public Service Commission to serve as a judge only, and not the judge, the jury and the defense. She indicated that nobody could do that. Mrs. Westall stated that the Governor's bill does all of these things and it goes a little

bit farther to something that they had not considered or discussed in the hearing that the committee had. One of the things was that his bill removes the Public Service Commission from being sued. When you have a judge situation, you don't sue the judge. You go to a higher court. The higher court would be the state courts from the Public Service Commission. It would first go to the Public Service Commission. If we were dissatisfied with it, we would go to the state court which would be the higher one. Mrs. Westall indicated that she had thought a great deal about this, as most everyone knows. She stated that this was the big item that she had been working on ever since she was first elected and that to her this was the best and the most workable plan that she or anyone else has presented thus far.

Mrs. Westall stated that this bill also, as someone mentioned, put everything into the consumer agency. She indicated that it was her feeling that this is the proper place because, again, you don't want the Public Service Commission acting as a judge, a jury and a defense attorney. Consumers are also affected by transportation costs; they are also affected by just about everything that the Public Service Commission handles. She stated that it would be easier to put it into one agency than having a part of it in the Public Service Commission and part of it in the consumer agency. Mrs. Westall said that it would be more economical and it would be more efficient. She stated that it would be easier to deal with and anything that is a complicated thing isn't going to be easy to deal with.

Mr. Dini asked Mrs. Westall what her thoughts were on the Attorney General versus the Governor being the agency. Mrs. Westall stated that her feeling was that when you are dealing with politics, it doesn't make two cents' worth of difference who the appointing agency is. This simply would follow along with the other agencies who are appointed by the Governor. She indicated that that was her thinking.

Mr. Dini asked the committee if they had any questions for Mrs. Westall. Mr. Redelsperger asked what the total staff was that the Public Service Commission had. He asked whether it was eighty and also asked if we were taking sixty and leaving the other twenty as the review?

Mrs. Westall stated that the answer to Mr. Redelsperger's question was 'yes'. Mrs. Westall indicated that the plan first called for the Public Service Commission being able to ask an agency for help and she again said absolutely 'no' - that that was another one of the things that she was adamant about. She wanted a total separation.

Mr. Mello asked the Chairman of the Public Service Commission to at least clarify the question in regard to this, as to what his present staff is. Mr. Mello stated that the question has been asked more than once and indicated that the Chairman of the Public Service Commission was in the audience and, perhaps, the Chair would allow him to tell us how his staff varies from the chart.

Mr. Dini indicated that he would appreciate it and stated that Mrs. Westall would finish her presentation. Mrs. Westall said that her presentation was completed and inquired of the committee if there were any other questions before she left.

Mr. Prengaman stated that there was no provision in the chart that the committee had under the interim study committee proposal and he was wondering if the funding was going to come from the mill tax levy.

Mrs. Westall stated that the funding was to come from the mill tax levy.

Mr. Dini asked if Heber Hardy of the Public Service Commission, who was in the audience, could answer the question for the committee about his present staff.

Mr. Hardy stated that their present authorized staff was about 71. He stated that the Governor's proposal has a total of 80 positions. He indicated that it is a little difficult to give the details as he did not come prepared for that. He stated that they were proposing to add some new positions and when they get to the net results, they are asking for a total of nine positions under their present structure. He indicated that they started from the premise of the Cresap Report as to what the commission ought to do on those recommendations. A copy of the report is attached hereto as EXHIBIT F. That was the budget they presented. They were very concerned about not having some professional staff to assist the commission. That is where approximately four of the new positions come from. Also, under the Cresap Report, they suggested that we have a senior analyst for utility operations. That's a new position. He also indicated that additional staff counsel is a new position under the recommendations of the Cresap Report so there were a lot of factors going into this and so, maybe, to answer this question, the net increase is approximately nine more positions under the current existing structure.

Mr. Mello indicated that that was exactly the number that the Governor was requesting under his proposal. Mr. Mello asked that if the Public Service Commission had 71 now and was going to hire nine. Mr. Mello stated that it appeared to him that what he was doing in the chart was coinciding with Mr. Hardy's budget

requests for this session and asked Mr. Hardy if that was correct.

Mr. Hardy stated that the Governor's committee asked them to take their present staff and indicate some proposals as to what positions should be transferred to the new agency. Mr. Hardy indicated that they would be prepared when the committee went further into the hearings that they would be going into a lot more detail. Mr. Dini asked Mr. Hardy if the committee could have a copy of the Cresap Report.

Mr. Hardy stated that they had copies given to the study committee and said that he did not have any more copies but would have some made. Mr. Dini asked Mr. Hardy for eleven copies. Mr. Hardy indicated that Mr. Hohmann would prepare the copies of the Cresap Report for the committee.

Mr. Polish indicated that Mr. Hardy had mentioned the numbers of people he had on his staff and what is proposed, but wanted to know if Mr. Hardy could give us any figures on some of the assistance and outside contractual services that they would be looking for on expertise. Mr. Polish asked if that was done.

Mr. Hardy stated that 'yes, they did and they did a substantial amount of that. Their presented budgeted amount is in the neighborhood of \$175,000 per year'. He also indicated that they would probably use the goodly portion of that this year.

Mr. Dini asked if Senator Getto would care to testify next.

Senator Getto thanked the committee for the opportunity of appearing before the committee. He indicated that he was the chairman of the committee and then in respect to Assemblyman Westall, who pointed out that she was a forerunner in the resolution and had worked on this area very hard, he deferred to her to introduce the package of bills.

Senator Getto stated that he would like to go over what the committee did. He stated that they held five hearings throughout the state, the first one in Carson City, one in Las Vegas, one in Reno, one in Fallon and the last one in Carson City. The hearing in Reno really got some public input. They filled the City Council Chambers and they were standing outside. It was as a result at that time of a lot of emotion and a lot of feelings about the hearing that was going to be held and the high rates, etc., and so they did have a lot of very good public input. In the last committee hearing they held which was not supposed to be a committee hearing, but which was supposed to be a workshop, there was some public feeling and the two groups - the Concerned Citizens, State of Nevada and Citizens for Affordable Energy wanted

to be heard, so we did take testimony from both of the groups and as mentioned before, we did compromise and when we adjourned that meeting I thought that we had a compromise between the Citizens for Affordable Energy, the Concerned Citizens and the members of the committee. But I found out a few days later that one group did not agree. The bills have been discussed and Mr. Getto indicated that he had not seen the proposed bill but he pretty well understood what was in it. He stated that he would like to point out that the committee really take a look at both of the proposals and really look closely at making a separate customer representation organization. Senator Getto stated further that he supported it and that it could be defined. He commended all of the people who had worked on the Initiative Petition. He indicated that he saw some problems, one of which was that it was not a very efficient manner in which to go because you are still going to have the present Public Service Commission and then you are going to have this group. There is no way that the consumer advocacy could be effective and work under the proposed budget they are talking about. They were talking about reviewing applications filed in the Public Service Commission by all electric, natural gas, water, telephone utilities and proposed changes in rates and you are talking about engineers; you are talking about expertise in all these different areas. There is no way that you can have an agency that is going to be effective for less than \$700,000 to \$1,000,000. Stop and think about it. Realistically, it just can't work. Senator Getto stated that if this is going to become effective wherever it is, it is going to have to be an agency that is equipped with the expertise and the ability to perform a service for the public. Senator Getto asked the committee to look at this realistically.

Senator Getto indicated that Peggy Westall mentioned a very strong point that the committee felt, and that point was that there be a complete separation of the Public Service Commission, the commissioners and the customer representation agency. That was one of the very strong points that were compromised, but that came out of the committee very strongly. The other point that had been mentioned several times that does make this group more effective is the fact that they will have the right to appeal and at the present time, the industry, if they do not agree with what the commissioners do, can appeal a decision. But, with the Public Service Commission Staff there is no way, so it's dead. This way, the customer representative agency will have the right to appeal and can do so for the customer. These are the points that I think are strong points that were brought before the committee. I might mention that there are five or six resolutions that are not mandatory, but are in areas of saving energy. All of you have a committee report. Senator Getto indicated that his testimony was now completed.

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Mr. Dini asked Senator Getto if he had any strong feelings about the Governing being the appointing authority or the Attorney General

Senator Getto stated that you have a conflict in both areas. For instance, in Section 3 which is in the law that the Attorney General's deputies are the legal people for the Public Service Commission. Then if you set up this other agency, you would have to hire outside counsel to be the legal people for the customer representative agency.

Mr. Dini asked Senator Getto if this would not have to be done either way.

Senator Getto stated probably, yes.

Mr. Dini stated that they would be adversaries in the court case.

Senator Getto stated that Mr. Dini was correct and that it would have to be done either way.

Senator Getto stated that he felt that we were deviating from the executive authority, in other words, the Governor is the chief executive of the State and then you start giving some other entity executive powers, it is a different direction than we have gone before.

Mr. Dini indicated that he would like copies of the minutes dealing with the Committee. A copy of the minutes are attached hereto as EXHIBIT G.

Mr. Sam Hohmann indicated that he would supply the committee with copies of the aforementioned minutes (EXHIBIT G).

Senator Getto stated that there was one more point that he wanted to make as far as his feelings about this. He said that if you will look at the budget, which, of course, would be Ways and Means, he had a strong leaning towards hiring expertise people when you need them. He said that if you will recall at the last large rate increase request from Sierra Pacific they did hire a very top notch expert and he was, Mr. Hohmann thought, very effective. It is not within our means of salary structure to hire these kinds of people.

Mr. Dini asked Mr. Hohmann if he had a presentation he wanted to make.

Mr. Sam Hohmann of the Research Staff testified next. He stated that what he had put together for this committee because he had worked with the interim study committee, was a table with the basic provisions of the proposals. The table is attached to the minutes of this meeting as EXHIBIT G. Mr. Hohmann stated that some of the things he summarized are the basic provisions of these proposals. Some of them have more provisions than others. In terms of comparison, Mr. Hohmann stated that he thought that the committee would find that the Legislative Commission Subcommittee proposal is very

similar to the governor's proposal in the things it does cover, although the governor's proposal is more extensive. Beyond that, Mr. Hohmann indicated, that the table was self-explanatory. Mr. Hohmann stated that the Research Division was available to all of the committee members.

Mr. Dini indicated that testimony was concluded for today.

Mr. Dini informed the committee that next Wednesday, February 4, 1981, at 8:00 A.M., the Committee would conduct public hearings. The general public is invited to these hearings. They will have had enough time to see the bills and the general public will then be able to come and testify as to their concerns. Mr. Dini indicated that the meeting would be held in the Senate Hearing Room 131.

BDR 23-221*. Dealing with collective bargaining by local governments.

Mr. Dini stated that this is a restrictive bill that the cities and counties want to put on defining a supervisory employee where they are having some problems. It is controversial. It is probably one of many bills we are going to have on collective bargaining for public employees.

Mr. May moved for committee introduction of BDR 23-221, which was seconded by Mr. Schofield. The motion was unanimously carried.

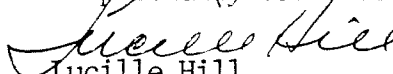
Mr. Dini stated that next week the Committee would meet on Tuesday, February 3, 1981 handling four or five resolutions and bills that we have in committee and Wednesday, February 4, 1981 the committee would have the public hearing on this Public Service Commission. Mr. Dini stated that in the meantime, he would appoint a subcommittee because we have a fine committee and it is large. They will handle the legislative package that is going to come out of the Assembly.

Mr. Dini appointed Mr. Mello as Chairman of the subcommittee, Mr. Schofield was appointed Vice Chairman of the subcommittee and Mr. May, Mr. Prengaman and Mr. Redelsperger were appointed to the subcommittee to deal with this matter.

Mr. Dini asked if there was any other business to be brought before the committee.

There being no further business to come before the Committee, the meeting adjourned at 10:20 A.M.

Respectfully submitted,


Lucille Hill
Assembly Attache

* AB 55

INDEX OF EXHIBITS

Meeting of January 28, 1981

- Exhibit A - Presentation of testimony by Randolph Townsend.
- Exhibit B - Statement from Richard Bryan, Attorney General.
- Exhibit C - Prepared outline of Governor's proposal in chart form that describes the structure of the retained Public Service Commission and the newly created utility customer representative agency.
- Exhibit D - Outline of Governor List's Proposal to establish an agency for utility customer representation presented by Mr. John Capone
- Exhibit E - Copy of Assembly Bill 58.
- Exhibit F - Copy of The Public Service Commission of Nevada Report of a Comprehensive Study (The Cresap Report).
- Exhibit G - Copy of the Minutes of the Legislative Commission's Subcommittee to Study the Public Service Commission of Nevada (A.C.R. 22) dated August 29, 1980, supplied by Mr. Sam Hohmann.

Coalition for Affordable Energy

P.O. Box 10034 • Reno, NV 89510 • (702) 786-1455, 826-7333

PRESENTATION TO

Nevada State Senate, Committee on Commerce and Labor, 61st Session, 1981
Hon. Thomas R.C. Wilson, Chmn.

Nevada State Assembly, Committee on Government Affairs, 61st Session, 1981
Hon. Joseph E. Dini, Jr., Chmn.

January 28, 1981

Mr. Chairman, members of the committee, and honored guests.

On behalf of the Coalition for Affordable Energy and the more than 38,000 Nevada registered voters who signed the initiative petition now before this body, we thank you for the opportunity to be heard on this day.

The signors of our initiative petition represent more than 15% of the registered voters of Nevada, and they came from all of Nevada's 17 counties. The abovementioned 38,000 signatures were gathered in a period of exactly 90 days from September to December of 1980.

The petition is very specific: It asks you, our legislature, to create an office of consumer advocacy under the Attorney General to represent all rate payers---residential, commercial, industrial and institutional---in any proceedings which may affect the rates of electric, natural gas, water or telephone utilities.

The initiative introduces several new-to-Nevada safeguards which our research has determined will help to ensure the effectiveness of the office, and which will do as much as possible to take politics out of its establishment and function.

We will summarize the high points of the initiative in another section, but first we would like to clear up some of the misconceptions which have arisen about the nature of our proposal.

MISCONCEPTIONS ABOUT THE INITIATIVE: CLEARING THE AIR

(1) It does not address the structure of the Public Service Commission of Nevada in any way whatsoever. Any assumption to the contrary is erroneous.

(2) It won't cost \$700,000 per year: The Coalition has never alleged this. If you will refer to the four sample budgets attached, you will note that the cost of the highest budget is nowhere close.

(3)"It creates a new and unnecessary bureaucracy." Again, look at the attached budgets, and you will see employment of four to seven people. This is about as small as any organization of any kind can be.

MAJOR POINTS OF THE INITIATIVE PETITION:

(1) LEGISLATIVE CONFIRMATION OF THE HEAD OF THE OFFICE:

The Attorney General would screen qualified candidates and make a nomination to the Legislature. The Legislature would have to confirm his nomination. He would serve at the pleasure of the Attorney General. Hence, he would have maximum incentive to perform his functions efficiently. If confirmation proceedings become necessary when the Legislature is not in session, the Legislative Commission would have the responsibility.

(2) MANDATORY FUNDING FROM EXISTING SURPLUS MONIES:

The Public Service Commission Regulatory Fund currently has a surplus of more than \$1,000,000.00. The funds are earmarked for the utility area, and are not moved to the general fund at the end of a fiscal year. The money comes from the 2-1/2 mill per dollar levy in public utility revenues, and is the way the PSC pays its expenses. The mill tax money is being paid and will continue to be paid in the future. Establishment of an office of consumer advocacy would simply give ratepayers REPRESENTATION in return for this ongoing TAXATION.

PLEASE BE AWARE THAT THE INITIATIVE ADVOCATES USE OF SURPLUS FUNDS---
NOT A GENERAL TAX INCREASE.

The initiative mandates funding of no less than 1/2 mill and no more than one mill. This is not a "must spend" provision. The Legislature will approve the budget of the office like any other. This language is merely an insurance policy that the office will have the money to function as it is intended by the people of the State of Nevada. It cannot be gutted with an appropriation of \$100 per year.

The cost for such an entity would be cheaper than the cost of refunding the mill tax surplus to ratepayers. For a household paying \$1,000 per year in intrastate utility bills, 1/2 mill would equal 50¢ annually.

The cost savings to ratepayers can be little short of spectacular. In many instances, rate increases granted have been below the levels actually recommended by utility commission staffs.

(3) SEPARATION OF POWERS:

The Governor's office has purview over the Public Service Commission of Nevada. Placing the Office of Consumer Advocacy under the Attorney General will provide a separation of power which will be healthy and constructive to full exposure of all the issues in every case. To use a judicial example, the judge and the defense attorney should not have the same boss.

(4) THE JUDICIAL ANALOGY: A FLAWED COMPARISON.

Much has been made of the comparison between the Public Service Commission of Nevada and a judge; between public utilities and prosecutors; between consumer advocates and defense attorneys. The analogies which have been brought forward are useful, but are not complete.

People tend to forget that the Public Service Commission is a quasi-judicial body at best. Moreover, they tend to forget WHY it is a quasi-judicial body. The reason is that it also has POLICE POWER.

This is explicitly stated in NRS 703.155. Here are some excerpts: "The commission and its inspectors have police power for the enforcement of all regulations of the commission...The commission and its inspectors are peace officers for the enforcement of chapters...of NRS...Inspectors may carry firearms in the performance of their duties."

While the above may seem humorous, it is the law of the state of Nevada, and serves to underscore what is perhaps the most important consideration in the entire debate over this issue: The Public Service Commission of

Nevada has REGULATORY duties as well as judicial duties. It is here that the often-used judicial analogy loses its application. A judge is not and should not be a police force. The Public Service Commission of Nevada is such a body. It is hence quasi-judicial, and that is as it should be.

The duties of a judge are very specific and narrowly-construed: making impartial statutory and equity decisions based largely upon the use of precedent.

The duties of a Public Service Commission not only deal with questions of law, but also of economics, engineering and accounting. These are matters that require specific knowledge and expertise of a non-judicial nature. They are matters of a regulatory nature: matters that fall under the purview of regulatory/police power.

Cost of service and rate design are economic considerations. Rate of return is a financial consideration. Plant construction and pipeline costs are accounting and engineering considerations. District Court judges in Nevada do not need to be trained as engineers. Public Service Commission staff must be. And that is as it should be.

As a frequent critic of consumer advocacy has stated, "...auditors simply cannot be advocates, and conversely, advocates cannot be auditors; the functions are professionally incompatible."*

A public utility commission is a quasi-judicial body: it performs the duties of a judge, and of a police department. A judge could conceivably become a defense attorney. But could a police department make the transition? More to the point: would you want it to?

*From The Valley Times, Monday, Sept. 22, 1980, page 4, section A; "Consumer Representation Before the PSC---Part 2", by C.H. McCrea, executive vice president and general counsel of Southwest Gas Corp; the full text appears in the attached exhibits.

(5) The Division of Consumer Advocacy belongs in the Office of the Attorney General:

In our review of how this issue has been addressed in other jurisdictions, we have compiled some very interesting data. In 20 other jurisdictions (19 states and Guam), consumer advocacy is under the attorney general. In 14 other jurisdictions, consumer advocacy is handled by independent bodies, usually under the legislature or a state department such as a department of commerce or consumer affairs. Only in three states is there any sort of precedent for having consumer advocacy under the governor. Of these three, there is one state in which the attorney general still intervenes in rate cases.*

The facts speak for themselves.

(6) What happens if the PSC and Consumer Advocate end up on opposing sides in court?

In the rare instance that this should occur, the initiative provides for independent counsel for the PSC. However, our research has shown that deputy attorneys general face each other in legal proceedings in Nevada all the time with no problem. An example is the state environmental protection division and the state department of agriculture. The attorneys involved simply are kept separate.

There is legal precedent in other jurisdictions with respect to deputy attorneys general in court on utility matters such as this, and the courts have held that there is no conflict. (This happened in Michigan).

If there was ever a reservation here, the initiative addresses it by providing a separate counsel. Even without this provision, there does not seem to be a problem here, based upon Nevada precedent, and by precedent in other jurisdictions.

*From Schwartz and Stevenson, see attached budgets which follow

SUMMATION

We cannot comment on the proposal for restructuring the Public Service Commission of Nevada as proposed by the Hon. Robert List, Governor of Nevada. We have not read it, and thus do not feel it would be proper to comment based only upon press accounts and a single press release from last August.

We have begun review of the Governor's budget for the revamped PSC and for the proposed Department of Utility/Transportation Customer Representation.

What we can speak to is the fact that the citizens of this state--- the voters and ratepayers---have expressed a strong desire for action. Over 38,000 of those voter-ratepayers have expressed their desires...in writing.

The key issue here is not new bureaucracy vs. expanded bureaucracy. The issue is how to make bureaucracy responsive to the needs of those who pay for it.

IT IS A PROBLEM OF ADMINISTRATION. As you begin your duty to make critical decisions on this most-important of matters, we ask you to ask yourselves some critical questions:

What is a new bureaucracy?
Is it defined by more people? More money? Or both?

We ask you to review what is before you today critically and impartially---judgementally, if you will.

And after you have reviewed it all, we will ask you to

TAKE THE INITIATIVE.

You be the judge.

THREE PROPOSED CONSUMER ADVOCACY BUDGETS UNDER THE OFFICE OF THE ATTORNEY GENERAL

Prepared by David S. Schwartz, PhD, Bethesda, MD
and Rodney E. Stevenson, PhD, U. of Wisconsin

OFFICE TITLE	BARE BONES BUDGET	AVERAGE SALARIES BUDGET	ABOVE AVERAGE BUDGET
Director	\$40,000.00	\$40,000.00	\$42,000.00
Legal Assistant #1	22,500.00	22,500.00	25,000.00
Legal Assistant #2	22,500.00	22,500.00	25,000.00
Public Utility Specialist *	38,000.00		
Chief Economist		\$32,000.00	37,500.00
Chief Engineer		35,000.00	40,000.00
Senior Auditor with financial background		35,000.00	40,000.00
Legal Secretary	<u>14,000.00</u>	<u>14,000.00</u>	<u>15,000.00</u>
TOTAL SALARIES	<u>\$137,000.00</u>	<u>\$201,000.00</u>	<u>\$224,500.00</u>
TOTAL ON STAFF	<u>five (5)</u>	<u>seven (7)</u>	<u>seven (7)</u>
Contract Services	\$125,000.00	\$100,000.00	\$150,000.00
Operation Expenses	<u>35,000.00</u>	<u>50,000.00</u>	<u>50,000.00</u>
TOTAL EXPENSES	<u>\$160,000.00</u>	<u>\$150,000.00</u>	<u>\$200,000.00</u>
TOTAL SALARIES PLUS EXPENSES, (annual)	<u>\$297,000.00</u>	<u>\$351,000.00</u>	<u>\$424,500.00</u>

*This is a position requiring a person with broad experience, having formal training in at least one, and having had practical experience in all of the following related disciplines: Economics, Law, Accounting, Engineering.

Agency Submitting Office of the Attorney General

Revenue and/or Expense Items	Fiscal Year 1978-79	Fiscal Year 1979-80	Fiscal Year 1980-81	Continuing
Series		78,954		
Age benefits at 15%		11,843		
Level		6,500		
Equipment		3,626		
Supplies		4,200		
Contractual				
(Consulting services)		52,800		
Other		13,200		
Total		171,123	171,123**	

Explanation (Use Continuation Sheets If Required)

*Please see attached budget breakdown, which was roughly based on 60% of the 1979 budget figures for the Arkansas Attorney General's Division of Energy Conservation and Rate Advocacy

**The total funds required have been projected to fall within the amount that can be generated from a 1 mill levy on the intrastate operations of Nevada utilities for deposit in the PSC Regulatory Fund, which has been assumed to be the source of funds for the proposal in A.B. 364.

Local Government Impact YES NO
(Attach Explanation)

Signature *Mary D. Stueve*
Title Chief Deputy Attorney General

DEPARTMENT OF ADMINISTRATION COMMENTS

Date _____

Signature _____

Title _____

LOCAL GOVERNMENT FISCAL IMPACT
(Legislative Counsel Bureau Use Only)

Date _____

Signature _____

Title _____

PROPOSED F.Y. 1979 BUDGET FOR DIVISION FOR PROTECTION OF UTILITY CUSTOMERS

Personnel

Director-Attorney	\$27,069	
Rate Specialist or Accountant	25,000	
Research Assistant	14,885	
Secretary (Legal Steno)	<u>12,000</u>	
Total		\$ 78,954
Fringe Benefits at 15%		11,843

Travel

Long-distance Trips (out of state)	\$ 5,000	
Instate travel	<u>1,500</u>	
Total		6,500

Equipment

3 stations in Attorney General's Office		3,626
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Supplies

Consumables	\$ 900	
Telephone	2,160	
Postage	<u>1,140</u>	
Total		4,200

Contractual consulting services of expert witnesses		52,800
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Other copying, research materials and publications, internship program and rent		<u>13,200</u>
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GRAND TOTAL		<u>\$171,123</u>
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Ed Schorr, Deputy Fiscal Analyst
Legislative Counsel Bureau
Fiscal Analysis Division

3/14/79

Attorney General's Office

Fiscal Note for DDR #18-1017; A.B. 364

Pursuant to your request of March 5, 1979, please find attached an estimated fiscal note for fiscal year 1979-80 and fiscal year 1980-81, concerning a proposed division for protection of utility customers in the Attorney General's Office. As I indicated to you on the telephone, the attached fiscal note has been based on an estimate of expenditures to operate the proposed division, based on the experience in the state of Arkansas, which has established a division of energy conservation and rate advocacy within the Attorney General's Office. The attached figures were calculated on the basis of the revised F.Y. 1979 budget for the aforementioned division in the state of Arkansas.

During testimony on A.B. 364 before the Assembly Judiciary Committee, Attorney General Bryan indicated that the source of funding for the proposed division should be the Public Service Commission Regulatory Fund established in accordance with Chapter 704 of the Nevada Revised Statutes. The attached budget was prepared with the view that the total amount would not exceed the revenues generated by 1 mill on each dollar of gross operating revenue derived from the intrastate operations of Nevada Utilities. Apparently, there is authority to levy 4 mills at the present time, though the Public Service Commission has levied less than this amount for the past few years.

In addition, there is the possibility that federal funds could be received by the State of Nevada to fund a consumer advocate position, which occurred in the state of Arkansas.

Please advise if you have any further questions.

Larry Struve
Chief Deputy Attorney General

LS:jc

Attachment

cc: Howard Barrett

<u>PERSONNEL</u>		<u>TOTAL</u>
Director	\$ 25,517	
Economist (90% of full salary)	21,600	
Attorney	20,000	
Research Assistant I	14,000	
Research Assistant II	12,000	
Administrative Assistant	14,000	
Secretary	10,350	
	<u>109,792</u>	
Fringe (@ 20.8%)	22,837	
Extra Help	4,000	
		\$136,629
 <u>TRAVEL</u>		
Long Distance Trips	9,000	
Local Trips	1,000	10,000
 <u>EQUIPMENT</u>		
	6,000	6,000
 <u>SUPPLIES</u>		
Consumables	1,500	
Telephone	3,600	
Postage	1,900	7,000
 <u>CONTRACTUAL</u>		
Consumer Group funding	27,000	
Attorney General funding	60,197	
Computer services	1,500	88,697
 <u>OTHER</u>		
Copying	4,000	
Research materials and publications	2,000	
Project evaluation	2,000	
Internship program	4,800	
Rent	9,000	21,800
		<u>21,800</u>
	TOTAL DIRECT COSTS	\$270,126
	TOTAL INDIRECT COSTS	0
	TOTAL BUDGET REQUEST	\$270,126

SUMMARY--Creates office of representation to represent customers of public utilities in matters before the public service commission of Nevada. (BDR 58-121)

Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to public utilities; creating the office of representation to represent the interests of customers of public utilities in matters before the public service commission of Nevada; 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 6, inclusive, of this act.

Sec. 2. The office of representation is hereby created for the purpose of representing customers of public utilities in matters before the commission and for initiating judicial review of decisions by the commission in cases where the office determines that an appeal is merited.

Sec. 3. The governor shall appoint the administrator of the office of representation, subject to confirmation by the legislature at each legislative session.

Sec. 4. The office of representation shall:

1. Examine the basis for all proposed increases in rates or proposed modifications of service by public utilities before the commission.

2. Request a hearing for any proposed rate increase or proposed modification of service by a public utility which, based upon its research, the office deems unreasonable or unjustly discriminatory.

3. Present in the appropriate court an appeal from any order of the commission fixing the rates of or approving the modification of service rendered by a public utility or an appeal from a judgment upholding such an order if, in the opinion of the office, an appeal is merited.

4. Represent the interests of utility customers in all hearings requested pursuant to subsection 2 and in all appeals brought pursuant to subsection 3.

Sec. 5. 1. A division of customer relations is hereby established within the office of representation.

2. Pursuant to regulations adopted by the office of representation, the division of customer relations shall:

(a) Receive and investigate complaints made against any public utility, motor carrier or broker;

(b) Conduct appropriate investigations of the service practices of utility companies and motor carriers and brokers;

(c) Perform such other functions as are required by law or as the office of representation deems appropriate.

Sec. 6. The division of customer relations shall prepare and publish pamphlets and other descriptive material which:

1. Contain information about the office of representation and the public utilities under its jurisdiction.

2. Encourage the conservation of energy.

Sec. 7. NRS 703.130 is hereby amended to read as follows:

703.130 1. The commission shall appoint a deputy commissioner who shall serve in the unclassified service of the state.

2. The commission shall appoint a secretary who shall perform such administrative and other duties as are prescribed by the commission. The commission shall also appoint an assistant secretary.

3. The commission may employ such other [clerks, experts or engineers as may be necessary. Employees in the unclassified service of the state shall receive annual salaries in amounts determined pursuant to the provisions of NRS 284.182.

4. The compensation of the secretary and other employees shall be fixed in accordance with the provisions of chapter 284 of NRS.] personnel as are necessary to perform its duties.

Sec. 8. NRS 703.145 is hereby amended to read as follows:

703.145 1. Any public utility or common or contract motor carrier subject to the jurisdiction of the commission which elects to maintain its books and records outside the State of Nevada [shall,] must, in addition to any other assessment and fees provided for by law, be assessed by the commission or the office of representation, respectively, for an amount equal to the travel

expenses and the excess of the out-of-state subsistence allowances over the in-state subsistence allowances [, as fixed by NRS 281.160,] of commission members and staff [, for] or of employees of the office of representation, for investigation, inspections and audits required to be performed outside this state

2. The assessment provided for by this section [shall] must be determined by the [commission] investigating agency upon the completion of each such investigation, inspection and audit, and [shall be] is due and payable within 30 days of receipt by the affected utility or common or contract motor carrier of the notice of assessment.

3. The records of the commission or of the office of representation relating to the additional costs incurred by reason of the necessary additional travel [shall be] are open for inspection by the affected utility or common or contract motor carrier at any time within [such] that 30-day period.

Sec. 9. NRS 703.195 is hereby amended to read as follows:

703.195 Any employee of the office of representation who is designated by the office or any commissioner or any officer or employee of the commission who is designated by the commission, may examine during regular business hours the books, accounts, records, minutes, papers and property of any public utility, motor carrier or broker who does business in this state, whether or not the book, account, record, minutes, paper or property is located within the state.

Sec. 10. NRS 703.310 is hereby amended to read as follows:

703.310 1. When a complaint is made against any public utility, common or contract carrier or broker by any person, that any of the rates, tolls, charges or schedules, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the transportation of persons or property, or any service in connection therewith, or the production, transmission or delivery or furnishing of heat, light, gas, coal slurry, water or power, or any service in connection therewith or the transmission thereof is, in any respect, unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate, and the division of [consumer] customer relations is unable to resolve the complaint, the division shall transmit the complaint and its recommendation to the [commission.] administrator of the office of representation. Within 10 days after receipt of the complaint and recommendation, the [commission] office of representation shall provide the public utility, carrier or broker complained against with a copy of the complaint and recommendation. Within a reasonable time thereafter the [commission] office of representation shall investigate the complaint.

2. [If, as a result of its investigation,] The office of representation shall submit the results of the investigation to the commission. If, after a review of the facts, the commission determines that probable cause exists for the complaint, it shall

order a hearing thereof, and give notice of the hearing as required by NRS 703.320, and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing at which both the complainant and the public utility, carrier or broker are entitled to appear in person or by counsel and be heard, unless a hearing is dispensed with as provided in NRS 703.320.

Sec. 11. NRS 704.110 is hereby amended to read as follows:

704.110 Except as may otherwise be provided by the commission pursuant to NRS 704.095:

1. Whenever there is filed with the commission any schedule stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule resulting in a discontinuance, modification or restriction of service, the commission may, either upon complaint or upon its own motion without complaint, at once, and if it so orders, without answer or formal pleading by the interested utility, [enter upon an investigation or,] upon reasonable notice, enter upon a hearing concerning the propriety of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

2. Pending the [investigation or] hearing and the decision thereon, the commission, upon delivering to the utility affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule and defer the use of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice, but not for a longer period than 150 days beyond the time when the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

3. Whenever there is filed with the commission any schedule stating an increased individual or joint rate, fare or charge for service or equipment, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12-month period. The public utility shall also submit copies of the application and statement to the office of representation.

During any hearing concerning the increased rates, fares or charges determined by the commission to be necessary, the commission shall consider evidence in support of the increased rates, fares or charges based upon actual recorded results of operations for the most recent 12 consecutive months for which data are available at the time of filing, adjusted for any increased investment in facilities, increased depreciation expenses, certain other operating expenses as approved by the commission and changes in the costs of

securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of the actual 12-month result of operations; but no new rates, fares or charges may be placed into effect until the changes have been experienced and certified by the utility to the commission. The commission may also consider evidence supporting depreciation expenses, calculated on an annual basis, applicable to major electric generating plant units placed into service during the recorded test period or the certification period as set forth in the application. Within 90 days after the filing with the commission of the certification required herein, or before the expiration of any suspension period ordered pursuant to subsection 2, whichever time is longer, the commission shall make such order in reference to those rates, fares or charges as may be required by this chapter.

4. After [full investigation or] the hearing, whether completed before or after the date upon which the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice is to go into effect, the commission may make such order in reference to the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice has become effective.

5. Whenever an application is filed by a public utility for an increase in any rate, fare or charge based upon increased costs in the purchase of fuel or power, and the public utility has elected to use deferred accounting for costs of the purchase of fuel or power in accordance with commission regulations, the commission, by appropriate order after a public hearing, shall allow the public utility to clear the deferred account not more often than every 6 months by refunding any credit balance or recovering any debit balance over a period not to exceed 1 year as determined by the commission. The commission shall not allow a recovery of a debit balance or any portion thereof in an amount which would result in a rate of return in excess of the rate of return most recently granted the public utility.

6. Except as provided in subsection 7, whenever an application for an increased rate, fare or charge for, or classification, regulation, discontinuance, modification, restriction or practice involving service or equipment has been filed with the commission, a public utility shall not submit another application until all pending applications for rate increases submitted by that public utility have been decided unless, after application and hearing, the commission determines that a substantial financial emergency would exist if the other application is not permitted to be submitted sooner.

7. A public utility may not file an application to recover the increased cost of purchased fuel, purchased power or natural gas purchased for resale more often than once every 30 days.

Sec. 12. NRS 704.120 is hereby amended to read as follows:

704.120 1. If, upon any hearing and after due investigation, the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable or unjustly discriminatory, or to be preferential, or otherwise in violation of any of the provisions of this chapter, the commission shall have the power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just and reasonable.

2. If it shall in like manner be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of this chapter, or if it be found that the service is inadequate, or that any reasonable service cannot be obtained, the commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts and make such order relating thereto as may be just and reasonable.

3. When complaint is made of more than one rate, charge or practice, the commission may, in its discretion, order separate hearings upon the several matters complained of and at such times and places as it may prescribe.

4. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

5. [The commission may at any time, upon its own motion,] The office of representation may investigate any of the rates, tolls, charges, rules, regulations, practices and service, and, shall provide the commission with the results of the investigation. The commission may, after a full hearing as above provided, by order, make such changes as may be just and reasonable, the same as if a formal complaint had been made.

Sec. 13. NRS 704.240 is hereby amended to read as follows:

704.240 1. The commission and the office of representation may [, in its discretion,] purchase such materials, apparatus and standard measuring instruments for such examination and tests as [it may deem] each deems necessary.

2. The commission [shall have the right and power to] and the office of representation each may enter upon any premises occupied by any public utility for the purpose of making the examination and tests provided for in this chapter and set up and use on such premises any necessary apparatus and appliances and occupy reasonable space therefor.

3. Any public utility refusing to allow such examination to be made as [herein provided shall be] in this section is subject to the penalties prescribed in NRS 704.590.

Sec. 14. NRS 706.326 is hereby amended to read as follows:

706.326 1. Whenever there is filed with the commission any schedule or tariff stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule or tariff resulting in a discontinuance, modification or restriction of service, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own motion without complaint, at once, and if it so orders, without answer or formal pleading by the interested common or contract motor carrier, [to enter upon an investigation or,] upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

2. Pending [such investigation or] the hearing and the decision thereon, the commission, upon delivering to the common or contract motor carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or tariff and defer the use of such rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice, but not for a longer period than 150 days beyond the time when such rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.

3. After [full investigation or] the hearing, whether completed before or after the date upon which the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice is to go into effect, the commission may make such order in reference to such rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice has become effective.

4. The commission shall determine whether a hearing shall be held when the proposed change in any schedule stating a new or revised individual or joint rate, fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, will result in an increase in annual gross revenue as certified by the applicant of \$2,500 or less. In making such determination the commission shall first consider all timely written protests, any presentation the [staff of the commission] office of representation may desire to present, the application and any other matters deemed relevant by the commission.

Sec. 15. NRS 706.331 is hereby amended to read as follows:

706.331 1. If, upon any hearing and after due investigation, the rates, tolls, fares, charges, schedules, tariffs, joint rates or any regulation, measurement, practice, act or service complained of is found to be unjust, unreasonable, insufficient, preferential,

unjustly discriminatory or otherwise in violation of the provision of this chapter, or if it is found that the service is inadequate or that any reasonable service cannot be obtained, the commission may substitute therefor such other rates, tolls, fares, charges, tariffs, schedules or regulations, measurements, practices, services or acts and make such order relating thereto as may be just and reasonable.

2. When complaint is made of more than one matter, the commission may order separate hearings upon the several matters complained of at such times and places as it may prescribe.

3. No complaint may at any time be dismissed because of the absence of direct damage to the complainant.

4. [The commission may at any time, upon its own motion,] The office of representation may investigate any of the matters listed in subsection 1, and [,] shall provide the commission with the results of the investigation. The commission may, after a full hearing as above provided, by order, make such changes as may be just and reasonable, the same as if a formal complaint had been made.

Sec. 16. NRS 704.390 is hereby amended to read as follows:

704.390 1. It [shall be] is unlawful for any public utility to discontinue, modify or restrict service to any city, town, municipality, community or territory theretofore serviced by it, except upon 30 days' notice filed with the commission [,] and the

office of representation, specifying in detail the character and nature of the discontinuance or restriction of the service intended, and upon order of the commission, made after hearing, permitting such discontinuance, modification or restriction of service.

2. The office of representation shall investigate the effects which the proposed discontinuance or restriction of service might have on customers of the public utility and shall submit the findings of the investigation to the commission no later than 21 days after the filing of the notice required in subsection 1.

3. The commission [in its discretion and after investigation,] after its review of the facts presented under subsections 1 and 2, may dispense with the hearing on the application for discontinuance, modification or restriction of service, if, upon the expiration of the time fixed in the notice thereof, no protest against the granting of the application has been filed by or on behalf of any interested person.

Sec. 17. NRS 481.051 is hereby amended to read as follows:

481.051 1. As executive head of the department, the director shall direct and supervise all administrative and technical activities of the department. He shall devote his entire time to the duties of his office, and shall follow no other gainful employment or occupation.

2. The director may, within such limitations as may be provided by law, organize the department into various divisions and, from

time to time, alter such organization and reassign responsibilities and duties as he may deem appropriate.

3. The director shall:

(a) Formulate the policy of the department and the various divisions thereof.

(b) Coordinate the activities of the various divisions of the department.

(c) From time to time adopt, amend and rescind such rules and regulations consistent with law as he may deem necessary for the operation of the department and the enforcement of all laws administered by the department.

4. The director may appoint vendors to serve as department agents for the purpose of selling licenses and of collecting other fees and bonds where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of 75 cents per license or bond sold. The vendor shall collect the tax, fees and licenses provided for in chapters 366 and 706 of NRS, and pay them to the department. The vendor shall collect any bonds as required and pay them to the department. The vendor shall guarantee such payment by giving a bond to the state in such sum as may be fixed by the director. The premium on such bond shall be paid by the department. The director may appoint [inspectors of the public service commission

s
of Nevada and] inspectors of the office of representation of Nevada and Nevada highway patrolmen to serve without remuneration as vendors for the purposes of this subsection.

Sec. 18. NRS 703.290 and 703.300 are hereby repealed.

Sec. 19. Employees of the commission whose duties are assigned to the office of representation by this act are entitled to be transferred from the commission to the office of representation without loss of grade or benefits.

Sec. 20. The commission shall transfer to the office of representation possession of all equipment and records which are necessary to the functions for which the office of representation is created.



C. H. McCrea

Consumer Representation Before The PSC--Part 2

I recognize that mine is a lonely voice when I ask the legislators, in their stampede to respond to perceived residential consumer pressure, to pause momentarily to consider whether it is proper for the state to abandon its traditional role of neutral arbiter among the many competing consumer interests comprising the whole of the public interest in favor of undisguised partisanship in behalf of one of those competing consumer interests.

But once that important issue is disposed of (and it probably will be, with all too little consideration), the issues will have been narrowed to the questions of what form the new consumer advocate position shall take, where it will fit into the structure of state government and how it will be funded.

GOVERNOR LIST would reconstitute what is now the PSC staff into an independent entity, severing all administrative ties between it and the commissioners.

The staff's new assignment would be radically different; instead of being a body of normally impartial experts whose mission is to find facts, formulate dispassionate judgments and make reasoned recommendations to the commissioners, it would be charged with actively representing residential consumer interests to the exclusion of all others.

List's plan, which would strip the PSC of its entire staff, is flawed in that it apparently would leave the PSC no auditors. The trouble with this is that auditors simply cannot be advocates, and conversely, advocates cannot be auditors; the functions are professionally in-

compatible.

A **SELECTIVE** examination of a utility's books and records for the purpose of obtaining evidence to support a point of view, rather than for the purpose of determining what the records show and whether they are properly kept, by definition would not be an audit. Moreover, without an independent audit of the utilities' books and records, hearings before the PSC would be chaotic.

Currently, areas of disagreement in hearings center around what a utility's rate of return and rate design should be. Recommendations on these subjects are based upon audited figures as to which there generally is not significant disagreement. But if the basic figures are in dispute because there is no independent audit, hearings would be interminably protracted.

THE PSC must continue to have its own audit staff to inspect utility books and records. All participants in rate proceedings should have access to the staff's independent audit, and should have the opportunity to request, in advance of the audit, that the staff auditors examine and report in detail on specific accounts.

The raw material then would be available for anyone to draw conclusions and prepare recommendations to the commissioners on revenue requirements, rate design, rate of return and other matters.

The office of consumer advocate does not need auditors; what it needs are financial and rate design experts to assist its attorneys in analyzing and interpreting the data which the audit produces,

presenting their cases and cross examining utility and other witnesses.

WHILE GOVERNOR LIST proposes to create the consumer advocate office out of the PSC staff and retain it in the executive department, Reno Assembly **Tod Bedrosian** proposes the creation of an office of consumer counsel within the attorney general's department. The attorney general, whose office, responsibilities and media exposure would be expanded accordingly, enthusiastically support this approach.

Bedrosian's proposal to establish an office of consumer advocate within the attorney general's department in my view is fatally flawed. The attorney general's department is the state's law firm. Its deputies, among other things, represent the PSC. The consumer advocate undoubtedly will appeal at least some decisions of the PSC.

Therefore, if the consumer advocate should be a deputy attorney general or should report to the attorney general, this would put the attorney general on both sides of the case, creating an irresolvable and impermissible conflict of interests.

If there is to be an office of residential consumer advocate, it seems to me that it should be established as a semi-autonomous office which employs its own counsel and reports somewhere — possibly to the director of the department of commerce within the executive department.

(McCrea is executive vice president and general counsel with Southwest Gas Corp.)

To: All Nevada Registered Voters and Utility Ratepayers
From: Randolph Townsend, Chairman
Regarding: Statewide Initiative Petition (text on reverse side)

The purpose of this letter is to acquaint you with our initiative petition and to ask your support for it. The petition asks the Legislature to create an office of consumer advocacy under the Attorney General to represent all rate-payers—residential, commercial and industrial—in any proceeding which may affect rates. Gas, electric, water and telephone utilities are specifically included.

The initiative introduces several new safeguards which we feel will ensure the effectiveness of the office, and which will do as much as possible to take politics out of its establishment and function.

The major points are summarized here:

(1) **Legislative confirmation of the head of the office of consumer advocacy:** The Attorney General will screen candidates and make the nomination to the Legislature.

(2) **Mandatory funding from existing surplus monies:** The Public Service Commission Regulatory Fund currently has a surplus of over \$700,000. The funds can be used for no other purposes, and are not moved to the general fund at the end of a fiscal year. The money comes from the 2½ mill per dollar levy in public utility revenues, and is the way the PSC of Nevada pays expenses. The mill tax money is being paid and will continue to be paid in the future. Establishment of an office of consumer advocacy would simply give ratepayers representation in return for this ongoing taxation.

The initiative mandates funding of no less than ½ mill and no more than one mill. This is not a "must spend" provision. The Legislature will approve the office's budget like any other. This provision means that the office will have the money to function as it is intended. (By way of an example, for a household paying \$1,000 per year in utility bills, one mill would equal one dollar annually.)

The cost of this new office will be about \$200,000 to \$300,000 in its first year. The savings to ratepayers, based upon the record of other states, can be astounding. (Nevada is one of only 11 states that has no such office.) Alabama's office saved ratepayers over \$119,000,000 in 1978 alone for a similar investment.

(3) **Separation of powers:** The Governor's office has purview over the Public Service Commission of Nevada, which legally must sit as a judge in rate cases. Placing the office of consumer advocacy under the Attorney General will provide a separation of power which will be healthy. To use a judicial example, the defense attorney and the judge should not have the same boss.


In the rare instance that the consumer advocate and the PSC end up in court against each other, the initiative provides for independent counsel for the PSC. (This avoids having deputy Attorney Generals representing opposing sides in the courtroom.)

If the 1981 Legislative session fails to act on this initiative, it will automatically be placed on the 1982 general election ballot. With utility rates increasing as much as 100% every six months, it is certainly an issue which is very timely.

The full text of the initiative appears on the reverse side. We urge you to read it and to support it. If you would like to circulate the initiative, please contact our offices at either address, above. You must be a registered voter to circulate or sign the initiative. If you are not now registered, you may do so and then sign and circulate the petition.

Please feel free to call us, collect if necessary, if you have any questions. We urge you to hurry, as we only have until December 15 to qualify this measure for submission to the Legislature.

Thank you very much.


Randolph Townsend, Chairman
Coalition for Affordable Energy

INITIATIVE PETITION TO CREATE AN OFFICE OF
CONSUMER ADVOCACY FOR UTILITY CUSTOMERS

SUMMARY — By signing below, the provisions of the following initiative must be accepted or rejected by the Nevada State Legislature and if rejected, this initiative will be submitted for approval or disapproval by the voters at the next general election after the Legislature meets.

This initiative will create a division for the protection of utility customers in the office of the Attorney General and defines the duties of such a division.

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

AN INITIATIVE relating to public utilities; creating a division in the office of the Attorney General for the protection of utility customers; requiring the Public Service Commission to pay the expenses of this division; authorizing the Public Service Commission to employ independent counsel in certain circumstances; and providing other matters properly relating thereto.

The People of the State of Nevada do enact as follows:

SECTION 1. Chapter 228 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The division of consumer advocacy is hereby created in the office of the Attorney General. The division shall:

1. *Review all applications filed with the Public Service Commission of Nevada by all electric, natural gas, water and telephone utilities proposing changes in rates, construction of utility facilities, or regulations which may affect rates or construction of utility facilities.*

2. *Move to intervene before the Public Service Commission of Nevada and other State and Federal regulatory agencies in all matters relating to subsection 1 which the division deems to be of potentially significant effect upon the consuming public.*

3. *Where warranted, commence or intervene in any action in a court of competent jurisdiction to obtain judicial review of, or extraordinary relief from, any final order or other official act of the Public Service Commission of Nevada issued in proceedings relating to any application mentioned in subsection 1 or relating to any order or regulation of any other state or any Federal agency.*

4. *Where warranted and allowed by law, take or participate in appeals from decisions relating to orders of the Public Service Commission of Nevada issued in proceedings relating to any application mentioned in subsection 1 or any other rule or regulation affecting rates.*

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

SEC. 2. NRS 703.147 is hereby amended to read as follows:

703.147 1. The Public Service Commission regulatory fund is hereby created as a special revenue fund. All money collected by the Commission pursuant to law must be deposited in the state treasury for credit to the fund.

2. Money in the fund may be used only to defray the costs of:

(a) Maintaining staff and equipment to regulate adequately public utilities and other persons subject to the jurisdiction of the Commission.

(b) Participating in all rate cases involving those persons.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that regulation and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the Commission.

(e) *The salaries, expenses, expert witness fees and costs, and allowances of the division of consumer advocacy of the office of the Attorney General pursuant to the budget submitted to and approved by the Nevada State Legislature.*

3. All claims against the fund must be paid as other claims against the state are paid.

4. The Commission must furnish upon request a statement showing the balance remaining in the fund as of the close of the preceding fiscal year.

SEC. 3. NRS 703.210 is hereby amended to read as follows:

703.210 1. [The] *Except as provided in subsection 3, the Attorney General shall:*

(a) Be counsel and attorney for the Commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the State of Nevada all actions for enforcement of chapter 704 of NRS and for the recovery of any penalty or forfeiture provided for therein.

(c) Prosecute all violations of the laws of this state by public utilities, their officers, agents and employees.

(d) Generally aid the Commission in the performance of its duties and the enforcement of chapter 704 of NRS.

2. The district attorney of the proper county, in the aid of any investigation, prosecution, hearing or trial had under the provisions of chapter 704 of NRS, shall, upon the request of the Attorney General or the Commission, act as counsel for the Commission.

3. *The Commission may retain independent counsel for any legal action commenced by the division of consumer advocacy of the office of the Attorney General to which it is a party.*

4. *The Attorney General shall submit to the Commission prior to the start of each fiscal year the budget approved by the legislature in the Attorney General's administrative fund for the operation of the division of consumer advocacy of the office of the Attorney General relating to the activities of the division in the next ensuing fiscal year pertaining to the review, interventions, and legal actions generated by the applications of electric, natural gas, water and telephone utilities for changes in rates, the construction of utility facilities, or regulations proposed in connection therewith.*

SEC. 4. Chapter 703 is hereby amended by adding thereto a new section which shall read as follows:

The Commission shall pay from the Public Service Commission regulatory fund all claims and bills submitted by the Attorney General for operation of the division of consumer advocacy of the office of the Attorney General pursuant to the budget submitted to the Commission in a total amount no less than 1/2 mill and no more than 1 mill on each dollar of gross operating revenue derived from the intrastate operations of the electric, natural gas, water and telephone utilities in the State of Nevada in the calendar year immediately preceding the fiscal year in question.

SEC. 5. Chapter 703 is hereby amended by adding thereto a new section which shall read as follows:

The director of the division of consumer advocacy of the office of the Attorney General must be nominated by the Attorney General. The nomination must be confirmed by the Legislature meeting in regular session, or by the Legislative Commission if the nomination is made more than 30 days prior to the start of a regular session.

The director of the division of consumer advocacy of the office of the Attorney General shall serve at the pleasure of the Attorney General.

The provisions of this initiative shall take effect immediately upon passage by the Legislature and approval by the Governor or upon enactment by the people, whichever first occurs.

NEVADA'S CONSUMER ADVOCATE - AN IDEA WHOSE TIME HAS COME

By: RICHARD H. BRYAN, Nevada Attorney General

Have you looked at your power bill or gas bill this month? Chances are if you have, you'll find that it's substantially higher than the same month last year.

In the past 18 months, the Nevada Public Service Commission has granted more than \$182,000,000 in utility increases. Presently, an additional \$89,000,000 of requested rate increases has been filed with the Public Service Commission. These staggering increases have fallen most heavily upon older Nevadans on fixed incomes and on young families already reeling from the effects of double-digit inflation.

Hearings before the Public Service Commission are, by their very nature, extremely technical. Lawyers for the public utilities are on hand to present sophisticated arguments on behalf of their client's applications for higher utility rates. Members of the general public who attend these hearings to oppose rate increases are no match for the utility lawyers, who are skilled in the intricacies of the rate-hearing process. As a practical matter, the average citizen is not represented in hearings before the Public Service Commission where millions of dollars of rate increases are being considered.

In 1975, as a State Senator from Clark County, I proposed legislation creating an Office of Consumer Advocate to represent the average citizen at all rate hearings before the Public Service Commission. As proposed, this office would be staffed by persons who have demonstrated expertise in utility hearings and can serve as an effective voice for the consumer at such hearings. Predictably the public utilities descended en masse, vigorously denouncing the proposal. Unfortunately for Nevada's consumers, the proposal was defeated.

Similar efforts were mounted in the 1977 session, with the same results. As your Attorney General, I worked with Assembly Tod Bedrosian during the 1979 legislative session to support a consumer advocate bill in the Assembly. This measure was bitterly attacked by Nevada's public utilities. Opposition from Nevada's public utilities was to be expected. More disturbing, was the attack on the proposal by a majority of the Public Service Commission who, teaming up with the utilities, was successful in killing the legislation.

Today, 44 states provide for an Office of Consumer Advocate, either in the Attorney General's Office, or in an independent branch of state government. Many of these offices are funded in part by grants from the Department of Energy. The results of these programs are impressive.

In New Mexico, the Attorney General's Office reports that its Consumer Advocate program has saved New Mexico ratepayers approximately \$25,000,000 since that office was established in 1977. In addition to saving ratepayers millions of dollars, the New Mexico Attorney General has played a leading role in establishing procedures

whether a Consumer Advocate program is best placed in the Attorney General's Office or in an independent office. Such differences should not be allowed to divert the focus of attention from the essential characteristics that any effective consumer office must have. Foremost among them, is an independence from the Public Service Commission and sufficient insulation from political pressure that will permit the Consumer Advocate to vigorously represent the ratepayer's point of view no matter how unpopular that may be with the utility companies or the Public Service Commission.

An adequate legal staff of rate experts and access to special consultants is indispensable to effective consumer representation. And, finally, the Consumer Advocate must have sufficient authority to intervene in Public Service Commission proceedings and before other regulatory bodies which are considering the adoption of rules and regulations which will adversely affect the ratepayer in the future.

The Sun is to be commended for its recent editorial supporting the Consumer Advocate concept. Hopefully, those legislators who are responsive to the concerns of their constituents will recognize that a Consumer Advocate is an idea whose time has come.

(See Story Below)

Where I Stand

"An idea whose time has come."

That's the way Nevada's Attorney General Richard Bryan describes the need for a consumer advocate in Nevada.

As guest columnist for SUN publisher Hank Greenspun, Attorney General Bryan outlines the history of consumer advocate programs in other states and points to the need of such an agency in Nevada.

Have you looked at your power bill or gas bill this month? Chances are if you have, you'll find that it's substantially higher than the same month last year.

In the past 18 months, the Nevada Public Service Commission has granted more than \$182,000,000 in utility increases. Presently, an additional \$39,000,000 of requested rate increases has been filed with the Public Service Commission. These staggering increases have fallen most heavily upon older Nevadans on fixed incomes and on young families already reeling from the effects of double-digit inflation.

Hearings before the Public Service Commission are, by their very nature, extremely technical. Lawyers for the public utilities are on hand to present sophisticated arguments on behalf of their clients' applications for higher utility rates. Members of the general public who attend these hearings to oppose rate increases are no match for the utility lawyers, who are skilled in the intricacies of the rate-hearing process. As a practical matter, the average citizen is not represented in hearings before the Public Service Commission where millions of dollars of rate increases are being considered.

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PHOTO BY BOB DE LUSTAND, Page 2

Southern Nevada's Only Home Owned Daily Newspaper

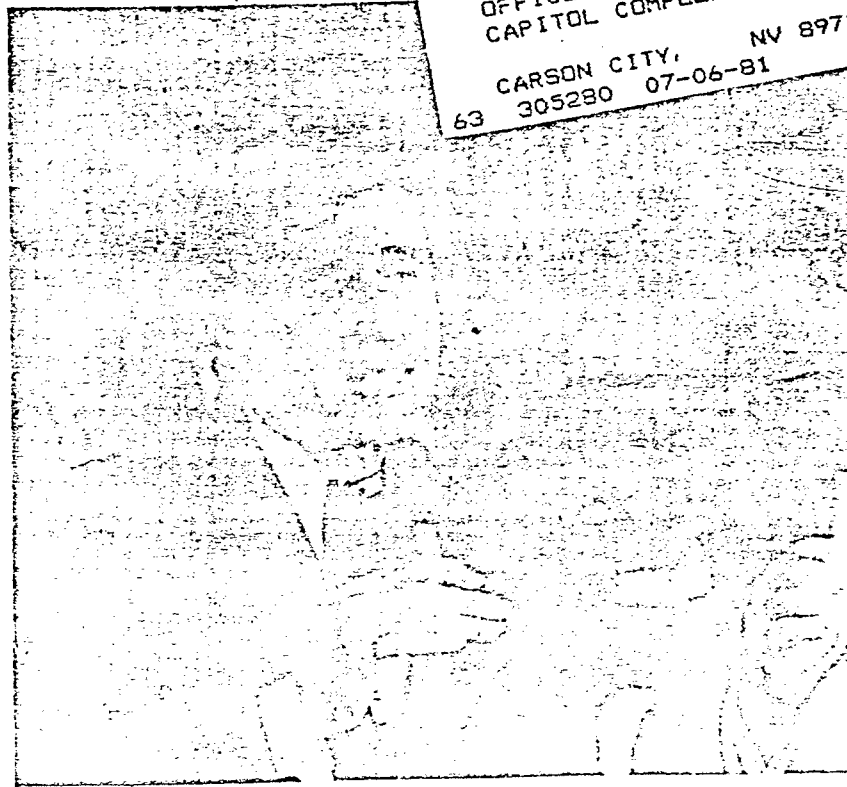
Las Vegas

NEWS 355-3111

VOL. 31 NO. 58

OFFICE ATTORNEY GENERAL
CAPITOL COMPLEX

CARSON CITY, NV 897
63 305280 07-06-81



Jerry Lewis and Ed McMahon show the cheer of a gratifying moment

Lewis' Telethon Aids

By LEN BUTCHER
SUN Managing Editor

It had everything anyone could want. Drama, excitement, tears, laughter, and of course, Jerry Lewis, for this was the annual Jerry Lewis Telethon to raise money for the fight against Muscular Dystrophy.

And what a fight it was. When you open a show with Johnny Carson and Frank Sinatra, you've got to be a winner, and that's exactly what the show was. When the final tally was taken after 21½ continuous hours, the tote board in the Sahara Hotel Space Center registered over \$31 million — a record. Las Vegas donated \$262,679.

But the dollars only tell a small part of the story. Carson, who stayed in town an extra day to appear on the show, told the audience that Billy Carter was in the Sahara casino trying to win enough money to pay the taxes on his Libyan loan.

Then, through the magic of satellite, the audience was treated to Sinatra playing to a packed house at the Resorts International Hotel in Atlantic City. The Chairman of the Board was never better, after

chatting with Lewis for a few minutes and an appeal for the MDA, Sinatra swung into 'Of Town' and closed with 'New York, New York' both songs earning him a standing ovation.

The parade of stars marched on through the night, and as co-host Ed McMahon pointed out, "When you miss a little, you miss a lot." He was so right. Lola Falana, Danny Thomas, Heatherson, Tony Bennett, Bob Anderson, Damone, Sammy Davis Jr. and the list went on.

In the last hour of the telecast, when the board showed \$22 million, it appeared a figure of \$30 million would not be met. It was Lewis who pulled out all the stops.

Ben Vereen, after singing his opening number, went over to two young children in wheelchairs, victims of MD, and sang a song of love to them at the finish.

Chad Everett then read a letter from a woman in her 40s who had been stricken three years ago with one of the MD-related diseases, but had survived through the efforts of MDA. A p.s. to her letter read: "My dream is to dance with Jerry Lewis."

holiday weekend," said Sgt. Richard Haas. "But it's gone very smoothly." Haas said only three fatal accidents were recorded statewide for the "eclectic" weekend. Last year, he said, even people died on Nevada highways over Labor Day.

2 LAS VEGAS SUN

Tuesday, September 2, 1980

where i stand

(Continued From Page 1)

and can serve as an effective voice for the consumer at such hearings. Predictably, the public utilities descended en masse, vigorously denouncing the proposal. Unfortunately for Nevada's consumers, the proposal was defeated.

Similar efforts were mounted in the 1977 session, with the same results. As your attorney general, I worked with Assemblyman Tod Bedrosian during the 1979 legislative session to support a consumer advocate bill in the Assembly. This measure was bitterly attacked by Nevada's public utilities; opposition from them was to be expected. More disturbing was the attack on the proposal by a majority of the Public Service Commission, which, teaming up with the utilities, was successful in killing the legislation.

Today, 44 states provide for an Office of Consumer Advocate, either in the attorney general's office or in an independent branch of state government. Many of these offices are funded in part by grants

gan attorney general's office saved ratepayers \$265,000,000. The cost of the consumer advocate program was approximately \$700,000, or a savings of about \$370 per \$1 spent to operate the program.

One of the long-range objectives of the Michigan program is to address the root causes of unrestrained and uncontrolled construction programs that result in excessive rate increases. It is interesting to note in the Michigan attorney general's report that the Public Service Commission was so impressed by the facts presented by the consumer advocate that in one major case the commission rejected the recommendation of its own staff and adopted the position of the consumer advocate by reducing the requested increase by \$2.7 million. This is an important point, for it emphasizes the significant role that an independent consumer advocate can play in the rate-making process, even though the Public Service

Washington, Montana and Idaho have also been successful in establishing similar interest-free loans through utilities for home owners to make energy-saving improvements.

Nevada consumers deserve the same kind of protection that residents of 44 other states are now receiving when applications for rate increases are filed with the Public Service Commission. While no one can responsibly claim that a consumer advocate will eliminate all future increases, such a program does assure Nevada ratepayers effective representation at all hearings before the Public Service Commission. Differences of opinion may emerge as to whether a consumer advocate program is best placed in the attorney general's office or in an independent office. Such differences should not be allowed to divert the focus of attention from the essential characteristics that any effective consumer office must have. Foremost among them is independence from the Public Ser-

Las Vegas A

FORECAST: Sunny and a little warmer through Wednesday. Variable winds, 5 to 15 mph. Today's high: 100 Today's low: 70 Yesterday's high: 98 Yesterday's low: 66 A year ago today: high - 100; low - 65 Humidity: high - 23; low - 12. Sunrise: 0:13 a.m. Sunset: 7:07 p.m. Air Quality Index 50 (moderate)

The Nation

By United Press International

	10	10	Pop
Albany	71	61	....
Albuquerque	78	61	....
Atlanta	91	73	....
Bakersfield	97	62	....
Bismarck	72	56	83
Biose	75	38	....
Boston	78	66	....
Brownsville	92	78	....
Buffalo	73	62	....
Charlotte	89	69	....
Chicago	86	74	....
Cincinnati	87	61	....
Cleveland	82	61	....

... independent branch of state government. Many of these offices are funded in part by grants from the Department of Energy. The results of these programs are...

... New Mexico, the attorney general's office reports that its consumer advocate program has saved New Mexico ratepayers approximately \$25,000,000 since that office was established in 1977. In addition to saving ratepayers millions of dollars, the New Mexico attorney general has played a leading role in establishing procedures which protect customers unable to pay their utility bills because of serious illness from utility service cutoffs.

The New York consumer advocate program was responsible for reducing electric, gas and telephone rate increases by more than \$34,000,000. The budget for the New York office is \$662,000, including a grant of \$200,000 from the Department of Energy. The return to New York ratepayers was \$53 for each \$1 expended for the operation of the consumer advocate program.

Michigan's attorney general has compiled an even more impressive record. In 1978 and 1979 the Michi-

an independent consumer advocate can play in the rate-making process, even though the Public Service Commission staff may have already researched the request and presented its recommendations.

The Arkansas attorney general's consumer advocate program has spent a major portion of the past year in the promotion of energy efficiency and conservation on the part of all users, including the utilities themselves. The Arkansas attorney general reports of shifting emphasis on the part of utility companies from a "build more plants" approach to an "are there any alternatives to new construction" which would be less costly for the ratepayers.

The Arkansas attorney general's consumer advocate program was also instrumental in the establishment of a unique loan program whereby interest-free loans to qualified residential customers are made to finance the installation of various cost-effective conservation measures. The principal amount of the loan is repaid by the home owner over a specified period in monthly installments on the electric bill.

Consumer advocate programs in

any effective consumer office must have. Foremost among them is independence from the Public Service Commission and sufficient insulation from political pressure that will permit the consumer advocate to vigorously represent the ratepayer's point of view no matter how unpopular that may be with the utility companies or the Public Service Commission.

An adequate legal staff of rate experts and access to special consultants is indispensable to effective consumer representation. And, finally, the consumer advocate must have sufficient authority to intervene in Public Service Commission proceedings and before other regulatory bodies which are considering the adoption of rules and regulations which will adversely affect the ratepayer in the future.

The SUN is to be commended for its recent editorial supporting the consumer advocate concept. Hopefully, those legislators who are responsive to the concerns of their constituents will recognize that a consumer advocate is an idea whose time has come.

ATTY. GEN. RICHARD BRYAN

Chicago	56	74	...	Memphis	94	71	...	19	Rapid City	87	50	Ely, 81/32; Reno, 8
Cincinnati	69	...	...	Miami	90	78	...	...	Red Bluff	90	61	Tonopah, 84/44; D
Cleveland	87	63	...	Milwaukee	79	64	...	...	Reno	81	42	Rock, 84/58; Owyhee, 7
Dallas	63	68	...	Minneapolis	75	67	...	...	Redwood	90	68	Caliente, 86/45.
Denver	68	63	...	New Orleans	93	72	...	...	Sacramento	82	53	clear
Des Moines	66	68	...	New York	95	60	...	...	St. Louis	95	75	04
Duluth	63	61	...	North Platte	99	60	...	...	Salt Lake	90	58	00
Eureka	50	49	...	Oakland	67	58	...	...	San Diego	75	66	00
Fairbanks	50	46	...	Oklahoma City	90	67	...	...	San Francisco	62	56	00
Fresno	93	69	...	Omaha	81	68	...	...	Seattle	65	47	07
Hartford	82	65	...	Palm Springs	110	73	...	...	Spokane	68	40	00
Helena	71	42	...	Paso Robles	82	50	...	...	Thermal	104	75	00
Honolulu	88	76	...	Philadelphia	94	73	...	...	Washington	...	...	00

August Among 40-Year Drie

August lived up to its billing . . . it was a hot one. The monthly average totaled up to slightly above 90 degrees or a plus 2.3 degrees above the normal. On only eight days of the month the mercury did not reach 100 degrees or better. The hottest day of the month was the 11th when it climbed to 113 degrees. The coolest day was on the last day of the month when it dropped down to a cool 68 degrees.

Also dry you say . . . I guess it was, as it proved to be the 4th driest August

during the past 40 years. Although it stormed over the lakes and some other parts of the valley upon occasion . . . nary one drop fell into the official rain gauge at the airport. I bet your water bill ran a close second to your power bill . . . right. So logging in at about one half inch below normal for the month . . . we are still ahead of the game on yearly accumulation at a plus 2 inches.

The average wind speed was 11.4 miles an hour which made it a slightly windier month than normal. The peak

wind gust was 41 miles an hour afternoon of the 12th. On better about 80 percent of the moon afternoon gusts were 25 miles an or better so it may have seem quite a windy month to you.

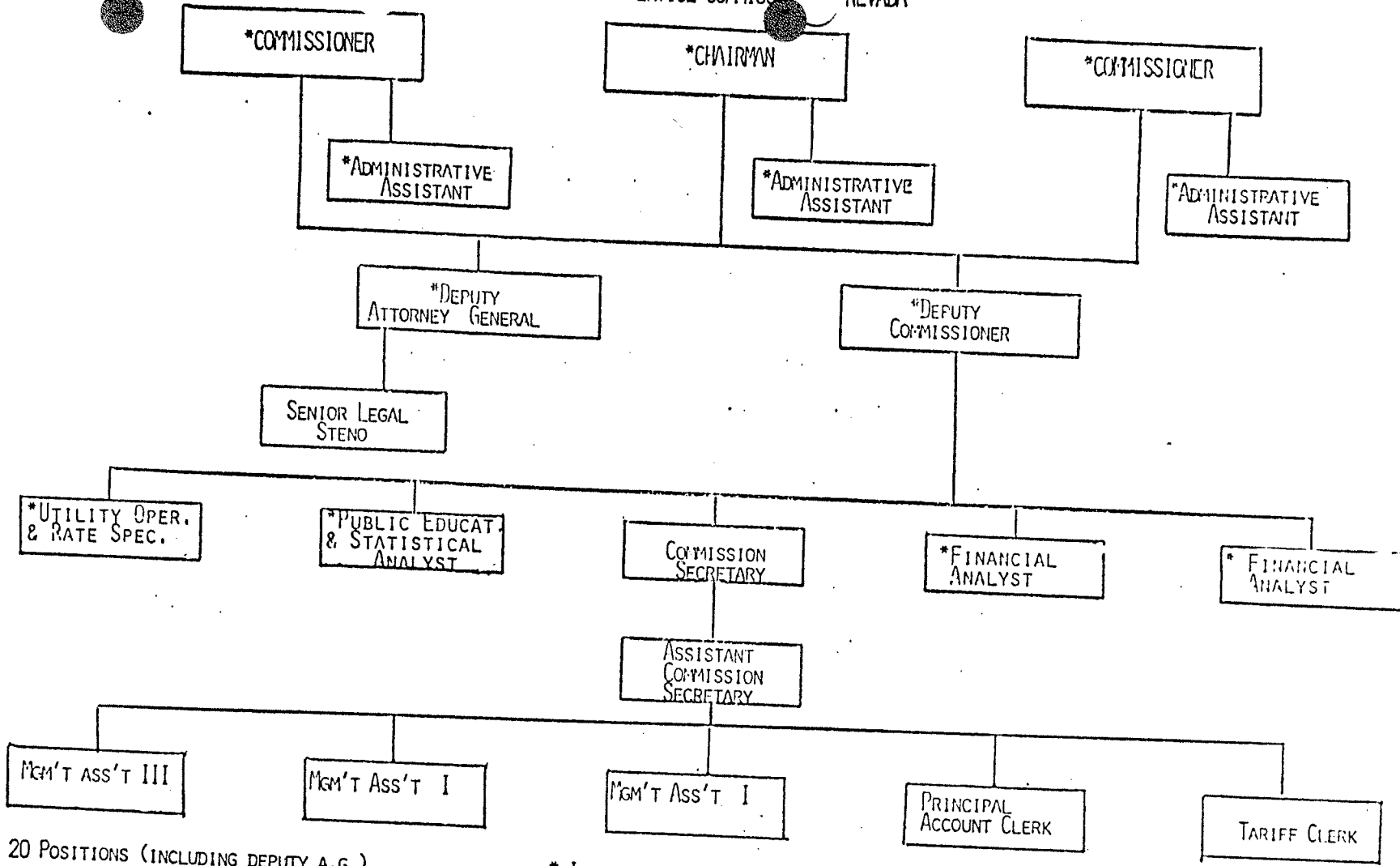
Being so dry one would expect percent of possible sunshine to be high . . . it was . . . a whopping percent of sunshine. Ho hum another lousy sunny day in the b Officially we have had 27 clear . . . four partly cloudy days.

NOTICE

Southern Nevada Arthritis Clinic

proudly announces its new & larger facilities

PUBLIC SERVICE COMMISSION - NEVADA

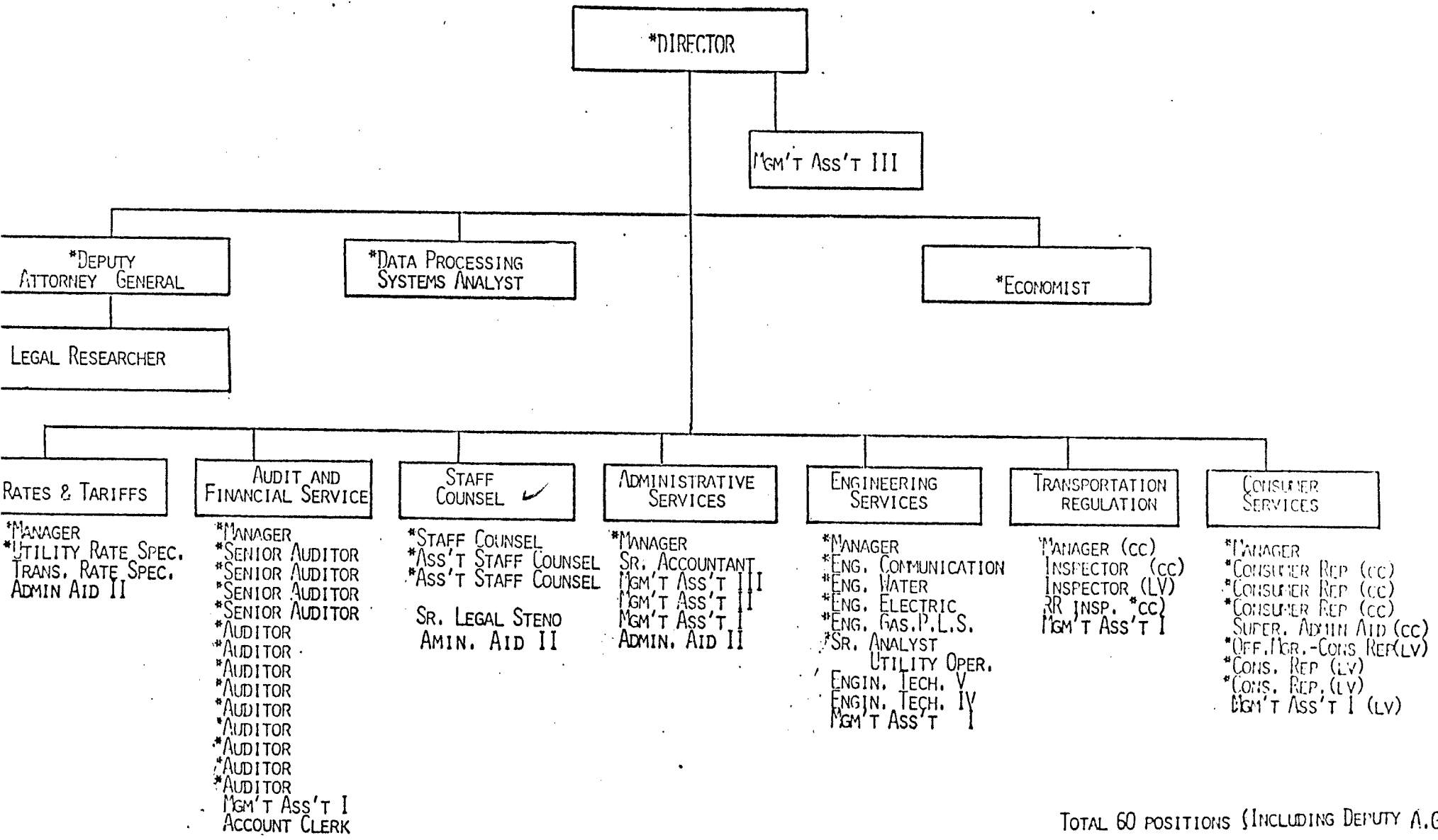


TOTAL 20 POSITIONS (INCLUDING DEPUTY A.G.)

* INDICATES UNCLASSIFIED POSITIONS
TOTAL UNCLASSIFIED POSITIONS - 12

Exhibit
63

UTILITY CUSTOMER REPRESENTATION AGENCY



TOTAL 60 POSITIONS (INCLUDING DEPUTY A.G.)

COMPARISON OF SEVERAL PROPOSALS TO CREATE
AN OFFICE TO REPRESENT UTILITY CUSTOMERS

Initiative Petition
Division in the office of Attorney General

BDR 58-383 (Governor's Proposal)
An independent agency

BDR 58-121 (Legislative Commission Subcommittee)
An independent agency

Suggested State Legislation 1981, V. 40
Independent or under department of justice

I. POWERS AND DUTIES

Review all utility applications for changes in rates, construction of utility facilities, or regulations which may affect rates or construction of utility facilities.

Intervene in all matters relating to utilities which may have a potentially significant effect on the consuming public.

Commence or intervene in any court action to obtain relief from commission orders.

Participate in appeals of orders of the commission to obtain relief.

* Make recommendations to the commission regarding all regulatory matters before the commission.

* Petition the commission for relief of unjust practices.

* Intervene in all regulatory proceedings before commission without prior notice to the commission.

* Make recommendations to the commission relating to regulation of utilities as provided in NRS chapters 703, 704, 705, 706, 708, 711 and 712.

* Appear in district court to review any order of the commission.

* Maintain public files.

* Enforce NRS chapters 703, 704, 705, 706, 708, 711 and 712.

* Assume the responsibilities of the existing department of consumer relations.

* Report to the commission on newly filed schedules and requests for certificates of public convenience and necessity.

* Assume investigative responsibilities currently handled by the commission.

* Investigate all proposed rate changes.

* Request a hearing for any proposed rate changes the office deems unreasonable.

* Appeal in the appropriate court commission orders when merited.

* Represent the interests of utility customers in all hearings requested.

* Assume the responsibilities of the existing department of consumer relations.

* Assume investigative responsibilities of the commission.

* Represent consumers before the commission or any court in matters involving utility regulation.

* May refrain from intervening if judgment warrants.

* Represent petitioners who make direct use or are ultimate recipients of a product or service supplied by a person, corporation, or municipal corporation subject to regulation by the commission.

* Inform the public to the specific interest of consumers to be protected in a given intervention.

Special revenue fund of the public service commission is to defray the costs of salaries, expenses, expert witness fees and costs, and other advances.

Budget is to be no less than 1/2 mill and no more than 1 mill on each dollar of gross operating revenue derived from intrastate operations of utilities.

* Special revenue fund is created to defray costs of salaries, equipment and supplies, participation in hearings, and regulatory functions.

* Assessment of utilities is to be 2 3/4 mills on each dollar of gross operating revenue derived from the utilities' intrastate operations.

* No provision.

* Total annual expenditures for the Office of Consumer Advocate are not to exceed 0.05 percent of the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission.

* The total assessment approved by the governor and the legislature is to be allocated to the utilities proportionately.

Appointment by the Attorney General with confirmation by the legislature.

* Appointment by the governor for a four year term.

* Appointment by the governor with confirmation by the legislature.

* Appointment by the governor with approval by the state senate.

III. SELECTION OF THE DIRECTOR

IV. OTHER PROVISIONS

The public service commission may retain independent counsel in matters commenced by the consumer advocate.

* The Attorney General is to serve as counsel for department of customer representation.

* A legislative declaration of intent regarding the purposes and functions of the public service commission is specified.

* The department is to enforce pipeline safety standards adopted by the commission.

* The department is to investigate warehouse permit applications.

* The commission may employ such personnel as necessary to perform its duties.

* The office of customer representation is to be notified by the commission of all proposed actions.

* The commission is to notify the Office of Consumer Advocate of any proposed action which may have a substantial effect upon the interest of consumers.

Research Division
1/81



The State of Nevada

Executive Branch

February 3, 1981

Capital Complex

Carson City, Nevada 89710

Robert List
Governor

M E M O R A N D U M

TO: The Honorable Joseph Dini
Chairman, Assembly Ways and Means

FROM: John Capone
Administrative Aide to Governor List

SUBJECT: Outline of Governor List's Proposal to establish
an agency for utility customer representation

Attached is a brief question and answer outline of the Governor's proposal currently before your Committee for consideration. I would request that this outline be made part of the record of hearing on this matter.

I will be available to answer any further questions regarding this subject at your convenience.

Thank you for your interest and consideration of this matter.



The State of Nevada

Executive Chamber

February 3, 1981

Robert List
Governor

Capitol Complex
Carson City, Nevada 89710

1. What is the Governor's proposal?

Creates an independent agency for Utility Customer representation.

2. Why is such an entity necessary?

The public faith in current regulatory processes has diminished and must be restored. The Governor feels that the public should have an independent voice representing its interests in all matters before the Public Service Commission of Nevada.

3. What means will be utilized to achieve this goal?

Some 60 legal and technical experts currently under the administration of the PSC will be given independent authority and status as a separate agency for representation of utility customers.

This newly created agency will be separately funded and will be completely self-sufficient. Currently the Commissioners of the PSC have administrative responsibility for their staff.

4. How does the Governor's proposal differ from the existing structure of the PSC?

First, the staff of the new representative agency would have an independent and absolute right of appeal from all matters originating before the PSC.

Secondly, they would be able to initiate formal actions before the Commission on their own or upon complaint by a utility customer.

5. Why is the Governor's proposal more acceptable than others currently under consideration by the Legislature?

The Governor's proposal is the most comprehensive of all such proposals currently under consideration. It recognizes that total representation of utility customer interests transcends the arena of utility rate cases and

encompasses other equally important subjects as well.

Further, the Governor's proposal provides for realistic funding and staffing levels to allow for an efficient and effective customer representative agency.

6. What is the fiscal and manpower impact of the Governor's proposal?

In effect, the Governor's proposal would require an expenditure of \$200,000 above current budgeted costs for the PSC. The amount would represent the salaries for 7 new positions that would be distributed between the PSC and the representative agency. (It should be noted that the 7 new positions is a net increase).

The fiscal notes submitted on the proposal show a total biennial budget for the PSC of \$2,325,444 and for the customer representative agency of \$5,994,367.

The current source of funding by mil tax assessment will be retained with a maximum of 2 3/4 mil allocated to and assessed independently by the new agency.

A maximum of 1 1/4 mil will be allocated for use by the PSC. This formula will not exceed the maximum assessment of 4 mil currently authorized by statute.

General Comments

This committee is urged not to accept the initiative petition proposal for establishment of a consumer advocate under the Attorney General's Office. This proposal is too simplistic and will not afford the comprehensive protection for utility customers that the Governor's proposal offers.

Last year alone over 600 filings of various types were made with the PSC. To investigate and make recommendations on such a volume of cases, as well as carrying out effective representation of other matters on behalf of the general public, requires a reasonable staffing level.

The Governor's proposal incorporates most if not all of the significant components of the other concepts presented to your committee for consideration. The biggest difference in the Governor's proposal is the selection of an executive director for the new representative agency who would be appointed by and serve at the pleasure of the Governor.

The placement of the executive director under any branch of state government may give rise to accusations of politicism.

However, the Governor feels that this position, like others in state service, is ultimately answerable to the public and will not be misused by the Executive Branch.

I have attached a chart showing recent PSC action on certain rate requests filed this past year. You will see from these examples how current staff recommendations compare to increases granted on these requests by the Commission.

Under the Governor's proposal, staff would be able to pursue appeals on behalf of the public when they disagreed with a Commission decision such as those portrayed on the attachment.

Conclusion

The Governor's proposal is the most comprehensive and cost-effective way of ensuring true customer representation in utility matters.

Ultimately the public will hold all of us in state government accountable for ensuring that their interests are being properly considered in the area of utility regulation. I respectfully request that your committee give favorable consideration to the Governor's proposal to establish the Utility Customer Representative Agency.

ANALYSIS OF GENERAL RATE CASES
For the Twelve Months Ended December 31, 1980

Docket Number	Company	Date Filed	Date Decided	Amount Requested	Staff Adjustments	Amount Recommended By Staff	Percent Recommended	Amount Granted	Percent Received
2856	Sierra Pacific Electric	4/30/80	10/29/80	\$19,883,000	\$18,626,000	\$ 1,257,000	6.3	\$ 6,221,000	31.3
2857	Sierra Pacific Gas	4/30/80	10/29/80	1,844,000	1,404,000	440,000	23.9	954,000	51.7
2858	Sierra Pacific Water	4/30/80	10/29/80	4,099,000	2,942,000	1,157,000	28.2	2,369,000	57.8
2867	Southwest Gas North	4/30/80	10/27/80	7,968,251	1,818,211	6,150,040	77.2	6,120,972	76.8
2868	Southwest Gas South	5/06/80	10/27/80	17,418,788	4,661,135	12,757,653	73.2	14,168,879	81.3
2955	Nevada Power	7/02/80	12/22/80	20,509,000	22,592,574	(2,083,574)	10.2)	12,026,905	58.6
				\$ 71,722,039	\$ 52,043,920	\$ 19,678,119	27.4%	\$ 41,860,756	58.4

ASSEMBLY BILL NO. 58—ASSEMBLYMEN WESTALL, HORN, RUSK, BRADY, HAYES, BARENGO, COULTER, BREMNER, PRICE, REDELSPERGER, MARVEL, BERGEVIN, BANNER, DINI, THOMPSON, MAY, BENNETT, CHANEY, FOLEY, MELLO, POLISH, KOVACS, VERGIELS, ROBINSON, JEFFREY, HAM, MALONE, NICHOLAS, BEYER, DuBOIS, RHOADS, HICKEY AND SCHOFIELD

JANUARY 28, 1981

Referred to Committee on Government Affairs

SUMMARY—Creates utility customers' representative agency. (BDR 58-383)

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



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

AN ACT relating to public utilities; creating an agency to represent their customers and enforce their safety; and providing other matters properly relating thereto.

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

1 SECTION 1. Chapter 703 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

3 SEC. 2. *As used in this Title, "commission's staff" means the deputy*
4 *commissioner, the secretary, the assistant secretary and other clerical per-*
5 *sonnel and experts appointed by the commission.*

6 SEC. 3. *Except as otherwise provided in NRS 706.481 to 706.631,*
7 *inclusive, as used in this Title, "agency" means the utility customers'*
8 *representative agency*

9 SEC. 4. 1. *The utility customers' representative agency is hereby*
10 *established.*

11 2. *It is hereby declared to be the purpose and policy of the legislature*
12 *in establishing the utility customers' representative agency to provide*
13 *independent representation and promotion of the interests of customers*
14 *of public utilities in all regulatory matters before the commission.*

15 SEC. 5. 1. *The governor shall appoint a director who shall supervise*
16 *the agency.*

17 2. *The director must be independent of the industries regulated by*
18 *the commission.*

1 3. The director serves at the pleasure of the governor.
 2 4. The governor shall appoint the head of a division of the agency
 3 as acting director for the period before the appointment of the director
 4 or at any time a vacancy exists in the office of director. The acting direc-
 5 tor has the authority and duties of a regularly appointed director, and
 6 shall serve until such time as a new director is appointed. The acting
 7 director is entitled to receive the same salary as the director.

8 SEC. 6. 1. The director of the agency must possess demonstrated
 9 competence in the field of regulation and administration of public utilities.

10 2. The director may not be pecuniarily interested in any public utility
 11 in this state or elsewhere.

12 3. The director shall not pursue any other business or vocation or
 13 hold any other office of profit.

14 4. The director may not be a member of any political convention or
 15 a member of any committee of any political party.

16 SEC. 7. 1. Before entering upon the duties of his office, the director
 17 of the agency shall, in addition to the constitutional oath of office, swear
 18 that he is not pecuniarily interested in any public utility in this state as
 19 defined in chapter 704 of NRS.

20 2. The oath of office must be filed in the office of the secretary of
 21 state.

22 SEC. 8. The director of the agency is entitled to receive an annual
 23 salary in an amount determined pursuant to the provisions of NRS 284.-
 24 182 and travel and subsistence allowances fixed by law for state officers
 25 and employees.

26 SEC. 9. 1. The director of the agency shall appoint such clerical
 27 personnel, experts and inspectors as may be necessary to carry out the
 28 duties and responsibilities of the agency.

29 2. Employees in the unclassified service of the state are entitled to
 30 receive annual salaries in amounts determined pursuant to the provisions
 31 of NRS 284.182.

32 3. The compensation of other employees must be fixed in accordance
 33 with the provision of chapter 284 of NRS.

34 SEC. 10. 1. A fund for the utility customers' representative agency
 35 is hereby created as a special revenue fund. All money collected by the
 36 agency pursuant to law must be deposited in the state treasury for credit
 37 to the fund.

38 2. Money in the fund may be used only to defray the costs of:

39 (a) Paying the staff of the agency and acquiring or maintaining equip-
 40 ment, supplies and facilities necessary to perform the functions of the
 41 agency.

42 (b) Participation by the agency in all matters involving public utili-
 43 ties and other persons subject to the jurisdiction of the commission.

44 (c) Audits, inspections, investigations, reports and the retaining of
 45 consultants connected with the functions of the agency.

46 3. All claims against the fund must be paid as other claims against
 47 the state are paid.

48 4. The director of the agency must furnish to any person upon
 49 request a statement showing the balance remaining in the fund as of the
 50 close of the preceding fiscal year.

1 SEC. 11. 1. The agency may investigate and make appropriate rec-
 2 ommendations to the commission with regard to all regulatory matters
 3 before the commission.

4 2. The agency may investigate rates, tolls, charges, rules, regulations,
 5 practices and service of public utilities and other persons subject to the
 6 jurisdiction of the commission.

7 3. Whenever any rate, toll, charge, rule, regulation, practice or serv-
 8 ice of a public utility or other person subject to the jurisdiction of the
 9 commission is determined by the agency to be unjust, unreasonable,
 10 insufficient, preferential, unjustly discriminatory or otherwise unlawful,
 11 or if the agency determines that the service is inadequate, or that any
 12 reasonable service cannot be obtained, the agency may petition the com-
 13 mission for appropriate relief.

14 SEC. 12. 1. The agency may intervene in all regulatory proceedings
 15 before the commission without prior notice to the commission and with-
 16 out obtaining leave to intervene.

17 2. The agency may study and make appropriate recommendations to
 18 the commission with regard to regulations of the commission relating to
 19 the procedure, administration and enforcement of the provisions of chap-
 20 ters 703, 704, 705, 706, 708, 711 and 712 of NRS.

21 3. The agency may institute or appear in an action in a district court
 22 under this Title to review any order of the commission. The agency shall
 23 be deemed a real party in interest in any such action.

24 4. The agency shall maintain files open to the public showing all
 25 current tariffs, including any schedules of individual or joint rates, fares,
 26 tolls or charges or any individual or joint regulations or rules of public
 27 utilities and other persons subject to the commission's jurisdiction.

28 5. The agency shall enforce the provisions of chapters 703, 704,
 29 705, 706, 708, 711 and 712 of NRS, and all regulations of the commis-
 30 sion issued thereunder. Whenever an order of the commission requires a
 31 public utility, motor carrier or other person subject to the commission's
 32 jurisdiction to undertake any act, the agency shall observe its compliance
 33 with the order. After the time set for compliance has elapsed, at the next
 34 scheduled meeting of the commission which is reasonable under the cir-
 35 cumstances, the agency shall report to the commission whether compli-
 36 ance has been fully accomplished within the time established in the order
 37 and its recommendation as to what action, if any, should be taken.

38 SEC. 13. 1. The inspectors employed by the agency have full author-
 39 ity as peace officers for enforcement of chapters 703, 704, 705, 706,
 40 708, 711 and 712 of NRS, and all regulations of the commission issued
 41 thereunder.

42 2. Inspectors may carry firearms in the performance of their duties.

43 SEC. 14. The commission shall, within 1 day after filing, furnish to
 44 the agency a reasonable number of copies of each report, record, state-
 45 ment, tariff, pleading, complaint, petition, notice or other paper filed with
 46 the commission.

47 SEC. 15. The attorney general shall:

48 1. Serve as counsel and attorney for the agency and represent the
 49 agency in all actions, proceedings and hearings before courts of law.

1 2. Generally aid the agency in the performance of its duties.
 2 SEC. 16. The agency may, in carrying out its duties:
 3 1. Cooperate with the Federal Government, its departments and
 4 agencies.
 5 2. Confer with nonprofit agencies or offices of other states on mat-
 6 ters of mutual concern and benefit to persons served by the public
 7 utilities, motor carriers and brokers of this state.
 8 3. Use the services, records and facilities of federal and state regu-
 9 latory agencies, and may participate in any joint hearings and joint con-
 10 ferences held by the commission. All necessary expenses incurred in
 11 attending hearings and conferences outside the state are a charge
 12 against the state, and must be audited and paid as other claims against
 13 the state are paid. The claims must be sworn to by the officer or
 14 employee of the agency who incurred the expense and must be approved
 15 by the director of the agency.
 16 SEC. 17. Whenever notice in any matter pending before the commis-
 17 sion is required to be given, the notice must also be given to the agency.
 18 SEC. 18. NRS 703.010 is hereby amended to read as follows:
 19 703.010 As used in this [chapter,] Title, "commission" means the
 20 public service commission of Nevada.
 21 SEC. 19. NRS 703.140 is hereby amended to read as follows:
 22 703.140 1. The commissioners, [the deputy commissioner, the sec-
 23 retary, and such clerks and experts as are employed,] members of the
 24 commission's staff and members of the agency's staff are entitled to
 25 receive from the state their necessary expenses while traveling on the
 26 business of the commission [.] or agency, respectively, including the
 27 cost of lodging and subsistence.
 28 2. The expenditures must be sworn to by the person who incurred
 29 the expense and must be approved by the chairman of the commis-
 30 sion [.] or the director of the agency, as the case may be.
 31 SEC. 20. NRS 703.145 is hereby amended to read as follows:
 32 703.145 1. Any public utility or common or contract motor car-
 33 rier subject to the jurisdiction of the commission which elects to main-
 34 tain its books and records outside the State of Nevada [shall,] must, in
 35 addition to any other assessment and fees provided for by law, be
 36 assessed by the [commission] agency for an amount equal to the travel
 37 expenses and the excess of the out-of-state subsistence allowances over
 38 the in-state subsistence allowances, as fixed by NRS 281.160, of [com-
 39 mission members and staff,] the agency, for investigation, inspections
 40 and audits required to be performed outside this state.
 41 2. The assessment provided for by this section [shall] must be deter-
 42 mined by the [commission] agency upon the completion of each such
 43 investigation, inspection and audit, and [shall be due and payable] is
 44 due within 30 days of receipt by the affected utility or common or con-
 45 tract motor carrier of the notice of assessment.
 46 3. The records of the [commission] agency relating to the addi-
 47 tional costs incurred by reason of the necessary additional travel [shall]
 48 must be open for inspection by the affected utility or common or contract
 49 motor carrier at any time within such 30-day period.
 50 SEC. 21. NRS 703.147 is hereby amended to read as follows:

1 703.147 1. The public service commission regulatory fund is hereby
 2 created as a special revenue fund. All money collected by the commis-
 3 sion pursuant to law must be deposited in the state treasury for credit
 4 to the fund.
 5 2. Money in the fund may be used only to defray the costs of:
 6 (a) [Maintaining staff and equipment] Paying the staff, and purchas-
 7 ing or maintaining equipment, supplies and facilities necessary to regu-
 8 late adequately public utilities and other persons subject to the jurisdic-
 9 tion of the commission.
 10 (b) [Participating in all rate cases involving those persons.
 11 (c) Audits, inspections, investigations, publication] Participation by
 12 the commission or its staff in matters involving public utilities and other
 13 persons subject to the jurisdiction of the commission.
 14 (c) Publication of notices, reports [and retaining consultants connected
 15 with that regulation and participation.], orders and regulations.
 16 (d) The salaries, travel expenses and subsistence allowances of the
 17 members of the commission [.] and its staff.
 18 (e) Retaining consultants in specific areas of the regulation of utilities
 19 and other persons subject to the jurisdiction of the commission.
 20 3. All claims against the fund must be paid as other claims against
 21 the state are paid.
 22 4. The commission must furnish upon request a statement showing
 23 the balance remaining in the fund as of the close of the preceding fiscal
 24 year.
 25 SEC. 22. NRS 703.150 is hereby amended to read as follows:
 26 703.150 The commission shall [supervise and] regulate the opera-
 27 tion and maintenance of public utilities and other persons named and
 28 defined in chapters 704, 704A, 706, 708, 711 and 712 of NRS pursuant
 29 to the provisions of those chapters.
 30 SEC. 23. NRS 703.190 is hereby amended to read as follows:
 31 703.190 All [biennial] reports, records, proceedings, papers and files
 32 of the commission [shall] and of the agency must be open at all reason-
 33 able times to the public; but when it is necessary to the public interest,
 34 the commission or agency may withhold any facts or information in its
 35 possession for a period not to exceed 90 days.
 36 SEC. 24. NRS 703.191 is hereby amended to read as follows:
 37 703.191 1. Each public utility, common and contract motor carrier
 38 and broker which is regulated by the commission shall:
 39 (a) Keep uniform and detailed accounts of all business transacted in
 40 the manner required by the commission by regulation, and render them
 41 to the commission upon its request [.] or to the agency upon its request.
 42 (b) Furnish an annual report to the commission in the form and detail
 43 which it prescribes by regulation.
 44 2. Except as provided in subsection 3, the reports required by this
 45 section must be prepared for each calendar year and submitted not later
 46 than April 15 of the year following the year for which the report is
 47 submitted.
 48 3. A motor carrier may, with the permission of the commission,
 49 prepare the reports required by this section for a year other than a

1 calendar year which the commission specifies, and submit them not later
2 than a date specified by the commission in each year.

3 4. If the commission or the agency finds that necessary information
4 is not contained in a report submitted pursuant to this section, [it] the
5 commission on its own motion or the agency by petition may call for the
6 omitted information at any time.

7 SEC. 25. NRS 703.195 is hereby amended to read as follows:

8 703.195 [Any commissioner or any officer or employee of the com-
9 mission who is designated by the commission.]

10 1. The director of the agency or a designated member of his staff
11 may examine during regular business hours the books, accounts, records,
12 minutes, papers and property of any public utility, motor carrier or
13 broker who does business in this state, whether or not the book, account,
14 record, minutes, paper or property is located within the state.

15 2. In addition to any other remedies provided under this Title, the
16 agency may petition the commission for an order requiring compliance
17 with the provisions of this section.

18 SEC. 26. NRS 703.197 is hereby amended to read as follows:

19 703.197 1. The commission may collect fees for the filing of any
20 official document required by this chapter and chapters 704, 704A, 705,
21 706, 708, 711 and 712 of NRS or by a regulation of the commission.

22 2. Filing fees may not exceed:

23 (a) For applications, \$200.

24 (b) For petitions seeking affirmative relief, \$200.

25 (c) For each tariff page which requires public notice and is not
26 attached to an application, \$10. If more than one page is filed at one
27 time, the total fee may not exceed the cost of notice and publication.

28 (d) For all other documents which require public notice, \$10.

29 3. If an application or other document is rejected by the commission
30 because it is inadequate or inappropriate, the filing fee must be returned.

31 4. The commission may not charge any fee for filing a complaint.

32 5. The commission may not charge the agency any fee for the filing
33 of any document or other paper.

34 SEC. 27. NRS 703.200 is hereby amended to read as follows:

35 703.200 Except in cases of emergency, [all the necessary printing of
36 the commission shall be done] forms and regulations of the commission
37 and the agency must be printed by the state printing and records divi-
38 sion of the department of general services. The superintendent of that
39 division shall have such printing done as expeditiously as possible.

40 SEC. 28. NRS 703.210 is hereby amended to read as follows:

41 703.210 1. The attorney general shall:

42 (a) Except as provided in subsection 2, [be] serve as counsel and
43 attorney for the commission and shall represent the commission in all
44 actions, proceedings and hearings [.] before courts of law.

45 (b) Prosecute in the name of the State of Nevada all civil actions for
46 the enforcement of chapters 704, 704A, 705, 706, 708, 711 and 712 of
47 NRS and for the recovery of any penalty or forfeiture provided for
48 therein.

49 (c) If the district attorney fails or refuses to do so, prosecute all viola-
50 tions of the laws of this state by public utilities and motor carriers under

1 the jurisdiction of the commission and their officers, agents and
2 employees.

3 (d) Generally aid the commission in the performance of its duties.
4 [and the enforcement of chapters 704, 704A, 705, 706, 708, 711 and
5 712 of NRS.]

6 2. Each district attorney shall:

7 (a) Prosecute any violation of chapters 704, 704A, 705, 706, 708, 711
8 or 712 of NRS for which a criminal penalty is provided and which
9 occurs in his county.

10 (b) Aid in any investigation, prosecution, hearing or trial held under
11 the provisions of chapters 704, 704A, 705, 706, 708, 711 or 712 of
12 NRS and, at the request of the attorney general or the commission, act
13 as counsel and attorney for the commission.

14 SEC. 29. NRS 703.290 is hereby amended to read as follows:

15 703.290 1. A division of consumer relations is hereby established
16 within the [commission.] agency.

17 2. [Pursuant to regulations adopted by the commission, the] The
18 division of consumer relations shall:

19 (a) Receive and investigate complaints made against any public utility,
20 motor carrier or broker;

21 (b) Conduct appropriate investigations of the service practices of utility
22 companies and motor carriers and brokers;

23 (c) Perform such other functions as are required by law or as the
24 [commission] director of the agency deems appropriate.

25 SEC. 30. NRS 703.310 is hereby amended to read as follows:

26 703.310 1. When a complaint, filed with the commission or the
27 agency, is made against any public utility, common or contract carrier
28 or broker by any person, that any of the rates, tolls, charges or
29 schedules, or any joint rate or rates are in any respect unreasonable or
30 unjustly discriminatory, or that any regulation, measurement, practice
31 or act affecting or relating to the transportation of persons or property,
32 or any service in connection therewith, or the production, transmission or
33 delivery or furnishing of heat, light, gas, coal slurry, water or power, or
34 any service in connection therewith or the transmission thereof is, in any
35 respect, unreasonable, insufficient or unjustly discriminatory, or that any
36 service is inadequate, [and the division of consumer relations is unable to
37 resolve the complaint, the division shall transmit the complaint and its
38 recommendation to the commission. Within 10 days after receipt of the
39 complaint and recommendation, the commission shall provide the public
40 utility, carrier or broker complained against with a copy of the complaint
41 and recommendation. Within a reasonable time thereafter the commission
42 shall investigate the complaint.

43 2. If, as a result of its investigation, the commission determines that
44 probable cause exists for the complaint, it shall order a hearing thereof,
45 and give notice of the hearing as required by NRS 703.320, and conduct
46 the hearing as it would any other hearing.] the division of consumer rela-
47 tions shall investigate the complaint. Within 5 days after receipt of the
48 complaint, the division shall provide the public utility, carrier or broker
49 complained against with a copy of the complaint. Within 15 days after
50 service of the copy of the complaint, the public utility, carrier or broker

1 shall provide the division of consumer relations with its written response
2 thereto.

3 2. If the division of consumer relations is unable to resolve the com-
4 plaint, the agency shall, within a reasonable time, transmit the com-
5 plaint and the written response of the public utility, carrier or broker
6 complained against to the commission. Within a reasonable time there-
7 after the commission shall determine whether probable cause exists for
8 the complaint. The determination of probable cause must be made at a
9 regular meeting of the commission or at a hearing specially convened for
10 the purpose of making the determination. Each party, including the
11 agency, must be given at least 10 days' written notice of the meeting
12 or hearing, and must be given an appropriate opportunity to be heard
13 with regard to the question of probable cause. If the commission deter-
14 mines that probable cause exists for the complaint, it shall order a
15 hearing.

16 3. No order affecting a rate, toll, charge, schedule, regulation, meas-
17 urement, practice or act complained of may be entered without a formal
18 hearing at which both the complainant and the public utility, carrier or
19 broker are entitled to appear in person or by counsel and be heard,
20 unless a hearing is dispensed with as provided in NRS 703.320.

21 SEC. 31. NRS 703.330 is hereby amended to read as follows:

22 703.330 1. A full and complete record must be kept of all hearings
23 before the commission, and all testimony must be taken down by the
24 stenographer appointed by the commission, or, under the direction of
25 any competent person appointed by the commission, reported by sound
26 recording equipment in the manner authorized for reporting testimony
27 in district courts. The testimony reported by a stenographer must be
28 transcribed, and the transcript filed with the record in the matter. The
29 commission may by regulation provide for the transcription or safekeep-
30 ing of sound recordings. Cost of recording and transcribing testimony at
31 any hearing, except those hearings ordered pursuant to NRS 703.310
32 must be paid by the applicant. If a complaint is made pursuant to NRS
33 703.310 by a customer, by the agency or by a body politic or municip-
34 al organization, the complainant is not liable for any costs. Otherwise,
35 if there are several applicants or parties to any hearing, the commission
36 may apportion the costs among them in its discretion [.

37 2. Whenever any complaint is served upon the commission as pro-
38 vided in NRS 704.540 or 706.706 for the bringing of an action against
39 the commission,] , except that in no case may the agency be charged
40 for costs.

41 2. Whenever an action is brought to review an order or decision of
42 the commission as provided in NRS 704.540 or 706.706, before the
43 action is reached for trial, the commission shall file a certified copy of all
44 proceedings and testimony taken with the clerk of the court in which the
45 action is pending.

46 3. A copy of the proceedings and testimony [must be furnished to
47 any party, on payment of a reasonable amount, to be fixed by the com-
48 mission, which amount must be the same for all parties.] in any matter
49 in which the agency has appeared must be furnished to the agency with-
50 out charge. A copy of the proceedings and testimony must be furnished

1 to any other party, on payment of a reasonable amount to the commis-
2 sion. The amount must be the same for all parties.

3 SEC. 32. NRS 703.340 is hereby amended to read as follows:

4 703.340 1. [Either] Any party is entitled to an order by the com-
5 mission for the appearance of witnesses or the production of books,
6 papers and documents containing material testimony.

7 2. Witnesses appearing upon the order of the commission are entitled
8 to the same fees and mileage as witnesses in civil actions in the courts of
9 the state, and the fees and mileage must be paid out of the state treasury
10 in the same manner as other claims against the state are paid. No fees or
11 mileage may be allowed unless the chairman of the commission certifies
12 the correctness of the claim.

13 SEC. 33. NRS 703.370 is hereby amended to read as follows:

14 703.370 1. The district court for the county in which any [investi-
15 gation or] hearing is being conducted by the commission pursuant to the
16 provisions of this Title may compel the attendance of witnesses, the giv-
17 ing of testimony and the production of books and papers as required by
18 any subpoena issued by the commission.

19 2. If any witness refuses to attend or testify or produce any papers
20 required by a subpoena the commission may report to the district court
21 for the county in which the [investigation or] hearing is pending by peti-
22 tion, setting forth:

23 (a) That due notice has been given of the time and place of attend-
24 ance of the witness or the production of the books and papers;

25 (b) That the witness has been subpoenaed in the manner prescribed in
26 this chapter;

27 (c) That the witness has failed and refused to attend or produce the
28 papers required by subpoena before the commission in the [investigation
29 or] hearing named in the subpoena, or has refused to answer questions
30 propounded to him in the course of the [investigation or] hearing,
31 and asking an order of the court compelling the witness to attend and
32 testify or produce the books or papers before the commission.

33 3. The court, upon petition of the commission, shall enter an order
34 directing the witness to appear before the court at a time and place to
35 be fixed by the court in its order, not more than 10 days from the date
36 of the order, and show cause why he has not attended or testified or pro-
37 duced the books or papers before the commission. A certified copy of the
38 order must be served upon the witness. If it appears to the court that the
39 subpoena was regularly issued by the commission, the court shall there-
40 upon enter an order that the witness appear before the commission at
41 the time and place fixed in the order and testify or produce the required
42 books or papers, and upon failure to obey the order the witness must be
43 dealt with as if in contempt of court.

44 SEC. 34. Chapter 704 of NRS is hereby amended by adding thereto
45 the provisions set forth as sections 35 to 40, inclusive, of this act.

46 SEC. 35. The legislature hereby finds and declares that:

47 1. It is the intent of the legislature in enacting this chapter to confer
48 upon the public service commission of this state the authority to regulate
49 the operations, safety, services, rates and charges of public utilities in
50 order to:

1 (a) Insure fair and equitable regulation of public utilities in the interest
2 of the public;

3 (b) Insure the availability of adequate, economical and reliable service
4 by public utilities within the state;

5 (c) Encourage the orderly development of the resources of public
6 utilities in a manner consistent with the state's needs and in a manner
7 consistent with the productive use of the state's renewable sources of
8 energy, including but not limited to geothermal energy, solar energy, and
9 wind;

10 (d) Encourage the orderly development of resources in a manner con-
11 sistent with the national policy on energy as established from time to
12 time by Congress and the President of the United States;

13 (e) Encourage wise and efficient use of energy by public utilities and
14 their customers;

15 (f) Encourage effective and efficient management of regulated public
16 utilities;

17 (g) Insure that rates and charges for the services of public utilities are
18 fair, just, reasonable and applied without unjust discrimination or
19 preference.

20 2. The legislature intends that the public service commission serve as
21 a quasi-judicial body and charges it with the responsibility for appraising
22 and balancing the interests of current and future customers and the gen-
23 eral interests of the public utilities, including their stockholders, subject
24 to its jurisdiction in its deliberations and decisions.

25 3. It is legislative policy to insure that the legislature and the general
26 public become better informed regarding the regulation of public utilities
27 in this state and the conduct of the business of the public service commis-
28 sion. To aid in the achievement of this policy, the public service commis-
29 sion shall at each regular session of the legislature present to the
30 appropriate committee of each house a report which describes in a con-
31 cise manner:

32 (a) The major activities of the commission for the 2 calendar years
33 preceding the commencement of the legislative session;

34 (b) Important decisions reached concerning policy and programs com-
35 menced during the 2-year period; and

36 (c) Other information considered by the commission to be important
37 or requested by the committee, including recommendations for appropri-
38 ate legislation and the reasons for such recommendations.

39 4. It is legislative policy to encourage the public service commission
40 to cooperate with the department of energy to obtain the full cooperation
41 of public utilities in acquiring meaningful data relating to energy and to
42 the supply, demand and conservation of the sources of energy which is
43 produced, used or distributed by public utilities. The public service com-
44 mission shall also consider any proposal by the department of energy
45 which is intended to carry out the policies of the legislature set forth in
46 chapter 523 of NRS.

47 SEC. 36. 1. The agency shall levy and collect an annual assessment
48 from all public utilities subject to the jurisdiction of the commission.

49 2. The annual assessment must be not more than 2¼ mills on each

1 dollar of gross operating revenue derived from the intrastate operations
2 of such utilities in the State of Nevada, except that the minimum assess-
3 ment in any one year is \$10. The gross operating revenue of the utilities
4 must be determined for the preceding calendar year. In the case of:

5 (a) Telephone utilities, this revenue shall be deemed to be local service
6 revenue plus intrastate toll revenues.

7 (b) Railroads, this revenue shall be deemed to be revenue received
8 only from freight and passengers transported between points in this state.

9 (c) All public utilities, this revenue does not include the proceeds of
10 any commodity, energy or service furnished to another public utility for
11 resale.

12 SEC. 37. 1. On or before June 1 of each year, the agency shall mail
13 forms for reporting revenue to all public utilities under the commission's
14 jurisdiction, to their respective addresses on file with the agency. The
15 form is notice of the agency's intent to assess the utilities, but failure to
16 notify a utility does not invalidate an assessment.

17 2. Each public utility subject to the provisions of section 37 of this
18 act shall complete the revenue report referred to in subsection 1, com-
19 pute the assessment and return the completed revenue report to the
20 agency accompanied by payment of the assessment and any penalty due,
21 pursuant to the provisions of subsection 5.

22 3. The assessment is due on July 1 of each year, but may, at the
23 option of the public utility, be paid quarterly on July 1, October 1, Jan-
24 uary 1 and April 1.

25 4. The assessment computed by the utility is subject to review and
26 audit by the agency, and the amount of the assessment may be adjusted
27 by the agency as a result.

28 5. Any public utility failing to pay the assessment provided for in
29 section 37 of this act on or before August 1, or if paying quarterly, on or
30 before August 1, October 1, January 1 or April 1, shall pay, in addition
31 to the assessment, a penalty of 1 percent of the total unpaid balance for
32 each month or portion thereof that the assessment is delinquent, or \$10,
33 whichever is greater, but no penalty may exceed \$1,000 for each delin-
34 quent payment.

35 6. When a public utility sells, transfers or conveys substantially all
36 of its assets or certificate of public convenience and necessity, the agency
37 shall determine, levy and collect the accrued assessment for the current
38 year not later than 30 days after the sale, transfer or conveyance, unless
39 the transferee has assumed liability for the assessment. For purposes of
40 this subsection the jurisdiction of the commission over the transferring
41 utility continues until it has paid the assessment.

42 7. The agency may bring an appropriate action in its own name
43 for the collection of any assessment and penalty which is not paid as
44 provided in this section.

45 SEC. 38. 1. Within 30 days after the filing of any notice of a new
46 schedule or of changes to a schedule, the commission shall determine
47 whether to:

48 (a) Dispense with a hearing pursuant to subsection 6 of NRS 704.100;

49 (b) Suspend the schedule or defer the use of the rate, fare, charge,

1 classification, regulation, discontinuance, modification, restriction or
2 practice pursuant to subsection 2 of NRS 704.110; or

3 (c) Approve the changes to the schedule or the new schedule.
4 2. The determinations must be made at a regular meeting of the
5 commission or at a hearing specially convened for the purpose of making
6 the determinations.

7 3. The agency shall review the proposed new schedule or the pro-
8 posed changes to the schedule and shall, at the meeting or hearing held
9 pursuant to this section, report to the commission the nature and effects
10 of the changes or new schedule. The agency may make recommenda-
11 tions as to whether the tariff filing should be accepted as filed, modified
12 pursuant to agreement with the applicant, suspended for further review,
13 or suspended and set for hearing.

14 SEC. 39. 1. Whenever a public utility files with the commission an
15 application for issuance, modification or transfer of a certificate of public
16 convenience and necessity, the agency shall investigate the public con-
17 venience and necessity to be accorded by the service offered by the appli-
18 cant and the fitness, willingness and ability of the applicant to provide
19 that service.

20 2. Within 60 days after the filing of the application, or longer period
21 if approved by the commission, the agency shall report to the commission
22 the results of its investigation. The report must be made at a regular meet-
23 ing of the commission. If the matter of the application is set for hearing,
24 the report may be submitted in writing at or before the time set for hear-
25 ing.

26 3. The agency may make recommendations to the commission con-
27 cerning the application.

28 SEC. 40. The commission may not be made a party to, nor may it
29 appear in, any action brought under NRS 704.540. Nor may the com-
30 mission appear in an appeal from a decision rendered pursuant to NRS
31 704.540.

32 SEC. 41. NRS 704.033 is hereby amended to read as follows:
33 704.033 1. The commission shall levy and collect an annual assess-
34 ment from all public utilities subject to the jurisdiction of the commis-
35 sion.

36 2. The annual assessment [shall] must be not more than [4] 1¼
37 mills on each dollar of gross operating revenue derived from the intra-
38 state operations of such utilities in the State of Nevada, except that the
39 minimum assessment in any 1 year [shall be] is \$10. The gross operat-
40 ing revenue of such utilities [shall] must be determined for the preceding
41 calendar year. In the case of:

42 (a) Telephone utilities, [such] this revenue shall be deemed to be
43 local service revenues plus intrastate toll revenues.

44 (b) Railroads and airlines, [such revenues] this revenue shall be
45 deemed to be revenue received only from freight and [passenger intra-
46 state movements.] passengers transported between points in this state.

47 (c) All public utilities, [such revenue shall] this revenue does not
48 include the proceeds of any commodity, energy or service furnished to
49 another public utility for resale.

50 SEC. 42. NRS 704.100 is hereby amended to read as follows:

1 704.100 Except as may otherwise be provided by the commission
2 pursuant to NRS 704.095:

3 1. No changes may be made in any schedule, including schedules of
4 joint rates, or in the rules and regulations affecting any rates or charges,
5 except upon 30 days' notice to the commission [.] and to the agency,
6 and all changes must be plainly indicated, or by filing new schedules in
7 lieu thereof 30 days before the time the schedules are to take effect. The
8 commission, upon application of any public utility, may prescribe a less
9 time within which a reduction may be made.

10 2. Copies of all new or amended schedules must be filed and posted
11 in the stations and offices of public utilities as in the case of original
12 schedules.

13 3. Except as provided in subsection 4, the commission shall not con-
14 sider an application by a public utility if the justification for the new
15 schedule includes any items of expense or rate base which are set forth
16 as justification in a pending application, are the subject of pending litiga-
17 tion, or have been considered and disallowed by the commission or a dis-
18 trict court.

19 4. A public utility may set forth as justification for a rate increase
20 items of expense or rate base which have been considered and disallowed
21 by the commission, only if those items are clearly identified in the appli-
22 cation and new facts or policy considerations for each item are advanced
23 in the application to justify a reversal of the commission's prior deci-
24 sion.

25 5. If the [commission] agency receives an application that is within
26 the prohibition of subsection 3, it shall, [within 30 days, notify the public
27 utility that the application is dismissed.] within 7 days, file a petition with
28 the commission stating the grounds for dismissal of the application. Within
29 23 days thereafter, the commission shall, upon finding the application
30 within the prohibition of subsection 3, notify the public utility that the
31 application is dismissed.

32 6. The commission shall determine whether a hearing must be held
33 when the proposed change in any schedule stating a new or revised indi-
34 vidual or joint rate, fare or charge, or any new or revised individual or
35 joint regulation or practice affecting any rate, fare or charge, will result
36 in an increase in annual gross revenue as certified by the applicant of
37 \$2,500 or less.

38 7. In making the determination the commission shall first consider
39 all timely written protests, [any presentation the staff of the commission
40 may desire to present,] the recommendation of the agency, the applica-
41 tion and any other matters deemed relevant by the commission.

42 SEC. 43. NRS 704.110 is hereby amended to read as follows:
43 704.110 Except as may otherwise be provided by the commission
44 pursuant to NRS 704.095:

45 1. Whenever there is filed with the commission any schedule stating
46 a new or revised individual or joint rate, fare or charge, or any new or
47 revised individual or joint regulation or practice affecting any rate, fare
48 or charge, or any schedule resulting in a discontinuance, modification or
49 restriction of service, the commission may, either upon complaint, upon
50 request of the agency or upon its own motion without complaint, at

1 once, and if it so orders, without answer or formal pleading by the inter-
2 ested utility, [enter upon an investigation or,] upon reasonable notice,
3 enter upon a hearing concerning the propriety of the rate, fare, charge,
4 classification, regulation, discontinuance, modification, restriction or prac-
5 tice.

6 2. Pending [the] *an investigation by the agency*, or hearing and the
7 decision thereon, the commission [.] *on its own motion or upon peti-*
8 *tion by the agency*, and upon delivering to the utility affected thereby
9 a statement in writing of its reasons for the suspension, may suspend the
10 operation of the schedule and defer the use of the rate, fare, charge, classi-
11 fication, regulation, discontinuance, modification, restriction or practice,
12 but not for a longer period than 150 days beyond the time when the
13 rate, fare, charge, classification, regulation, discontinuance, modification,
14 restriction or practice would otherwise go into effect.

15 3. Whenever there is filed with the commission any schedule stating
16 an increased individual or joint rate, fare or charge for service or equip-
17 ment, the public utility shall submit with its application a statement show-
18 ing the recorded results of revenues, expenses, investments and costs of
19 capital for its most recent 12-month period. During any hearing concern-
20 ing the increased rates, fares or charges determined by the commission to
21 be necessary, the commission shall consider evidence in support of the
22 increased rates, fares or charges based upon actual recorded results of
23 operations for the most recent 12 consecutive months for which data are
24 available at the time of filing, adjusted for any increased investment in
25 facilities, increased depreciation expenses, certain other operating
26 expenses as approved by the commission and changes in the costs of
27 securities which are known and are measurable with reasonable accuracy
28 at the time of filing and which will become effective within 6 months after
29 the last month of the actual 12-month results of operations; but no new
30 rates, fares or charges may be placed into effect until the changes have
31 been experienced and certified by the utility to the commission. The
32 commission may also consider evidence supporting depreciation expenses,
33 calculated on an annual basis, applicable to major electric generating plant
34 units placed into service during the recorded test period or the certifica-
35 tion period as set forth in the application. Within 90 days after the filing
36 with the commission of the certification required herein, or before the
37 expiration of any suspension period ordered pursuant to subsection 2,
38 whichever time is longer, the commission shall make such order in refer-
39 ence to those rates, fares or charges as may be required by this chapter.

40 4. After full investigation *and recommendation by the agency* or after
41 hearing, whether completed before or after the date upon which the rate,
42 fare, charge, classification, regulation, discontinuance, modification,
43 restriction or practice is to go into effect, the commission may make such
44 order in reference to the rate, fare, charge, classification, regulation, dis-
45 continuance, modification, restriction or practice as would be proper in a
46 proceeding initiated after the rate, fare, charge, classification, regulation,
47 discontinuance, modification, restriction or practice has become effective.

48 5. Whenever an application is filed by a public utility for an increase
49 in any rate, fare or charge based upon increased costs in the purchase of

1 fuel or power, and the public utility has elected to use deferred account-
2 ing for costs of the purchase of fuel or power in accordance with com-
3 mission regulations, the commission, by appropriate order after a public
4 hearing, shall allow the public utility to clear the deferred account not
5 more often than every 6 months by refunding any credit balance or
6 recovering any debit balance over a period not to exceed 1 year as deter-
7 mined by the commission. The commission shall not allow a recovery of
8 a debit balance or any portion thereof in an amount which would result
9 in a rate of return in excess of the rate of return most recently granted
10 the public utility.

11 6. Except as provided in subsection 7, whenever an application for
12 an increased rate, fare or charge for, or classification, regulation, dis-
13 continuance, modification, restriction or practice involving service or
14 equipment has been filed with the commission, a public utility shall not
15 submit another application until all pending applications for rate
16 increases submitted by that public utility have been decided unless, after
17 application and hearing the commission determines that a substantial
18 financial emergency would exist if the other application is not permitted
19 to be submitted sooner.

20 7. A public utility may not file an application to recover the
21 increased cost of purchased fuel, purchased power or natural gas pur-
22 chased for resale more often than once every 30 days.

23 SEC. 44. NRS 704.183 is hereby amended to read as follows:

24 704.183. 1. The commission may order an examination of the con-
25 dition and management of any public utility under its jurisdiction which
26 is a community antenna television system, telephone company, electric
27 light, heat and power company or a natural gas company.

28 2. The commission, *the agency* and the public utilities shall estab-
29 lish, and revise annually, a list of not less than 20 persons qualified to
30 conduct such examinations.

31 3. If an examination is ordered:

32 (a) The public utility shall select a person to conduct the examination
33 from such list; and

34 (b) The commission, *the agency*, the public utility and the person
35 selected shall determine the manner, scope and cost of the examination
36 and the content and form of reports issued at the conclusion of the
37 examination.

38 4. Except where the commission, after a hearing, determines that an
39 examination of a public utility is in the public interest, the commission
40 shall not order an examination if a prior examination has been conducted
41 within the preceding 5 years.

42 5. The costs of an examination are allowable expenses of the public
43 utility for the purpose of ratemaking.

44 SEC. 45. NRS 704.190 is hereby amended to read as follows:

45 704.190 1. Every public utility operating in this state shall, when-
46 ever an accident occurs in the conduct of its operation causing death, give
47 prompt notice thereof to the commission [.] *and to the agency*, in
48 such manner and within such time as the commission may prescribe. If
49 in its judgment the public interest requires it, the [commission may cause

1 an investigation to be made forthwith] *agency may conduct an investi-*
2 *gation of any accident, at [such place and in such manner as the com-*
3 *mission shall deem best.] a place and in a manner that the agency deems*
4 *best.*

5 2. Every such public utility shall report to the commission, at the
6 time, in the manner and on such forms as the commission [shall] by its
7 printed rules and regulations [prescribe,] *prescribes*, all accidents hap-
8 pening in this state and occurring in, on or about the premises, plant,
9 instrumentality or facility used by any such utility in the conduct of its
10 business.

11 3. The commission shall [promulgate and] adopt all reasonable
12 [rules and] regulations necessary for the administration and enforcement
13 of this section. [Such rules and] *The regulations [shall in any event]*
14 *must* require that all accidents required to be reported [herein shall]
15 *under this section* be reported to the commission at least once every
16 calendar month by such officer or officers of the utility as the commission
17 [shall direct.] *directs.*

18 4. The commission shall adopt and utilize all accident report forms,
19 which forms [shall] *must* be so designed as to provide a concise and
20 accurate report of the accident and which report [shall in any event]
21 *must* show the true cause of the accident. The accident report forms
22 adopted for the reporting of railroad accidents [shall] *must* be the same
23 in design as near as may be as the railroad accident report forms pro-
24 vided and used by the Interstate Commerce Commission.

25 5. If any accident reported to the commission [shall be] *is* reported
26 by the utility as being caused by or through the negligence of an employee
27 and thereafter such employee is absolved from such negligence by the
28 utility and found not to be responsible for the accident, [such fact shall]
29 *this fact must* be reported by the utility to the commission.

30 6. All accident reports [herein] required [shall] *under this section*
31 *must* be filed in the office of the commission and there preserved. [Not-
32 withstanding any other provisions of law, neither] *The commission shall*
33 *provide the agency with one copy of each report filed. Neither* any
34 accident report made as required by this chapter, nor any report of the
35 [commission] *agency* made pursuant to any accident investigation
36 made by it, [shall be] *is* open to public inspection or *may* be disclosed
37 to any person, except upon order of the commission, nor [shall] *may*
38 either or any of the reports, or any portion thereof, be admitted as evi-
39 dence or used for any purpose in any suit or action for damages growing
40 out of any matter mentioned in the accident report or report of any such
41 investigation.

42 SEC. 46. NRS 704.220 is hereby amended to read as follows:

43 704.220 1. The commission may, when necessary:

44 (a) Ascertain and prescribe for each kind of public utility adequate,
45 convenient and serviceable standards for the measurement of quality,
46 pressure, voltage or other conditions pertaining to the supply of the
47 product or service rendered by any public utility; and

48 (b) Prescribe reasonable regulations for the examination and testing
49 of such products or service and for the measurement thereof.

50 2. Any [consumer,] user or person served may have the quality or

1 quantity of the product or the character of any service rendered by any
2 public utility tested upon the payment of fees fixed by the [commission,
3 which fees, however, shall be paid by the public utility and repaid to the
4 complaining party if the quality or quantity of the product or the char-
5 acter of the service be found by the commission defective or insufficient
6 in a degree to justify the demand for testing; or the commission may
7 apportion the fees between the parties as justice may require.] *agency.*
8 *If the agency determines that the quality or quantity of the product or*
9 *the character of the service is defective or insufficient in a degree to jus-*
10 *tify the demand for testing, the agency shall petition the commission for*
11 *an order that the public utility pay the fees and that the commission*
12 *return the amount of the fees to the person who paid for the test. The*
13 *commission may apportion the fees between the parties as justice may*
14 *require.*

15 SEC. 47. NRS 704.240 is hereby amended to read as follows:

16 704.240 1. The [commission] *agency* may [, in its discretion,]
17 purchase such materials, apparatus and standard measuring instruments
18 for [such] examination and tests as it [may deem] *deems* necessary.

19 2. The [commission shall have the right and power to] *agency*
20 *may* enter upon any premises occupied by any public utility for the pur-
21 pose of making the examination and tests provided for in this chapter
22 and set up and use on [such] *the* premises any necessary apparatus and
23 appliances and occupy reasonable space therefor.

24 3. Any public utility refusing to allow [such] *an* examination to be
25 made [as herein provided shall be] *pursuant to this section* is subject to
26 the penalties prescribed in NRS 704.590.

27 SEC. 48. NRS 704.285 is hereby amended to read as follows:

28 704.285 1. The [commission,] *agency*, upon its own informa-
29 tion or knowledge or upon a complaint *to the commission* by any person,
30 firm, partnership or corporation that any public utility is acting in viola-
31 tion of the provisions of NRS 179.410 to 179.515, inclusive, or NRS
32 200.610 to 200.690, inclusive, or is knowingly allowing another person
33 to violate those provisions, shall proceed without notice to make an
34 investigation of the information or complaint.

35 2. If, after its investigation, the [commission] *agency* determines
36 that there is probable cause to believe that the utility is acting in viola-
37 tion of the provisions of NRS 179.410 to 179.515, inclusive, or NRS
38 200.610 to 200.690, inclusive, or allowing another to act in violation of
39 those provisions, [the] *the agency shall petition the commission for*
40 *issuance to the utility of an order to cease and desist. The commission*
41 *shall forthwith issue [a cease and desist] this order to the utility. The*
42 *order is permanent unless the utility, within 20 days after receipt of the*
43 *order, files a written request for a hearing with the commission.*

44 3. When a written request for a hearing is filed pursuant to sub-
45 section 2, the commission shall conduct the hearing pursuant to the pro-
46 visions of NRS 703.320 to 703.370, inclusive.

47 4. If, as the result of a hearing, it is determined that the utility is
48 acting in violation of the provisions of NRS 179.410 to 179.515, inclu-
49 sive, or NRS 200.610 to 200.690, inclusive, or allowing another to act
50 in violation of those provisions, the commission shall issue a permanent

1 **[cease and desist]** order to *cease and desist* and notify the district
2 attorney of the county where the violation occurred of its determination.

3 5. This section is applicable whether or not the utility involved is
4 required to have a certificate of public convenience and necessity from
5 the commission.

6 SEC. 49. NRS 704.300 is hereby amended to read as follows:

7 704.300 1. After an investigation **[and]** by the agency and a hearing,
8 which has been initiated either upon the commission's own motion,
9 or as the result of the filing of a formal application or complaint by the
10 department of transportation, the board of county commissioners of any
11 county, the town board or council of any town or municipality, or any
12 railroad company, the commission may determine, and order for the
13 safety of the traveling public:

14 (a) The elimination, alteration, addition or change of a highway
15 crossing or crossings over any railroad at grade, or above or below grade,
16 including its approaches and surface.

17 (b) Changes in the method of crossing at grade, or above or below
18 grade.

19 (c) The closing of a crossing and the substitution of another therefor.

20 (d) The removal of obstructions to the public view in approaching
21 any crossing.

22 (e) Such other details of use, construction and operation as may be
23 necessary to make grade-crossing elimination, changes and betterments
24 for the protection of the public and the prevention of accidents effective.

25 2. The commission shall order that the cost of any elimination,
26 removal, addition, change, alteration or betterment so ordered must be
27 divided and paid in such proportion by the state, county, town or municip-
28 ality and the railroad or railroads interested as is provided according to
29 the circumstances occasioning the cost, in NRS 704.305.

30 3. All costs incurred by reason of any hearing held under this sec-
31 tion before the commission, including but not limited to publication of
32 notices, reporting, transcripts and rental of hearing room, must be appor-
33 tioned 50 percent to the governmental unit or units affected and 50 per-
34 cent to the railroad or railroads.

35 SEC. 50. NRS 704.330 is hereby amended to read as follows:

36 704.330 1. Every public utility owning, controlling, operating or
37 maintaining or having any contemplation of owning, controlling or oper-
38 ating any public utility shall, before beginning such operation or con-
39 tinuing operations or construction of any line, plant or system or any
40 extension of a line, plant or system within this state, obtain from the
41 commission a certificate that the present or future public convenience or
42 necessity requires or will require such continued operation or com-
43 mencement of operations or construction.

44 2. Nothing **[herein shall be construed as requiring a public utility**
45 **to secure such certificate]** in this section requires a public utility to obtain
46 a certificate of public convenience and necessity for any extension within
47 any town or city within which it **[shall theretofore have]** has lawfully
48 commenced operations or for an extension into territory either within or
49 without the city or town as long as **[such]** the extension:

1 (a) Is to serve a telephone toll station or stations to be located not
2 more than 10 miles from existing telephone facilities; or

3 (b) Remains within **[service area]** boundaries which have been estab-
4 lished by the commission as *service areas* for its railroad, line, plant or
5 system, and not then served by a public utility of like character.

6 3. Upon the granting of any certificate of public convenience, the
7 commission may make such order and prescribe such terms and condi-
8 tions for the location of lines, plants or systems to be constructed,
9 extended or affected as may be just and reasonable.

10 4. When a complaint has been filed with the commission alleging
11 that any utility is being operated without a certificate of public con-
12 venience and necessity as required by this section, or when the **[com-**
13 **mission]** agency has reason to believe that any provision of this section
14 is being violated, the **[commission]** agency shall investigate **[such]** its
15 operations. **[and the commission shall have power,]** if the agency deter-
16 mines that any provision of this section is being violated, it shall petition
17 the commission to issue to the owner or operator of the utility an order to
18 cease and desist. The commission may, after a hearing, **[to]** make its
19 order requiring the owner or operator of such utility to cease and desist
20 from any operation in violation of this section. The commission shall
21 enforce compliance with **[such order under the powers vested in the**
22 **commission by law.]** the order.

23 5. If any public utility in constructing or extending its line, plant
24 or system interferes or is about to interfere with the operation of the
25 line, plant or system of any other public utility already constructed, the
26 commission, on complaint of the public utility claiming to be injuriously
27 affected, after hearing, may make such an order prohibiting **[such]** con-
28 struction or extension, or prescribing such terms and conditions for the
29 location of the lines, plants or systems affected, as to it may seem just
30 and reasonable.

31 6. Whenever the commission, after a hearing upon **[its own motion]**
32 *the petition of the agency* or upon complaint, finds that there is or will
33 be a duplication of service by public utilities in any area, the commission
34 shall: **[, in its discretion, either issue]**

35 (a) Issue a certificate of public convenience and necessity assigning
36 specific territories to one or to each of **[such utilities, or, by]** the utilities;
37 or

38 (b) By certificate of public convenience and necessity, otherwise define
39 the conditions of rendering service and construction, extensions within
40 **[such]** those territories, and shall order the elimination of **[such]** dup-
41 lication, all upon such terms as are just and reasonable, having due
42 regard to due process of law and to all the rights of the respective parties
43 and to public convenience and necessity.

44 SEC. 51. NRS 704.440 is hereby amended to read as follows:

45 704.440 1. The **[commission may, in its discretion,]** agency may
46 investigate and ascertain the value of all property of every public utility
47 actually used and useful for the convenience of the public.

48 2. In making **[such]** an investigation the **[commission]** agency may

1 avail itself of all information contained in the assessment rolls of the vari-
2 ous counties and the public records and files of all state departments,
3 offices and commissions, and any other information obtainable.

4 SEC. 52. NRS 704.540 is hereby amended to read as follows:

5 704.540 1. Any party in interest being dissatisfied with an order of
6 the commission fixing any rate or rates, fares, charges, classifications,
7 joint rate or rates, or any order fixing any regulations, practices or serv-
8 ices, may within 90 days commence an action in the district court of the
9 proper county against the [commission] agency and other interested
10 parties as defendants to vacate and set aside [any such] the order on the
11 ground that the rate fixed in [such] the order is unlawful or unreason-
12 able, or that [any such] the regulation, practice or service fixed in [such]
13 the order is unreasonable.

14 2. The [commission and other] parties defendant shall file their
15 answers to the complaint within 30 days after [the service thereof,
16 whereupon such action shall be at issue and stand] its service. After the
17 filing by defendants, the action is at issue and stands ready for trial upon
18 20 days' notice to either party.

19 3. All actions brought under this section [shall] have precedence
20 over any civil cause of a different nature pending in [such] the court, and
21 the court shall always be deemed open for the trial thereof, and the
22 [same shall] action must be tried and determined as other civil actions.

23 4. Any party to [such] the action may introduce evidence in addi-
24 tion to the transcript of the evidence offered to the commission.

25 SEC. 53. NRS 704.550 is hereby amended to read as follows:

26 704.550 1. No injunction [shall] may issue suspending or staying
27 any order of the commission relating to rates, fares, charges, classifica-
28 tion, joint rate or rates, or any order fixing any regulations, except upon
29 application to the court or judge thereof, upon notice given the [com-
30 mission] agency, the affected public utility and all other parties to the
31 action within 20 days of the rendition of the order of the commission
32 complained of, and no such injunction [shall] may issue except upon
33 such notice being first given and a hearing of the petition therefor by the
34 court or judge thereof within 20 days thereafter. In any event all rates,
35 charges and regulations of the commission shall be deemed reasonable
36 and just until set aside by the court, and in all actions for injunction or
37 otherwise the burden of proof [shall be] is upon the party attacking or
38 resisting the order of the commission to show by clear and satisfactory
39 evidence that the order is unlawful, or unreasonable, as the case may be.

40 2. If an injunction is granted by the court and the order complained
41 of is one which permanently suspends a schedule of rates and charges
42 or a part thereof filed by any public utility pursuant to NRS 704.070
43 to 704.110, inclusive, or which otherwise prevents [such] the schedule
44 or part thereof from taking effect, the public utility complaining may
45 keep in effect or cause to be put into effect, as the case may be, the
46 suspended schedule or part thereof pending final determination by the
47 court having jurisdiction, by filing a bond with the court in such amount
48 as the court may fix, conditioned upon the refund to persons, firms,
49 companies or corporations entitled thereto of the amount of the excess

1 if the rate or rates so suspended are finally determined by the court to
2 be excessive.

3 3. Upon the final determination of the court that the rate or rates
4 in question are excessive and the public utility [shall have collected
5 such] has collected the excessive rate or rates, [such] the public utility
6 shall compute and pay the excess or overpayment of the rate or rates
7 as to each individual ratepayer within 60 days from and after the entry
8 of final judgment of the court.

9 4. Within 90 days after the entry of final judgment, the public utility
10 shall prepare and file with the commission a statement and report in
11 affidavit form stating that all ratepayers entitled to refunds have been
12 paid, and if there are ratepayers to whom payment has not or cannot
13 be made, the names, addresses and individual amounts of refund [shall
14 be listed in such] must be listed in the report, and the public utility
15 shall pay the aggregate of all such unpaid refunds to the commission.

16 5. The commission shall retain such aggregate refunds in the public
17 service commission regulatory fund subject to the claim of each rate-
18 payer for his [or its] share in the refund payment and shall pay all
19 such claims which are presented for payment within 2 years [from and]
20 after the date of the entry of final judgment of the court. All such
21 claimants [shall be required to] must identify themselves to the satis-
22 faction of the commission before payment [shall] may be made.

23 6. Any ratepayer [shall have] has a right of action against the com-
24 mission in the event of a refusal of the commission to pay his [or its]
25 claim in the name of [such] the ratepayer appears in the report filed
26 by the [public] utility. Action against the commission must be brought
27 within 6 months [from and] after the refusal to pay the [same.] claim.

28 7. The [commission] agency shall investigate every case in which a
29 claim is presented to [it] the commission by a person claiming a refund
30 but whose name does not appear in the report of the public utility, and
31 if [such] the investigation results in a refusal by the public utility to pay
32 [such] the claim, then the claimant [shall have] has a right of action
33 against the public utility.

34 8. Any unclaimed [moneys] money remaining in the custody of the
35 commission at the expiration of the 2-year period [shall escheat]
36 escheats to the state.

37 SEC. 54. NRS 704.590 is hereby amended to read as follows:

38 704.590 1. Any public utility or any officer, agent or employee of a
39 public utility who:

40 (a) Violates any of the provisions of this chapter or chapters 705,
41 708 and 711 of NRS;

42 (b) Violates any rule or regulation of the commission; [or]

43 (c) Fails, neglects or refuses to obey any order of the commission or
44 any order of a court requiring compliance with an order of the commis-
45 sion [.] ;

46 (d) Willfully fails or refuses to fill out and return any blanks as
47 required by this chapter;

48 (e) Willfully fails or refuses to answer any questions therein pro-
49 pounded;

50 (f) Knowingly or willfully gives a false answer to any of the questions;

1 (g) Evades the answer to any of the questions when the fact inquired
2 of is within his knowledge; or

3 (h) Upon proper demand, willfully fails or refuses to exhibit to the
4 director or a designated employee of the agency any book, paper or
5 account of the public utility which is in his possession or under his con-
6 trol,
7 is liable for a civil penalty not to exceed \$1,000 per day for each day of
8 the violation and not to exceed \$100,000 for any related series of viola-
9 tions.

10 2. The amount of any civil penalty to be imposed pursuant to this
11 [section, and the propriety of any compromise of a penalty, shall] sec-
12 tion must be determined by a court of competent jurisdiction upon the
13 complaint of the [commission].

14 3. Subject to the approval of the court, any civil penalty may be
15 compromised by the commission. In determining the amount of the pen-
16 alty, or the amount agreed upon in compromise, the appropriateness of
17 the penalty to the size of the business of the person charged, the gravity
18 of the violation and the good faith of the person charged in attempting
19 to achieve compliance, after notification of a violation, shall be con-
20 sidered.

21 4. Any penalty assessed pursuant to this section is not a cost of
22 service by the public utility and shall not be included in any new applica-
23 tion by a public utility for a rate adjustment or rate increase.]:

24 (a) Commission for a violation of paragraphs (a), (b) or (c) of sub-
25 section 1.

26 (b) Agency for a violation of paragraphs (d) to (h), inclusive, of sub-
27 section 1.

28 SEC. 55. NRS 704.600 is hereby amended to read as follows:

29 704.600 [Any officer, agent or employee of any public utility who
30 shall:

31 1. Willfully fail or refuse to fill out and return any blanks as
32 required by this chapter; or

33 2. Willfully fail or refuse to answer any questions therein pro-
34 pounded; or

35 3. Knowingly or willfully give a false answer to any such ques-
36 tions; or

37 4. Evade the answer to any such question where the fact inquired of
38 is within his knowledge; or

39 5. Upon the proper demand, willfully fail or refuse to exhibit to the
40 commission or any commissioners, or any person also authorized to
41 examine the same, any book, paper or account of such public utility
42 which is in his possession or under his control, shall be subject to the
43 penalty prescribed in NRS 704.590.]

44 1. Subject to the approval of the court, the commission or agency,
45 whichever brought the action for recovery, may compromise any penalty
46 assessed pursuant to this chapter.

47 2. In determining the amount of the penalty, or the amount agreed
48 upon in compromise, the appropriateness of the penalty to the size of the
49 business of the person charged, the gravity of the violation and the good

1 faith of the person charged in attempting to achieve compliance, after
2 notification of a violation, must be considered.

3 3. Any penalty assessed pursuant to this section is not a cost of
4 service by the public utility and must not be included in any new appli-
5 cation by a public utility for a rate adjustment or rate increase.

6 SEC. 56. NRS 704.643 is hereby amended to read as follows:

7 704.643 1. No certificate of public convenience and necessity issued
8 in accordance with the terms of NRS 704.010 to 704.810, inclusive, is
9 either a franchise or irrevocable.

10 2. At any time, for good and sufficient cause, the commission may,
11 after investigation and recommendation of the agency and upon 5 days'
12 written notice to the grantee, suspend any certificate of public conven-
13 ience and necessity for a period not to exceed 60 days.

14 3. Upon receipt of a written complaint or [upon its own motion,]
15 petition by the agency, the commission may [.] for good and suffi-
16 cient cause, after [investigation and] hearing, revoke any certificate of
17 public convenience and necessity. If service of the notice of revocation
18 proceedings cannot be made upon the grantee, or if the commission
19 receives a written relinquishment from the grantee of his interest in the
20 certificate of public convenience and necessity, the commission may
21 revoke [such] the certificate of public convenience and necessity without
22 hearing.

23 4. The proceedings thereafter shall be governed by the provisions
24 of NRS 704.540 to 704.580, inclusive [.] , and section 40 of this act.

25 SEC. 57. NRS 704.660 is hereby amended to read as follows:

26 704.660 1. Any public utility which furnishes, for compensation,
27 any water for domestic purposes shall furnish each city, town, village
28 or hamlet which it serves with a reasonably adequate supply of water at
29 reasonable pressure for fire protection and at reasonable rates, all to be
30 fixed and determined by the commission.

31 2. The duty to furnish a reasonably adequate supply of water pro-
32 vided for in subsection 1 includes the laying of mains with all necessary
33 connections for the proper delivery of the water for fire protection and
34 also the installing of appliances to assure a reasonably sufficient pressure
35 for fire protection.

36 3. The commission may fix and determine reasonable rates and pre-
37 scribe all installations and appliances adequate for the proper utilization
38 and delivery of water for fire protection. The commission may adopt
39 regulations and practices to be followed by a utility in furnishing water
40 for fire protection, and has complete jurisdiction of all questions aris-
41 ing under the provisions of this section.

42 4. All proceedings under this section must be conducted pursuant
43 to NRS 703.320 to 703.370, inclusive, and [704.010] 704.020 to 704.-
44 640, inclusive. All violations of any order made by the commission under
45 the provisions of this section are subject to the penalties for like viola-
46 tions of the provisions of NRS [704.010] 704.020 to 704.640, inclusive.

47 5. This section applies to and governs all public utilities furnishing
48 water for domestic use on March 26, 1913, unless otherwise expressly
49 provided in the charters, franchises or permits under which those utilities
50 are acting. Each public utility which supplies water for domestic uses

1 after March 26, 1913, is subject to the provisions of this section, regard-
2 less of any conditions to the contrary in any charter, franchise or permit
3 of whatever character granted by any county, city, town, village or
4 hamlet within this state, or of any charter, franchise or permit granted
5 by any authority outside this state.

6 SEC. 58. NRS 704.679 is hereby amended to read as follows:

7 704.679 1. The [commission shall] *agency must* be furnished a
8 copy of each application to any city, town, county or any planning
9 commission for new subdivisions or other land development projects
10 which require a water supply or connection with a sewer system. Filing
11 of each application with the [commission shall] *agency must* be made
12 within 48 hours of the filing with the appropriate city, town or county.
13 [level of government. The commission shall thereupon review such]
14 *The agency shall review the* application and conduct an investigation, if
15 deemed necessary, to determine the continuity and adequacy of [sub-
16 ject] *the water supply or sewer service. The agency shall report to the*
17 *commission at a scheduled meeting its recommendations for approval*
18 *or disapproval of the application.* Final approval of applications by any
19 [such local governmental entity shall] *local government may not be*
20 granted [unless and] until approval in writing has been given by the
21 commission.

22 2. The [commission] *agency* shall collect a fee not to exceed \$200,
23 which [fee shall] *must* be used to defray the cost of conducting any
24 investigation under the provisions of subsection 1.

25 3. The provisions of subsections 1 and 2 [shall] *do not* apply in
26 any case where:

27 (a) The person to furnish the water supply or sewer service has
28 already been granted a certificate of public convenience and necessity by
29 the commission to serve the area described in the application.

30 (b) Any county, municipality or other form of local government,
31 including but not limited to districts formed under the provisions of
32 chapter 318 of NRS, will furnish the water supply or sewer service to the
33 area described in the application.

34 SEC. 59. NRS 704.885 is hereby amended to read as follows:

35 704.885 1. The parties to a permit proceeding include:

36 (a) The applicant.

37 (b) The state environmental commission created pursuant to NRS
38 445.451.

39 (c) Each local government entitled to receive service of a copy of the
40 application under subsection 3 of NRS 704.870, if it has filed with the
41 commission a notice of intervention as a party, within 45 days after
42 the date it was served with a copy of the application.

43 (d) Any person residing in a local government entitled to receive
44 service of a copy of the application under subsection 3 of NRS 704.870,
45 if [such a] *that* person has petitioned the commission for leave to inter-
46 vene as a party within 45 days after the date of the published notice and
47 if [such] *the* petition has been granted by the commission for good
48 cause shown.

49 (e) Any domestic nonprofit corporation or association, formed in
50 whole or in part to promote conservation of natural beauty, to protect the

1 environment, personal health or other biological values, to preserve his-
2 torical sites, to promote consumer interests, to represent commercial and
3 industrial groups, or to promote the orderly development of the areas in
4 which the facility is to be located, if it has filed with the commission a
5 notice of intent to be a party within 45 days after the date of the pub-
6 lished notice.

7 (f) *The agency.*

8 2. Any person may make a limited appearance in the proceeding by
9 filing a statement of position within 45 days after the date of the pub-
10 lished notice. A statement filed by a person making a limited appearance
11 becomes part of the record. No person making a limited appearance
12 has the right to present oral testimony or cross-examine witnesses.

13 3. The commission may, for good cause shown, grant a petition for
14 leave to intervene as a party to participate in subsequent phases of the
15 proceeding, filed by a municipality, government agency, person or orga-
16 nization who is identified in paragraph (b), (c), (d) or (e) of subsection
17 1, but who failed to file a timely notice of intervention or petition for
18 leave to intervene, as the case may be.

19 SEC. 60. NRS 704.895 is hereby amended to read as follows:

20 704.895 1. Any party aggrieved by any order issued on an applica-
21 tion for a permit may apply for a rehearing within 15 days after issuance
22 of the order. Any party aggrieved by the final order of the commission
23 on rehearing may obtain judicial review thereof by filing of a complaint
24 in a district court *against interested parties* within 30 days after the
25 issuance of such final order. Upon [receipt of such] *receiving notice of*
26 *the* complaint, the commission shall forthwith deliver to the court a copy
27 of the written transcript of the record of the proceeding before it and
28 a copy of its decision and opinion entered therein, which shall constitute
29 the record on judicial review.

30 2. The grounds for and the scope for review of the court [shall be]
31 *are* limited to whether the opinion and order of the commission is:

32 (a) In conformity with the constitution and the laws of the State of
33 Nevada and of the United States;

34 (b) Supported by substantial evidence in the record;

35 (c) Made in accordance with the procedures set forth in NRS 704.-
36 820 to 704.900, inclusive, or established order, rule or regulation of
37 the commission; and

38 (d) Arbitrary, capricious or an abuse of discretion.

39 3. *The commission may not be made a party to, nor may it appear*
40 *in, any action brought under this section, nor may the commission appear*
41 *in an appeal therefrom.*

42 SEC. 61. Chapter 705 of NRS is hereby amended by adding thereto
43 a new section which shall read as follows:

44 1. *The agency shall conduct such investigations or surveillance, keep*
45 *such records, require such reports, make such inspections, and perform*
46 *such other duties as may be necessary to enforce the commission's regula-*
47 *tions governing passenger and freight operations by railroads in the State*
48 *of Nevada.*

1 2. The agency may engage in activities and programs for railroad
2 safety pursuant to an agreement with the United States Secretary of Trans-
3 portation.

4 3. The commission shall cooperate with the agency for the purpose
5 of applying for federal grants to aid programs and activities carried out
6 under this section. All such grants received must be deposited in the state
7 treasury for credit to the special revenue fund for the utility customers'
8 representative agency.

9 SEC. 62. Chapter 706 of NRS is hereby amended by adding thereto
10 the provisions set forth as sections 63 to 66, inclusive, of this act.

11 SEC. 63. The agency may examine, at any time during business hours,
12 the books, papers and records of any common, contract or private
13 motor carrier doing business in this state. The agency may examine in
14 other states the books, papers and records that are not maintained in this
15 state. Upon application by the agency, the commission may require by
16 subpoena the production inside this state of books, papers and records that
17 are not maintained in this state.

18 SEC. 64. 1. Within 30 days after the filing of any notice of changes
19 to a schedule or any new schedule, the commission shall determine
20 whether to:

21 (a) Dispense with a hearing pursuant to subsection 4 of NRS 706.321;

22 (b) Suspend the schedule or defer the use of the rate, fare, charge,
23 classification, regulation, discontinuance, modification, restriction or practice
24 pursuant to subsection 2 of NRS 706.326; or

25 (c) Approve the changes to the schedule or the new schedule.

26 2. The determinations must be made at a regular meeting of the com-
27 mission or at a hearing specially convened for the purpose of making the
28 determinations.

29 3. The agency shall review the proposed changes to the schedule or
30 the new schedule and shall, at the meeting or hearing held pursuant to
31 this section, report to the commission the nature and the effects of the
32 changes or new schedule. The agency may make recommendations
33 as to whether the tariff filing should be accepted as filed, modified pur-
34 suant to agreement with the applicant, suspended for further review, or
35 suspended and set for hearing.

36 SEC. 65. 1. Whenever a motor carrier or broker files with the com-
37 mission an application for issuance, modification or transfer of a certifi-
38 cate of public convenience and necessity or permit to be a contract
39 carrier, the agency shall investigate the effect that the proposed services
40 would have on other authorized facilities in the territory for which the
41 certificate is sought, the public convenience and necessity to be accorded
42 by the service offered by the applicant, and the fitness, willingness and
43 ability of the applicant to perform the services of a motor carrier or
44 broker.

45 2. Within 30 days after the filing of the application, or a longer
46 period if approved by the commission, the agency shall report to the
47 commission the results of its investigation. The report must be made
48 at a regular meeting of the commission. If the matter of the application

1 is set for hearing, the report may be submitted in writing at or before the
2 time set for hearing.

3 SEC. 66. The commission may not be made a party to, nor may it
4 appear in, any action brought under NRS 706.706 to 706.726, inclusive,
5 nor may the commission appear in an appeal therefrom.

6 SEC. 67. NRS 706.151 is hereby amended to read as follows:
7 706.151 1. It is hereby declared to be the purpose and policy of
8 the legislature in enacting this chapter:

9 (a) Except to the extent otherwise provided in NRS 706.881 to 706.-
10 885, inclusive, to confer upon the commission the power [and author-
11 ity] and to make it the duty of the commission to [supervise and]
12 regulate common and contract motor carriers and brokers, and to regu-
13 late for licensing purposes private motor carriers of property when used
14 for private commercial enterprises on the highways of this state, and to
15 confer upon the department of motor vehicles the power and authority
16 to license all motor carriers [,] and to make it the duty of the agency and
17 the department to enforce the provisions of this chapter and the regula-
18 tions adopted by the commission pursuant to it, so as to relieve the exist-
19 ing and all future undue burdens on [such] the highways arising by
20 reason for the use of [such] the highways by vehicles in a gainful
21 occupation thereon;

22 (b) To provide for reasonable compensation for the use of [such]
23 the highways in [such] gainful occupation, and enable the State of
24 Nevada, by a utilization of the license fees, to provide more fully for the
25 proper construction, maintenance and repair thereof, and thereby pro-
26 tect the safety and welfare of the traveling and shipping public in their
27 use of the highways; and

28 (c) To provide for fair and impartial regulation, to promote safe,
29 adequate, economical and efficient service and foster sound economic
30 conditions in motor transportation, and to encourage the establishment
31 and maintenance of reasonable charges for such transportation [serv-
32 ices,] without unjust discrimination, undue preferences or advantages,
33 or unfair or destructive competitive practices.

34 2. All of the provisions of this chapter [shall] must be administered
35 and enforced with a view to carrying out the declaration of policy con-
36 tained in subsection 1.

37 SEC. 68. NRS 706.166 is hereby amended to read as follows:

38 706.166 The commission shall:

39 1. [Supervise and regulate] Regulate every common and contract
40 motor carrier and broker in this state in all matters affecting the relation-
41 ship between [such] the carriers and brokers and the traveling and
42 shipping public over and along the highways.

43 2. Regulate for licensing purposes private motor carriers of property
44 when used for private commercial enterprises on the highways.

45 3. To [implement] carry out the policies and objectives expressed
46 in paragraph (c) of subsection 1 of NRS 706.151, adopt regulations
47 providing for agreements between two or more motor carriers relating to:

48 (a) Fares;

49 (b) Rates;

50 (c) Classifications;

- 1 (d) Divisions;
- 2 (e) Allowances; and
- 3 (f) Charges, including charges between carriers and compensation
- 4 paid or received for the use of facilities and equipment.
- 5 [Such regulations] Regulations may not provide for collective agree-
- 6 ments which preclude the unrestrained right of any party to take free and
- 7 independent action.

8 SEC. 69. NRS 706.231 is hereby amended to read as follows:
 9 706.231 Sheriffs and all other peace officers and traffic officers of
 10 this state are charged with the duty, without further compensation, of
 11 assisting in the enforcement of this chapter. They shall make arrests for
 12 this purpose when requested by an authorized agent of the department,
 13 [commission,] agency or other competent authority.

14 SEC. 70. NRS 706.246 is hereby amended to read as follows:
 15 706.246 1. The provisions of all laws pertaining to the safe opera-
 16 tion of vehicles upon the highways of this state are hereby declared
 17 applicable to all vehicles coming within the terms of this chapter.

18 2. [No] A common or contract motor carrier shall not permit or
 19 require a driver to drive or tow any vehicle revealed by inspection or
 20 operation to be in such condition that its operation would be hazardous
 21 or likely to result in a breakdown of the vehicle, [nor shall any driver]
 22 and a driver shall not drive or tow any vehicle which by reason of its
 23 mechanical condition is so imminently hazardous to operate as to be
 24 likely to cause an accident or a breakdown of the vehicle. If, while any
 25 vehicle is being operated on a highway, it is discovered to be in such
 26 unsafe condition, it [shall] may be continued in operation only to the
 27 nearest place where repairs can safely be effected, and even such opera-
 28 tions [shall] may be conducted only if it is less hazardous to the public
 29 than permitting the vehicle to remain on the highway.

30 3. Notwithstanding the provisions of this section and NRS 484.697,
 31 [no] a common or contract motor carrier [and no] or private motor
 32 carrier subject to the provisions of subsection 2 of NRS 706.776 shall
 33 not permit or require a driver to drive or tow, [nor shall any driver]
 34 and a driver shall not drive or tow, any vehicle which by reason of its
 35 mechanical condition is so imminently hazardous to operate as to be
 36 likely to cause an accident or a breakdown and which vehicle has been
 37 declared "out of service" by an authorized employee of the [commis-
 38 sion,] agency or the department. When the repairs have been made, the
 39 carrier shall so certify to the [commission,] agency which declared the
 40 vehicle "out of service" in accordance with the requirements of the com-
 41 mission.

42 SEC. 71. NRS 706.251 is hereby amended to read as follows:
 43 706.251 1. Every person operating a vehicle used by any motor
 44 carrier under the jurisdiction of the public service commission shall
 45 forthwith report each accident occurring on the public highway, wherein
 46 the vehicle may have injured the person or property of some person
 47 other than the person or persons or property carried by the vehicle, to
 48 the sheriff or other peace officer of the county where the accident
 49 occurred. If the accident immediately or proximately causes death, the
 50 person in charge of the vehicle, or any officer investigating the accident,

1 shall furnish to the [commission such] department a detailed report
 2 thereof as required by the [commission,] department. If in its judgment
 3 the public interest requires it, the department may make an investigation
 4 of any accident, at such place and in such a manner as the department
 5 deems best.

6 2. All accident reports required in this section [shall] must be filed
 7 in the office of the commission and there preserved. An accident report
 8 made as required by this chapter, or any report of the commission made
 9 pursuant to any accident investigation made by it, is not open to public
 10 inspection and shall not be disclosed to any person, except upon order
 11 of the commission. Such reports shall not be admitted as evidence or
 12 used for any purpose in any action for damages growing out of any
 13 matter mentioned in the accident report or report of any such investiga-
 14 tion.

15 SEC. 72. NRS 706.266 is hereby amended to read as follows:
 16 706.266 1. Except as provided in NRS 706.521 and 706.526, it is
 17 unlawful for any common, contract or private motor carrier to operate
 18 as a motor carrier of intrastate, or interstate or foreign commerce within
 19 or through this state without having furnished the commission the fol-
 20 lowing:

21 (a) In the case of interstate or foreign commerce:
 22 (1) Good and sufficient evidence satisfactory to the commission
 23 that it has complied with all of the provisions of the Federal Motor
 24 Carrier Act of [1935,] 1978, as amended, and the [motor carrier
 25 safety rules and] regulations of the Department of Transportation for
 26 safety of motor carriers, as amended.

27 (2) A current copy of its certificate, permits or exemptions which
 28 have been issued by the Interstate Commerce Commission.

29 (3) Such other information as the commission may request.

30 (b) In the case of intrastate commerce:
 31 (1) Where a person does not hold a certificate of convenience and
 32 necessity or a permit to operate as a common or contract motor carrier
 33 in the State of Nevada an affidavit certifying that the person intends to
 34 operate as a private carrier.

35 (2) Such other information as the commission may request.

36 2. [The commission may waive any or all of such requirements.
 37 3.] Upon being notified by the commission that all requirements
 38 have been complied with and upon receipt of an application and the
 39 payment of a license fee, or upon being satisfied that such fee is secured,
 40 the department shall issue such intrastate or interstate or foreign motor
 41 carrier identifying devices indicating the type of carriage such motor
 42 carrier may perform in this state.

43 3. The department shall enforce regulations issued by the commis-
 44 sion under this section, and shall maintain current records of the evi-
 45 dence, certificates, permits, exemptions and other information required
 46 by the commission to be furnished.

47 SEC. 73. NRS 706.267 is hereby amended to read as follows:
 48 706.267 1. The [commission] department shall collect from all
 49 motor carriers required by NRS 706.266 to furnish the [commission]

1 department any certificate, permit or exemption document issued by the
2 Interstate Commerce Commission, a fee for the registration of [such]
3 those documents with the [commission.] department.

4 2. [Such fee shall] The fee must not exceed the following amounts
5 for the following documents:

- 6 (a) For a certificate or permit, \$25.
- 7 (b) For each duplicate of such certificate or permit, \$10.
- 8 (c) For each exemption document, \$25.
- 9 (d) For each additional required document, \$10.

10 SEC. 74. NRS 706.291 is hereby amended to read as follows:

11 706.291 1. The commission shall require every common and con-
12 tract motor carrier, within such time and in such amounts as the com-
13 mission may designate, to file with the [commission] agency in a form
14 required and approved by the commission a liability insurance policy,
15 or a certificate of insurance in lieu thereof, or a bond of a surety and
16 bonding company, or other surety, in such reasonable sum as the com-
17 mission may deem necessary to protect adequately the interests of the
18 public.

19 2. [Such] The liability insurance policy or certificate, policy or
20 bond of a surety and bonding company or other surety [shall] must bind
21 the obligors thereunder to pay the compensation for injuries to persons
22 or for loss or damage to property resulting from the negligent operation
23 of [such] the carrier.

24 3. The agency shall maintain current records of all insurance policies,
25 certificates and bonds required to be filed by this section.

26 4. Upon receipt of notice that any such policy, certificate or bond
27 of any common or contract motor carrier will be canceled, the agency
28 shall report the prospective cancellation to the commission and request
29 an order suspending the operations of the motor carrier effective on the
30 date of cancellation.

31 SEC. 75. NRS 706.321 is hereby amended to read as follows:

32 706.321 1. Every common or contract motor carrier shall file with
33 the commission:

34 (a) Within a time to be fixed by the commission, schedules and
35 tariffs which [shall be] are open to public inspection, showing all rates,
36 fares and charges which [such] the carrier has established and which
37 are in force at the time for any service performed in connection therewith
38 by any such carrier controlled and operated by it.

39 (b) In connection with and as part of such schedule, all rules [and]
40 or regulations that in any manner affect the rates or fares charged or to
41 be charged for any service.

42 2. No changes [shall] may be made in any schedule, including
43 schedules of joint rates, or in the rules and regulations affecting any and
44 all rates or charges, except upon 30 days' notice to the commission, and
45 all such changes [shall] must be plainly indicated on any new schedules
46 filed in lieu thereof 30 days [prior to] before the time the [same]
47 schedules are to take effect. The commission, upon application of any
48 such carrier, may prescribe a shorter time within which a change other
49 than a rate increase may be made. The 30 days' notice is not applicable
50 when any such carrier gives written notice to the commission 10 days

1 prior to the effective date of its participation in a tariff bureau's rates
2 and tariffs, [provided such] if the rates and tariffs have been previously
3 filed with and approved by the commission.

4 3. The [commission] agency may at any time [, upon its own
5 motion,] investigate any of the rates, fares, charges, rules, regulations,
6 practices and services, and, upon petition by the agency and after hearing,
7 the commission may by order [,] make such changes as may be just and
8 reasonable, [the same] as if a formal complaint had been made.

9 4. The commission, in its discretion, may dispense with the hearing
10 on any change requested in rates, fares, charges, rules, regulations, prac-
11 tices or service, if, upon the expiration of the time fixed in the notice
12 thereof, no protest against the granting of the change requested in rates,
13 fares, charges, rules, regulations, practices or service has been filed by
14 the agency or by or on behalf of any interested person.

15 5. All rates, fares, charges, classifications and joint rates, rules,
16 regulations, practices and services fixed by the commission [shall] must
17 be in force, and [shall be] are prima facie lawful, from the date of the
18 order until changed or modified by the commission, or in pursuance of
19 NRS 706.706 to 706.726, inclusive.

20 6. All regulations, practices and service prescribed by the commis-
21 sion [shall be enforced and shall be] must be enforced and are prima
22 facie reasonable unless suspended or found otherwise in an action
23 brought for the purpose, pursuant to the provisions of NRS 706.706 to
24 706.726, inclusive, or until changed or modified by the commission
25 itself upon satisfactory showing made.

26 SEC. 76. NRS 706.326 is hereby amended to read as follows:

27 706.326 1. Whenever there is filed with the commission any sched-
28 ular or tariff stating a new or revised individual or joint rate, fare or
29 charge, or any new or revised individual or joint regulation or practice
30 affecting any rate, fare or charge, or any schedule or tariff resulting in a
31 discontinuance, modification or restriction of service, the commission
32 [shall have, and it is hereby given, authority, either] may, upon com-
33 plaint or upon its own motion without complaint, or upon request by
34 the agency, at once, and if it so orders, without answer or formal pleading
35 by the interested common or contract motor carrier, [to enter upon an
36 investigation or.] upon reasonable notice, [to] enter upon a hearing
37 concerning the propriety of [such] the rate, fare, charge, classification,
38 regulation, discontinuance, modification, restriction or practice.

39 2. Pending [such] an investigation or hearing and the decision
40 thereon, the commission, on its own motion or upon petition by the
41 agency, and upon delivering to the common or contract motor carrier
42 affected thereby a statement in writing of its reasons for such suspension,
43 may suspend the operation of such schedule or tariff and defer the use of
44 such rate, fare, charge, classification, regulation, discontinuance, modifi-
45 cation, restriction or practice, but not for a longer period than 150 days
46 beyond the time when such rate, fare, charge, classification, regulation,
47 discontinuance, modification, restriction or practice would otherwise go
48 into effect.

49 3. After full investigation and recommendation by the agency or
50 hearing, whether completed before or after the date upon which the

1 rate, fare, charge, classification, regulation, discontinuance, modification,
2 restriction or practice is to go into effect, the commission may make such
3 order in reference to [such] the rate, fare, charge, classification, regula-
4 tion, discontinuance, modification, restriction or practice as would be
5 proper in a proceeding initiated after the rate, fare, charge, classifica-
6 tion, regulation, discontinuance, modification, restriction or practice has
7 become effective.

8 4. The commission shall determine whether a hearing [shall] must
9 be held when the proposed change in any schedule stating a new or
10 revised individual or joint rate, fare or charge, or any new or revised
11 individual or joint regulation or practice affecting any rate, fare or charge,
12 will result in an increase in annual gross revenue as certified by the appli-
13 cant of \$2,500 or less [.] , except that, upon petition by the agency
14 the commission must upon reasonable notice enter upon a hearing con-
15 cerning the propriety of the rate, fare, charge, regulation or practice. In
16 making [such] its determination the commission shall first consider all
17 timely written protests, [any presentation the staff of the commission may
18 desire to present.] the agency's recommendation, the application and
19 any other matters deemed relevant by the commission.

20 SEC. 77. NRS 706.451 is hereby amended to read as follows:
21 706.451 1. Each tow car owner or operator subject to the jurisdic-
22 tion of the commission shall, before commencing to operate or continu-
23 ing operation after July 1, 1971, and annually thereafter, pay to the
24 [commission] agency for each tow car operated, a fee of not more
25 than \$36.

26 2. The fee provided in this section [shall] must be paid on or before
27 January 1 of each year.

28 3. The initial fee [shall] must be reduced one-twelfth for each month
29 which has elapsed since the beginning of the calendar year [prior to July
30 1, 1971, for those tow cars lawfully operating on such date or prior to
31 the commencement of operation of each tow car commencing such opera-
32 tion after July 1, 1971.] in which operation is begun.

33 SEC. 78. NRS 706.457 is hereby amended to read as follows:
34 706.457 The commission may, upon petition by the agency, by
35 subpoena require any person [believed by it] alleged by the agency to be
36 subject to any of the provisions of NRS 706.011 to 706.791, inclusive,
37 who has not obtained a certificate of public convenience and necessity
38 or a permit issued in accordance with those sections, to appear before
39 it with all of his relevant books, papers and records and to testify con-
40 cerning the scope, nature and conduct of his business.

41 SEC. 79. NRS 706.471 is hereby amended to read as follows:
42 706.471 1. Each taxicab motor carrier shall, before commencing
43 [the] operation [defined in NRS 706.126] and annually thereafter, pay
44 to the [commission] department for each taxicab which it operates, a
45 fee of not more than \$75. [as determined by a regulation of the commis-
46 sion.]

47 2. The fee provided in this section [shall] must be paid on or before
48 January 1 of each year.

1 3. The initial fee [shall] must be reduced one-twelfth for each
2 month which has elapsed since the beginning of the calendar year in
3 which operation is begun.

4 SEC. 80. NRS 706.701 is hereby amended to read as follows:
5 706.701 1. No certificate of public convenience and necessity, per-
6 mit or license issued in accordance with the terms of NRS 706.011 to
7 706.791, inclusive, [shall be construed to be] is either a franchise or
8 irrevocable.

9 2. The commission may at any time, for good cause shown, after
10 investigation and recommendation by the agency, and upon 5 days'
11 written notice to the grantee, suspend any certificate, permit or license
12 for a period not to exceed 60 days.

13 3. Upon receipt of a written complaint or on [its own motion,]
14 petition by the agency, the commission may, for good and sufficient
15 cause, after [investigation and] hearing, revoke any certificate, permit
16 or license. If service of the notice provided in subsection 2 cannot be
17 made or if the grantee relinquishes his interest in the certificate, permit
18 or license by so notifying the commission in writing, the commission
19 may revoke [such] the certificate, permit or license without a hearing.

20 4. Any person aggrieved by the order of the commission revoking
21 [such] a certificate, permit or license may within 30 days commence an
22 action in the district court in and for Carson City against the commis-
23 sion to vacate and set aside [such] the order on the ground that [such]
24 the order is unlawful or unreasonable.

25 5. The proceedings thereafter [shall be] are governed by the pro-
26 visions of NRS 706.706 to 706.726, inclusive [.] , and section 66 of
27 this act.

28 SEC. 81. NRS 706.706 is hereby amended to read as follows:
29 706.706 1. Any party in interest being dissatisfied with an order
30 of the commission fixing any rate or rates, fares, charges, schedules,
31 tariffs, classifications, joint rate or rates, or any order fixing any regula-
32 tions, practices or services, may within 90 days commence an action
33 in the proper district court against the [commission] agency and other
34 interested parties as defendants to vacate and set aside [any such] the
35 order on the ground that the rate fixed in [such] the order is unlawful
36 or unreasonable, or that [any such] the regulation, practice or service
37 fixed in [such] the order is unreasonable.

38 2. The [commission and other] parties defendant shall file their
39 answers to the complaint within 30 days after [the service thereof,
40 whereupon such action shall be at issue and stand] its service. After the
41 filing by defendants, the action is at issue and stands ready for trial upon
42 20 days' notice to either party.

43 3. All actions brought under this section [shall] have precedence
44 over any civil cause of a different nature pending in such court, and the
45 court shall always be deemed open for the trial thereof, and the [same
46 shall] action must be tried and determined as other civil actions.

47 4. Any party to [such] the action may introduce evidence in addi-
48 tion to the transcript of the evidence offered to the commission.

49 SEC. 82. NRS 706.711 is hereby amended to read as follows:

1 706.711 1. A court of competent jurisdiction may issue an injunc-
2 tion suspending or staying any order of the commission relating to rates,
3 fares, tolls, charges, schedules, tariffs, classification, joint rate or rates,
4 or any order fixing any regulations, practices or services only if:

5 (a) The applicant has first given notice to the [commission] agency,
6 the affected carrier or broker, and all other parties to the action within
7 20 days after the rendition of the order of the commission complained
8 of; and

9 (b) The court has held a hearing of the petition within 20 days after
10 the notice to the commission was given.

11 The decision of the commission on each matter considered must be
12 deemed reasonable and just until set aside by the court, and in all actions
13 for injunction or otherwise the burden of proof is upon the party attack-
14 ing or resisting the order of the commission to show by clear and satis-
15 factory evidence that the order is unlawful, or unreasonable, as the
16 case may be.

17 2. If an injunction is granted by the court and the order complained
18 of is one which permanently suspends a schedule of rates and charges
19 or a part thereof filed by any motor carrier pursuant to NRS 706.321
20 to 706.346, inclusive, or which otherwise prevents the schedule or part
21 thereof from taking effect, the motor carrier complaining may keep in
22 effect or cause to be put into effect, as the case may be, the suspended
23 schedule or part thereof pending final determination by the court by
24 filing a bond with the court in such amount as the court may fix, con-
25 ditioned upon the refund to persons entitled thereto of the amount of
26 the excess if the rate or rates so suspended are finally determined by the
27 court to be excessive.

28 3. Upon the final determination of the court that the rate or rates in
29 question are excessive and the motor carrier has collected an excessive
30 rate or rates, the motor carrier shall compute and pay the excess or over-
31 payment of the rate or rates as to each person within 120 days after the
32 entry of final judgment of the court.

33 4. Within 150 days after the entry of final judgment, the motor
34 carrier shall prepare and file with the commission a statement and report
35 in affidavit form stating that all persons entitled to refunds have been
36 paid, and if there are persons to whom payment has not or cannot be
37 made, the names, addresses and individual amounts of refunds must be
38 listed in the report, and the motor carrier shall pay the aggregate of all
39 refunds to the commission.

40 5. The commission shall retain the refunds subject to the claim of
41 each person for his or its share in the refund payment and pay all those
42 claims which are presented for payment within 2 years after the date of
43 the entry of final judgment of the court. Each claimant must identify
44 himself to the satisfaction of the commission before payment may be
45 made.

46 6. Any person has a right of action against the commission in the
47 event of a refusal of the commission to pay his claim if his name appears
48 in the report filed by the motor carrier. Action against the commission
49 must be brought within 6 months after the refusal to pay the claim.

50 7. The [commission] agency shall investigate every case in which

1 a claim is presented to it by a person claiming a refund but whose name
2 does not appear in the report of the motor carrier, and if the investiga-
3 tion results in a refusal by the motor carrier to pay the claim, then the
4 claimant has a right of action against the motor carrier.

5 8. Any unclaimed money remaining in the custody of the commission
6 at the expiration of the 2-year period escheats to the state.

7 SEC. 83. NRS 706.761 is hereby amended to read as follows:

8 706.761 1. Any agent or person in charge of the books, accounts,
9 records, minutes or papers of any private, common or contract motor
10 carrier or broker who refuses or fails for a period of 30 days to furnish
11 the [commission] agency or department with any report required by
12 either or who fails or refuses to permit any person authorized by the
13 [commission] agency or department to inspect such books, accounts,
14 records, minutes or papers on behalf of the [commission] agency or
15 department is liable to a penalty in a sum of not less than \$300 nor
16 more than \$500. The penalty may be recovered in a civil action upon
17 the complaint of the [commission] agency or department in any court
18 of competent jurisdiction.

19 2. Each day's refusal or failure is a separate offense, and is subject
20 to the penalty prescribed in this section.

21 SEC. 84. NRS 706.776 is hereby amended to read as follows:

22 706.776 1. [No] An owner or operator of a motor vehicle to
23 which any provisions of NRS 706.011 to 706.861, inclusive, apply carry-
24 ing passengers or property on any highway in the State of Nevada shall
25 not require, suffer or permit any driver of [such] the motor vehicle to
26 drive [any such motor vehicle] it in any one period longer than the
27 time permitted for such period by the order of the commission.

28 2. The commission [shall have authority to] may extend to private
29 carriers of explosives and other dangerous articles, as defined by the
30 rules and regulations of the Department of Transportation, the safety
31 rules and regulations applying to common or contract carriers of such
32 articles.

33 3. The labor commissioner, peace officers, and authorized personnel
34 of the [commission] agency and the department shall enforce the pro-
35 visions of this section.

36 4. Any violation of this section is a misdemeanor.

37 SEC. 85. NRS 706.856 is hereby amended to read as follows:

38 706.856 1. The owner or operator of a vehicle coming within the
39 provisions of the Interstate Highway User Fee Apportionment Act may,
40 in lieu of registering it pursuant to the provisions of NRS 706.836 to
41 706.851, inclusive, apply for and obtain a 48-hour temporary registration
42 upon payment of a fee of \$2.50, which fee is in lieu of all other fees and
43 service charges due pursuant to the provisions of NRS 706.801 to 706.-
44 861, inclusive.

45 2. A 48-hour temporary registration authorizes operation over the
46 highways of this state for a period of not more than 48 consecutive hours.

47 3. Any person exercising this option shall purchase the license at the
48 first available vender in the State of Nevada. The operator of a vehicle
49 obtaining a 48-hour temporary registration from a vendor elects this
50 option for this vehicle by virtue of the purchase. Any 48-hour period of

1 time for which a 48-hour temporary registration was not purchased
2 [shall] must be billed for 48-hour temporary registration on an audit
3 until the vehicle is licensed under NRS 706.836 to 706.851, inclusive.

4 4. Every person electing to pay fees on a 48-hour temporary registra-
5 tion basis shall keep a written record of every trip made into or
6 through this state and each 48-hour temporary registration so purchased,
7 which record [shall] must be open to inspection by any agent or
8 employee of the [commission or the] department. The [commission and
9 the] department may require any person to submit such periodic reports
10 and supporting data as they may deem necessary with respect to trips
11 made into or through this state.

12 5. Upon request, the department shall allow credit for the period
13 for which temporary registrations were purchased if the applicant applies
14 and prorates his vehicle registration within 60 days after the purchase
15 of the first temporary registration within a licensing year.

16 6. As a condition for exercising the privilege of reciprocity under
17 the provisions of NRS 482.390, the department may:

18 (a) Require the operator of vehicles eligible for reciprocity to file
19 annually an application listing the vehicles to be operated in this state;

20 (b) Issue identification devices for vehicles so listed;

21 (c) Collect an administrative fee of \$2 per vehicle identified; and

22 (d) Collect the 48-hour temporary registration fee from the owner
23 or operator of vehicles not so identified.

24 7. The provisions of this section do not apply to interchange trailers
25 if they are entitled to operate without payment of additional fees accord-
26 ing to the regulations of the department.

27 SEC. 86. Chapter 708 of NRS is hereby amended by adding thereto
28 a new section which shall read as follows:

29 1. *The agency shall keep such records, require such reports, make
30 such inspections, and perform such other duties as are necessary to
31 enforce standards of pipeline safety adopted by the commission.*

32 2. *The agency may undertake programs for pipeline safety under
33 agreements with the United States Secretary of Transportation.*

34 3. *The commission shall cooperate with the agency for the purpose
35 of applying for federal grants to aid programs carried out under this
36 section. All such grants received must be deposited in the state treasury
37 for credit to the special revenue fund of the utility customers' representa-
38 tive agency.*

39 SEC. 87. NRS 708.035 is hereby amended to read as follows:

40 708.035 1. [Upon the filing of an application for a certificate of
41 public convenience and necessity, the commission shall fix a time and
42 place for hearing thereon, and shall proceed in the manner according
43 to the provisions of the laws of this state made applicable thereto.]
44 *Whenever an oil pipeline carrier files with the commission an application
45 for issuance, modification or transfer of a certificate of public conveni-
46 ence and necessity or permit to be an oil pipeline carrier, the agency
47 shall investigate the effect that the proposed services would have on
48 other authorized facilities in the territory for which the certificate is
49 sought, the public convenience and necessity to be accorded by the service*

1 *offered by the applicant, and the fitness, willingness and ability of the
2 applicant to perform the services of an oil pipeline carrier.*

3 2. *Within 30 days after the filing of the application, or a longer
4 period if approved by the commission, the agency shall report to the
5 commission the results of its investigation. The report must be made at
6 a regular meeting of the commission. If the matter of the application is
7 set for hearing, the report may be submitted in writing at or before the
8 time set for hearing.*

9 [2.] 3. Before granting a certificate of public convenience and
10 necessity to an applicant, the commission shall take into consideration:

11 (a) Other authorized facilities in the territory for which a certificate
12 is sought;

13 (b) The public necessity and convenience to be accorded by the serv-
14 ice offered by such applicant; and

15 (c) Whether the applicant is fit, willing and able to perform the serv-
16 ices of a common carrier.

17 [3.] 4. The commission may, under such rules of procedure gov-
18 erning the application therefor as it may prescribe, issue a certificate
19 of public convenience and necessity to an oil pipeline carrier, or issue
20 it for the partial exercise only of the privilege sought, and may attach
21 to the exercise of the rights granted by such certificate such terms and
22 conditions as, in its judgment, the public convenience and necessity may
23 require.

24 5. *The agency shall conduct an investigation concerning the applica-
25 tion and report the results of its investigation to the commission in the
26 manner provided by NRS 706.392.*

27 6. *The agency may make recommendations to the commission con-
28 cerning the application.*

29 SEC. 88. NRS 708.080 is hereby amended to read as follows:

30 708.080 1. [Such common] *Common carriers of crude oil or
31 petroleum shall make and publish their tariffs under such [rules and]
32 regulations as may be [prescribed] adopted by the commission.*

33 2. The commission shall require such common carriers to make
34 reports, and the agency may investigate their books and records kept in
35 connection with such business, but no publicity [shall be given by the
36 commission], *may be given by the agency to the reports as to the stock
37 of crude oil or petroleum on hand of any particular pipeline. In its dis-
38 cretion, the [commission] agency may make public the aggregate
39 amounts held by all the pipelines making such reports, and of their
40 aggregate storage capacity.*

41 3. The commission [shall have the power and authority:] *may:*

42 (a) [To hear] *Hear* and determine complaints.

43 (b) [To require] *Require* attendance of witnesses and pay their
44 expenses.

45 (c) [To institute] *Institute* suits and sue out such writs and process
46 as may be necessary for the enforcement of its orders.

47 4. *The agency shall enforce the provisions of this chapter and the
48 commission's regulations issued thereunder.*

1 SEC. 89. NRS 711.120 is hereby amended to read as follows:
 2 711.120 [The commission] 1. The agency shall from time to time
 3 visit the places of business and other premises and examine the records
 4 and facilities of all CATV companies to ascertain [if such] whether the
 5 companies have complied with the [rules and] regulations and orders of
 6 the commission.

7 2. If the agency finds that a CATV company has not complied with
 8 a regulation or order of the commission, it may petition the commission
 9 for appropriate relief.

10 SEC. 90. Chapter 712 of NRS is hereby amended by adding thereto
 11 a new section which shall read as follows:

12 1. Whenever an application for a warehouse permit is filed, the
 13 agency shall conduct an investigation concerning:

14 (a) The financial ability of the applicant to protect persons storing
 15 property from loss or damage;

16 (b) Whether the applicant has sufficient assets, including working capi-
 17 tal, to carry out the proposed service;

18 (c) Whether the applicant has sufficient experience in and knowledge of
 19 warehouse storage of household goods and effects, and the commission's
 20 rules and regulations governing the storage of household goods and
 21 effects; and

22 (d) Whether the property to be used for storage of household goods
 23 and effects is reasonably suitable for such purpose.

24 2. Within 30 days after the filing the agency shall make a report
 25 of its investigation to the commission. The report must be made at a
 26 regular meeting of the commission. If the matter of the application is set
 27 for public hearing, the report may be submitted in writing at or before
 28 the time set for hearing.

29 3. The agency may make recommendations to the commission con-
 30 cerning the application.

31 SEC. 91. NRS 712.060 is hereby amended to read as follows:

32 712.060 The [commission or its agents] agency may:

33 1. Inspect any property proposed to be used for storage of house-
 34 hold goods and effects to determine its suitability.

35 2. Examine the premises, books and records of any permit holder.

36 SEC. 92. NRS 712.080 is hereby amended to read as follows:

37 712.080 The provisions of NRS 706.701 to 706.726, inclusive, and
 38 section 66 of this act, relating to revocation and suspension of certificates,
 39 permits and licenses and judicial review thereof, [shall] apply to pro-
 40 ceedings to suspend or revoke any permit issued under this chapter.

41 SEC. 93. NRS 481.023 is hereby amended to read as follows:

42 481.023 Except as otherwise provided therein, the department of
 43 motor vehicles shall execute, administer and enforce, and perform the
 44 functions and duties provided in:

45 1. Title 43 of NRS relating to vehicles.

46 2. Chapter 706 of NRS. [relating to licensing of motor vehicle
 47 carriers and the use of public highways by such carriers.]

48 3. Chapter 366 of NRS relating to imposition and collection of taxes
 49 on special fuels used for motor vehicles.

50 4. Chapter 233F relating to the state communications system.

1 SEC. 94. Chapter 482 of NRS is hereby amended by adding thereto
 2 a new section which shall read as follows:

3 The agency shall direct the state controller to transfer quarterly to the
 4 public service commission regulatory fund 25 percent of all money col-
 5 lected pursuant to NRS 706.536, and to transfer quarterly to the special
 6 revenue fund of the utility customers' representative agency 75 percent
 7 of all money collected pursuant to NRS 706.536.

8 SEC. 95. NRS 484.348 is hereby amended to read as follows:

9 484.348 1. Any driver of a motor vehicle who willfully fails or
 10 refuses to bring his vehicle to a stop, or who otherwise flees or attempts
 11 to elude a peace officer in a readily identifiable police or regulatory
 12 agency vehicle, when given a visual or audible signal to bring the vehicle
 13 to a stop is guilty of a misdemeanor.

14 2. The signal by the peace officer described in subsection 1 may be
 15 by flashing red lamp or siren.

16 3. As used in this section, "regulatory agency" means any of the
 17 agencies granted police or enforcement powers under the provisions of
 18 NRS 407.065, 481,048, 481,049, 501,349, 565.155, [703.155 and]
 19 706.8821 [.] and section 13 of this act.

20 SEC. 96. NRS 484.787 is hereby amended to read as follows:

21 484.787 1. Except as provided in NRS 484.789, authorized emer-
 22 gency vehicles are vehicles publicly owned and operated in the perform-
 23 ance of the duty of:

24 (a) A police or fire department.

25 (b) A sheriff's office.

26 (c) The Nevada highway patrol.

27 (d) A public ambulance agency.

28 (e) A public lifeguard or lifesaving agency.

29 2. A vehicle publicly maintained in whole or in part by the state,
 30 or by a city or county, and privately owned and operated by a regularly
 31 salaried member of a police department, sheriff's office or traffic law
 32 enforcement department, is an authorized emergency vehicle under the
 33 following conditions:

34 (a) When such vehicle has such a permit from the department of
 35 motor vehicles;

36 (b) Where such person operates such privately owned vehicle in
 37 responding to emergency calls or fire alarms or highway patrol duty or
 38 operates such vehicle in the pursuit of actual or suspected violators of
 39 the law; and

40 (c) When the state, county or city does not furnish to such officer a
 41 publicly owned vehicle for the purposes stated in paragraph (b).

42 3. Every authorized emergency vehicle shall be equipped with at
 43 least one flashing red warning lamp visible from the front and a siren
 44 for use as provided in this chapter, which lamp and siren shall be in
 45 compliance with standards approved by the department of motor
 46 vehicles. In addition, an authorized emergency vehicle may display
 47 revolving, flashing or steady red or blue warning lights to the front, sides
 48 or rear of the vehicle.

49 4. No person may operate a vehicle with any lamp or device thereon
 50 displaying a red light visible from directly in front of the center thereof,

1 except an authorized emergency vehicle, a school bus or an official
2 vehicle of a regulatory agency.

3 5. No person may operate a vehicle with any lamp or device display-
4 ing a blue light, except an authorized emergency vehicle.

5 6. As used in this section, "regulatory agency" means any of the
6 agencies granted police or enforcement powers under the provisions of
7 NRS 407.065, 481.048, 481.049, 501.349, 565.155, [703.155 and]
8 706.8821. [.] and section 13 of this act.

9 SEC. 97. NRS 703.155, 703.180, 703.300, 704.010, 706.031,
10 706.176, 706.181, 706.201, 708.010 and 711.050 are hereby repealed.

11 SAC. 98. 1. In order to effect an orderly and smooth separation of
12 the functions of the department of representation from the public service
13 commission, the public service commission and the utility customer's
14 representative agency are authorized, for a period not to exceed 1 year,
15 to enter into agreements with each other for the cooperative use of exist-
16 ing equipment, facilities and personnel.

17 2. The state controller shall transfer to the special revenue fund of
18 the utility customers' representative agency 75 percent of the reserve
19 balance carried forward from the public service commission regulatory
20 fund at the close of the fiscal year 1980-1981.

[REDACTED]
[REDACTED]
[REDACTED]

THE PUBLIC SERVICE
COMMISSION OF NEVADA
REPORT OF A COMPREHENSIVE
MANAGEMENT STUDY

RECEIVED

JUN 12 1980

NEVADA PUBLIC SERVICE COMMISSION
CARSON CITY, NEVADA

June 1980

This report is confidential and intended
solely for the information and benefit
of the immediate recipient hereof.

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LEGISLATIVE COUNSEL BUREAU
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Cresap, McCormick and Paget
Management Consultants

650 CALIFORNIA STREET, SAN FRANCISCO, CALIFORNIA 94108 • Telephone: (415) 781-8421 • Cable: Consultant - Sanfrancisco

San Francisco • New York • Washington • Chicago
London • Melbourne • São Paulo

June 11, 1980

The Commissioners
Public Service Commission of Nevada
Kinkead Building
505 East King Street
Carson City, Nevada 89710

We are pleased to transmit the final report of a comprehensive management study of the Public Service Commission of Nevada (PSCN).

This report presents a balanced appraisal of the Commission, noting its strengths while concurrently exploring opportunities for management improvement within PSCN. The principal thrust of this document, however, is oriented to identifying steps designed to strengthen the effectiveness and efficiency of the regulatory process in Nevada.

Many such steps can be taken within the discretionary authority of the Commission itself, and we are confident that these will be addressed in a timely manner. Nevertheless, we must emphasize that successful implementation of several of the most important recommendations emanating from the study will require the concurrence and support of other elements of State Government. Accordingly, we fully support your decision to disseminate copies of the report to the widest possible audience of interested persons and officials.

Indeed, we believe that the PSCN deserves considerable credit for the initiative it has shown in sponsoring a study of this nature. By fostering open and constructive analysis of the challenges facing the Commission, a sound basis has been established for responding to the needs of the State in a proficient and productive manner.

Very truly yours,

Cresap, McCormick and Paget Inc.

CRESAP, McCORMICK and PAGET Inc.

THE PUBLIC SERVICE
COMMISSION OF NEVADA

REPORT OF A COMPREHENSIVE
MANAGEMENT STUDY

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I - INTRODUCTION

INTRODUCTION

This chapter reviews the origin, objectives, scope, and methodology of the study, and outlines the arrangement of the remainder of the report.

ORIGIN OF THE STUDY

- The Commissioners of the Public Service Commission of Nevada (PSCN) considered several factors in reaching their decision to review the status and operations of the PSCN; some of these factors were the:
 - Workload expansion caused by a growing number of increasingly complex rate cases
 - Regulatory impact of increased demands for utility services attributable to population growth and industrial development throughout Nevada
 - Additional responsibilities imposed on the PSCN by the Federal Public Utilities Regulatory Policies Act (PURPA)
 - Expression of concern by members of the Nevada State Legislature and consumers regarding the ability of the Commission, as presently constituted, to effectively discharge its responsibilities in an environment characterized by escalating costs for utility service
 - Identification by the Commissioners of internal management and operations issues which merited concentrated review, including such subjects as:
 - o Records and files management
 - o Work flow and coordination processes
 - o Organizational arrangements
 - o Staffing levels and skill needs
 - o Personnel management practices
 - o Compensation levels.

INTRODUCTION (Cont'd)

- Accordingly, the Commissioners engaged specialized consultants to complete a comprehensive management study.

OBJECTIVES AND SCOPE

- The primary objectives of the study were to:
 - Identify and inventory the statutory responsibilities of the PSCN and the policy trends affecting these responsibilities
 - Evaluate the functions of the Commission and determine the resources necessary to carry out those functions
 - Assess the effectiveness of current PSCN management practices and processes in fulfilling these responsibilities
 - Determine the most effective organization, size, and type of staff needed to support the PSCN operations, including expert witnesses and specialized consultants
 - Evaluate the effectiveness of the personnel management system
 - Identify problems and opportunities for improvement and to develop recommendations to solve these problems and capitalize on opportunities
 - Prepare and present action plans for implementing the recommendations, including estimates of budget implications and effects on service levels.
- The scope of this comprehensive study included all activities of the PSCN and its relationships with other key elements of state government, regulated enterprises, and the public at large.

STUDY METHODS

General Approach

- Numerous analytical techniques were used during the course of the study; the most important of these are outlined below.
- Within the Commission, confidential interviews were conducted with:
 - Each Commissioner
 - The Deputy Commissioner
 - The Commission Secretary
 - Commission Staff Counsel
 - Each division head
 - Virtually all professional staff members of the Commission.
- Elsewhere, such interviews were also conducted with:
 - The Governor and the Attorney General of Nevada
 - Several key members of the Nevada State Legislature
 - Representatives of state agencies which interact with the Commission including the Budget Director, and representatives from the Departments of Personnel, Energy, and Data Processing
 - Executives of jurisdictional companies
 - Representatives of the media from all parts of Nevada
 - Nevada municipal officials
 - Representatives of special interest groups
 - Representatives of neighboring states' regulatory commissions.

INTRODUCTION (Cont'd)

- Concurrently, PSCN hearings, staff meetings, and other day-to-day Commission operations were observed and facilities and equipment were inspected.
- Numerous background documents were also reviewed, including among others:
 - State statutes and pertinent court decisions
 - General orders, rules, and regulations
 - Opinions and orders resulting from specific cases
 - Position descriptions
 - Organization charts
 - Previous study reports
 - Internal financial reports
 - Procedure and practices manuals
 - Employee handbooks
 - Statistical summaries
 - Historical salary data.

Analytical Note

- As further addressed in succeeding chapters of this report, the PSCN has not regularly maintained detailed workload, operational, and staff productivity data in the past; thus restricting, to some degree, the extent to which quantitative analysis could be performed during the study.

- Nevertheless, sufficient quantitative information was secured through sample studies and the cooperative efforts of the PSCN staff to support well-founded conclusions regarding matters within the scope of the study, and to lend confidence to the recommendations presented in this report.

Study Reports

- The Commissioners were kept informed of the progress of the study through frequent informal discussions.
- This final report summarizes the important conclusions and recommendations resulting from the study.

ORGANIZATION OF THIS REPORT

- The remainder of this report is organized as follows:

Chapter II - Background - which presents descriptive information concerning the Public Service Commission of Nevada and its operations

Chapter III - Observations - which presents the major findings of the study including areas of strength and opportunities for improvement in the operations and management of the PSCN

Chapter IV - Recommendations - which presents proposed actions designed to capitalize on opportunities for improvement

Chapter V - Summary - which delineates a plan of action proposed to improve the management of the PSCN and presents estimates of the cost implications of these actions

INTRODUCTION (Cont'd)

Appendix A - which presents the results of a comparative compensation survey completed during the study in which certain benchmark PSCN positions were compared with their equivalents in other western public service commissions, and with comparable jobs in utility enterprises regulated by the Commission

Appendix B - which summarizes the potential impact on the PSCN if an Office of Consumer Advocate were created in the State of Nevada as has been previously proposed.

II - BACKGROUND

BACKGROUND

This chapter presents general descriptive information about the Public Service Commission of Nevada's operations and the environment in which it functions. Included are sections on the role and mission of the PSCN, current regulatory concepts, organization and staffing, major management and operating systems, and administrative and supportive services.

ROLE AND MISSION

Legislative Mission

- The Public Service Commission of Nevada is a quasi-judicial and administrative body created by the Nevada State Legislature through Nevada Revised Statutes (NRS), Chapter 703.
 - In the broadest sense, the PSCN mission is to enforce public utility and motor carrier statutes (NRS chapters 704 and 706).
 - More specifically, the mission - as stated in the most recent Biennial Report of the Public Service Commission of Nevada to the Nevada State Legislature - is as follows:

"The powers and duties of the Commission consist of the regulation, in the public interest, of the rates, services, facilities and practices, in the broadest terms, of those engaged in the transportation of persons and property for hire; and those engaged in the business of supplying any utility service to the public for compensation; and to prescribe such rules and regulations as may be necessary to carry out its powers and duties. Specifically excluded from the above is jurisdiction over utility services provided by municipalities. Also excluded are the activities of certain public utilities districts. The Commission is authorized to carry out its intrastate jurisdictional responsibilities in cooperation with the Federal Government, the Interstate Commerce Commission, the Federal Power Commission, the Federal Communications Commission, and the Department of Transportation."

Scope Of Regulation

- The PSCN is responsible for the review and approval of the following activities of jurisdictional companies:
 - Compliance with the rules, regulations, and orders of the PSCN and applicable laws of the State of Nevada
 - Establishment of all rates, tariffs, and charges
 - Establishment or transfer of franchises and authorities to provide any jurisdictional service
 - Construction or acquisition of plants, facilities, and equipment
 - Investigation and reporting of fatal accidents related to jurisdictional operations
 - Entry into any mortgage or security agreements affecting rental property or equipment used in the provision of jurisdictional services
 - Provision of adequate indemnity bonds and/or insurance
 - Conduct of certain stock and security transactions
 - Enforcement of applicable federal acts.
- To meet these responsibilities, Nevada statute authorizes the PSCN to:
 - Hire staff
 - Issue orders, rules, and regulations, and compel compliance by means of appropriate legal processes
 - Assess jurisdictional companies for the costs of PSCN operations
 - Order and preside over hearings, subpoena witnesses, and record testimony

BACKGROUND (Cont'd)

- Investigate customer and competitor complaints, make rulings, and order appropriate actions
 - Inspect the facilities, equipment, operations, and records of jurisdictional companies
 - Require reports and information.
- Nevada Revised Statutes, sections 704.040 and 706.311, provide legislative guidance for the regulatory process as follows:
 - "Every (jurisdictional company) is required to furnish reasonably adequate service and facilities and...charges...shall be just and reasonable."
 - "Every unjust and unreasonable charge for service (of jurisdictional companies) is prohibited and declared to be unlawful."

Commission Workload

- Exhibits II-1 and II-2 on the following pages indicate the number of enterprises subject to the jurisdiction of the Commission in various industries, and the volume of formal caseload activity addressed by the Commission in recent years.

REGULATORY CONCEPTS

- The PCSN carries out its responsibilities through the promulgation of rules and regulations, the processing of cases, the ratemaking process, and subsequent oversight and enforcement activities.

Rules And Regulations

- The PCSN has prescribed standards and procedures to be followed by jurisdictional companies in a series of 22 currently outstanding General orders; the Orders cover such areas as:
 - Engineering requirements

NEVADA PUBLIC SERVICE COMMISSION

PUBLIC UTILITIES OPERATING
IN NEVADA

1980

Investor-Owned Utilities	
Telegraph	2
Telephone	10
Mobile Telephone	4
Electric	5
Gas	4
Water and Sewer	20
Cable Television	<u>10</u>
Subtotal, Investor-Owned Utilities	<u>55</u>
Cooperative Utilities	
Electric	11
Water	1
Telephone	<u>1</u>
Subtotal, Cooperative Utilities	<u>13</u>
Transportation Companies	
Railroad Companies	6
Taxicab Companies	12
Motor Carriers of Passengers	33
Motor Carriers of Property	178
Tow Car Operators	<u>138</u>
Subtotal, Transportation Companies	<u>367</u>
Total	<u><u>435</u></u>

Source: Compiled by PSCN staff April 1980.

NEVADA PUBLIC SERVICE COMMISSION

VOLUME OF CASES

January 1, to December 31, 1975 to 1979

<u>Year</u>	<u>Motor Carrier</u>			<u>Utilities</u>			<u>Total</u>		
	<u>Opened(a)</u>	<u>Closed</u>	<u>Pending At End Of Year</u>	<u>Opened(a)</u>	<u>Closed</u>	<u>Pending At End Of Year</u>	<u>Opened(a)</u>	<u>Closed</u>	<u>Pending At End Of Year</u>
1975	104	76	28	174	108	66	278	184	94
1976	121	79	42	125	89	36	246	168	78
1977	136	86	50	162	118	44	298	204	94
1978	203	155	48	256	182	74	459	337	122

Notes: (a) Includes cases opened and reopened as pending at end of previous year.

Reliable data not available for 1979.

Source: Compiled by PSCN staff April 1980.

BACKGROUND (Cont'd)

- Inspection and tests
- Meter requirements
- Safety
- Quality of service
- Customer relations
- Records, reports, and other information to be supplied to the Commission.
- General Order No. 3, "Rules Of Practice And Procedure Before The Public Service Commission," lists and explains the procedures followed by the PSCN and jurisdictional companies in all actions relating to the powers and responsibilities of the PSCN.
- Rules and regulations relating to the unique operations of specific types of utilities, such as gas, electric, water, and motor carriers, have also been issued.

Types Of Cases

- The PSCN decides a variety of cases affecting public utilities and motor carriers following the procedures detailed in General Order No.3; the types of cases processed include:
 - Certificates of Public Convenience or Necessity
 - Rate and Tariff Changes
 - Construction Permits
 - Issuance or Assumption of Securities
 - Formal Complaints and Investigations.

BACKGROUND (Cont'd)

- Certificate of Public Convenience and Necessity cases involve the determination of present or future public need, and issuance of a certificate authorizing a public utility or motor carrier to go into business or to expand existing facilities and operations.
 - The Commission has the authority to dictate terms and conditions for the construction of lines, plants, or systems.
- Rate and Tariff cases include requests to change existing rates, charges, or tolls and requests to change existing tariffs under which the utility or motor carrier operates.
- Construction Permit cases result from the Utility Environmental Protection Act (NRS 704.820 to 704.900) which requires public utilities to obtain a construction permit and to file an environmental analysis statement prior to beginning construction of a utility facility; replacement of an existing facility does not require a construction permit.
 - Copies of construction permit filings must also be submitted to the chairman of the state environmental commission.
- Issuance or Assumption of Securities require authorization by the PSCN prior to the issuance of a security or assumption of a financial obligation by a privately-owned public utility.
- Formal Complaint and Investigation cases involve formal complaints filed by regulated companies and other interested parties regarding alleged violations of applicable state statutes - or PSCN rules, regulations, and tariffs - by jurisdictional enterprises.
 - To the extent possible, complaints originating with individual rate-payers are heard by the Consumer Division; unresolved cases are then heard by the Commissioners.

Rate-Making Concepts

- The PSCN and similar regulatory bodies in other states employ several different rate-making concepts; these concepts can be grouped together as follows:
 - Determinations of appropriate operating expenses and revenues
 - Determinations of rate bases
 - Determinations of rate-of-return or operating ratios
 - Determinations of rate design.
- Operating Expenses and Revenue requirements are determined by the PSCN in order to resolve a rate case; key variables used to determine whether a change in the rate is justified include:
 - Adjustments of fuel costs through the deferred energy accounting method
 - Treatment of federal tax benefits gained from the use of consolidated returns, investment tax credits, and accelerated depreciation
 - o With some exceptions, the PSCN requires jurisdictional companies to pass such benefits on to ratepayers.
 - Treatment of unusual or extraordinary events and conditions occurring during the test year
 - o The financial impact of such events or conditions normally must be amortized over several years as nonrecurring expenses.
 - Treatment of expenses incurred or revenue generated by jurisdictional companies operating or having subsidiaries in other states.
 - o In most instances, formulas are used to apportion such expenses and revenues among the entities involved.

BACKGROUND (Cont'd)

- Rate base is determined for investor-owned utilities by the PSCN; an appropriate rate base is determined by using the following key concepts:
 - Valuation of the rate base
 - o The PSCN uses original costs less accumulated depreciation.
 - Determination of the rate base
 - o The PSCN generally uses an average rate base from the test year for materials and supplies; other assets are based on figures at the end of the test year.
 - Apportionment of rate base
 - o This applies to companies doing business or having subsidiaries in other states; allocation formulas are used.
 - Treatment of funds used for construction of plants or facilities not yet in service
 - o The PSCN usually allows items to be entered into the rate base only after they have been put into service and are generating revenue.
 - o Exceptions have been allowed for inclusion of construction work in progress when it was determined that such inclusion was in the public interest.
- Going level adjustments to expenses, revenues, and rate base can be allowed if they become known and measureable up to six months after the end of the test year.

BACKGROUND (Cont'd)

- Rate-of-return and operating ratios determine if, and to what extent, a jurisdictional company should be allowed to accrue revenue in excess of operating expenses: the PSCN applies the following two concepts
 - For investor-owned utilities, the PSCN determines a rate of return based on cost of capital (calculated against cost of long-term debt, preferred stock and common equity) taking capital structure, capital requirements, and business risk into consideration.
 - For motor carriers, the PSCN determines a rate of return based on the operating ratio of revenue to expenses.
- Rate design represents what proportion of the revenues each group of customers will pay; basic considerations used by the PSCN to determine the rate design are:
 - Class of users, defined as users having similar characteristics
 - o Typical classes are residential, agricultural, commercial, and industrial.
 - Cost of service, including capital and operating costs incurred in servicing a class of users
 - o In theory, cost of service compels each class of users to pay its fair share of the revenue requirement.
 - Value of service, the potential market value of the services in an unregulated environment
 - o This concept augments the concept of cost of service and may cause one class of user to subsidize another.
 - o This concept is most frequently used in telephone and gas utility cases.
- Currently, the PSCN is conducting general inquiries into a broad range of rate design matters, as mandated by PURPA.

Oversight and Enforcement

- The PSC exercises oversight of jurisdictional enterprises through the investigation of complaints, periodic staff contact with the companies, and occasional retention of consultants for studies of particular business.
- As further noted below, a force of field inspectors enforces the provisions of Nevada and PSCN motor carrier laws, rules, and regulations.

ORGANIZATION AND STAFFING

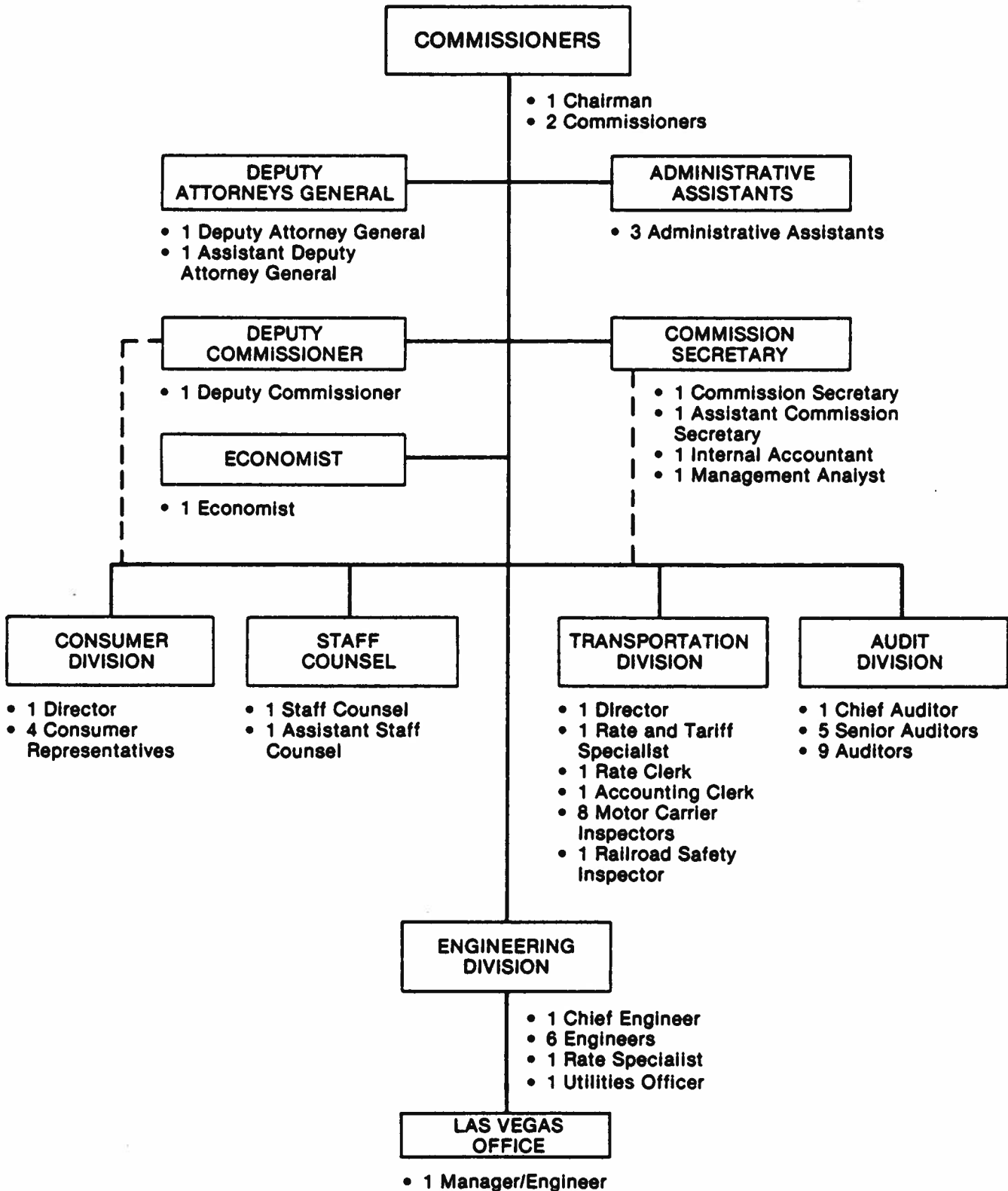
- As shown in Exhibit II-3, the PSCN is comprised of the Commissioners, their staffs, a Deputy Commissioner, the Commission Secretary and staff, and five divisions.
- The PSCN had 71 authorized positions during FY 1979 as compared to 66 positions in FY 1975, an increase of approximately 7.6 per cent in authorized staffing in four years.
 - Occupied positions in FY 1979 numbered 61, as compared to 47 in FY 1975, an increase of approximately 30 per cent.

Commissioners

- The PSCN is headed by three Commissioners appointed by the Governor to staggered four-year terms.
 - Although Nevada law imposes few explicit qualifications for the position of Commissioner, recent governors have attempted to balance the backgrounds and experience of the Commissioners.
 - o Typically, Commissioners' backgrounds include legal, accounting, and management experience.
 - Commissioners are required to be independent of the jurisdictional industries, possess "demonstrated competence," and devote full time to the business of the Commission.

NEVADA PUBLIC SERVICE COMMISSION

PRESENT ORGANIZATION



BACKGROUND (Cont'd)

- The Governor has the power to remove any Commissioner for "inefficiency, neglect of duty or malfeasance in office," following a properly announced public hearing.
- Under Nevada law, no more than two Commissioners may be members of the same political party.
- One Commissioner is appointed by the Governor to the position of Chairman and acts as chief administrative officer of the Commission.
- The Commissioners are the decision-making authority of the Commission.
 - All matters of a formal nature are considered by the full Commission in formal sessions; decisions must be signed by at least two Commissioners.
 - o Hearings, which create the record upon which decisions are based, may be conducted by a single Commissioner.

Immediate Staff Support

- Each Commissioner has an administrative assistant to provide support in research and analysis, and to assist in drafting opinions and orders.
 - Administrative assistants are generally attorneys hired directly by the Commissioner for whom they work.

Deputy Commissioner

- The position of Deputy Commissioner was created by the Legislature in July 1979; general responsibilities of the position are evolving and currently include:
 - Coordination of PURPA-related activities

BACKGROUND (Cont'd)

- Coordination of staff efforts to develop statutes, rules, and regulations to define Commission policy
 - Conceptualization and direction of special projects to improve the efficiency and effectiveness of the Commission and staff
 - Conduct of non-rate case hearings at the direction of the Commission
 - Direction of the development and implementation of data-processing applications.
- The position of Deputy Commissioner has no direct staff support other than secretarial assistance.

Commission Secretary

- The Office of the Commission Secretary serves as the primary administrative arm of the PSCN, and is responsible for:
 - Recording Commission activities
 - Maintaining master files and overall records management
 - Preparing and monitoring budgets
 - Assuming responsibility for facilities management and logistics
 - Processing and distributing mail
 - Managing personnel.
- The office is staffed by:
 - The Commission Secretary, who is responsible for such functions as supervision of the office staff, certifying copies of official Commission documents, and preparing official correspondence and notices

BACKGROUND (Cont'd)

- The Assistant Secretary, who reports to the Commission Secretary, and who is responsible for such tasks as preparing basic orders, providing secretarial support to the Chairman and Commissioners, coordinating personnel functions with the state personnel department, and monitoring legislative activity of interest to the PSCN
- The Internal Accountant, who reports to the Commission Secretary, and who is responsible for such tasks as budget preparation and monitoring, internal accounting, purchasing supplies, and inventory accountability
- A total of 14 secretarial personnel who provide clerical support to the various Commission offices and divisions.

Legal Services And Support

- The PSCN has two separate legal functions: the Deputy Attorneys General and Staff Counsel.
- The Deputy Attorneys General (DAG) serve as counsel to the Commissioners; they are responsible for litigation related to actions of the Commission and act as legal representatives for the Commissioners.
 - Typically, litigation involves suits to enforce orders or defense of the Commission from suits.
 - They also provide, on request, legal advice on opinions, orders, and associated matters.
 - The DAG are appointed by and report to the Attorney General of Nevada: the Commissioners have no formal voice in their selection.
 - Currently, there are two, full-time DAG.
- The Office of Staff Counsel, composed of a Staff Counsel and an Assistant Staff Counsel, provides legal representation to the Commission staff.

—BACKGROUND (Cont'd)—

- The main responsibility of Staff Counsel is to present staff presentations in formal proceedings.
- Other duties include providing legal advice to staff, presiding over staff meetings, reviewing applications and filings, and cross-examining witnesses in formal proceedings.
- Staff counsel attorneys are employees of the Commission.

Consumer Division

- The Consumer Division includes a Director, four consumer representatives, and a secretary.
 - Two consumer representatives are based in Carson City and two in Las Vegas.
- The Consumer Division, created in 1975, is responsible for responding to consumer complaints regarding jurisdictional companies.
 - The Division investigates complaints, provides explanations, advice, and counsel to complainants, and, when needed, recommends action to the Commissioners.
 - The Division is also responsible for producing and distributing general information about the Commission and responding to specific requests for information from the public.
- As shown in Exhibit II-4, the number of complaints processed by the Consumer Division has grown rapidly.
 - Total telephone complaints increased 64 per cent in 1978 and 40 per cent in 1979.
 - Written complaints increased 16 per cent and 17 per cent respectively for the same years.

PUBLIC SERVICE COMMISSION OF NEVADA
CONSUMER DIVISION COMPLAINT WORKLOAD
 1977, 1978, and 1979

<u>Year</u>	<u>Telephone Complaints</u>			<u>Written Complaints (a)</u>
	<u>Carson City</u>	<u>Las Vegas</u>	<u>Total</u>	<u>Total</u>
1977	785	857	1,642	173
1978	1,405	1,289	2,694	201
Increase over 1977	79.0%	50.4%	64.1%	16.2%
1979	1,656	2,101	3,757	235
Increase over 1978	17.9%	63.0%	39.5%	16.9%

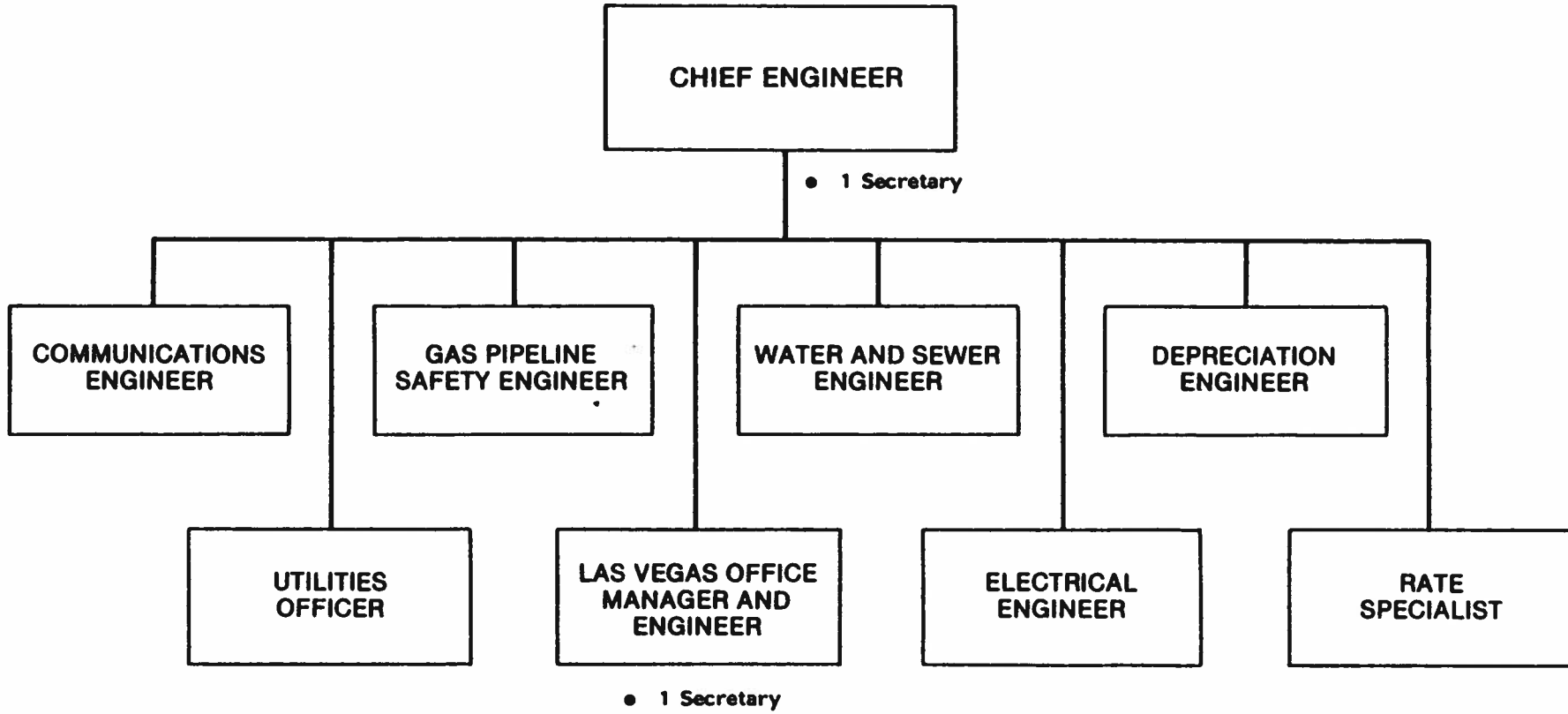
(a) All written complaints processed by Carson City staff.

Engineering Division

- Key responsibilities of the Engineering Division include:
 - Review, analysis, and development of recommendations for Commission action on certification and tariff applications and rate filings
 - Investigation of environmental impact applications, service deficiencies, and consumer complaints
 - Technical assistance in analysis and design of rate structures
 - Performance of safety inspections.
- As shown in Exhibit II-5, the Division is composed of 11 positions, including two clerical support positions.
 - All Division personnel report to the Chief Engineer.
 - One secretary serves the Division in Carson City, and one serves all Las Vegas staff.
 - One authorized position, that of Electrical Engineer, is vacant.
- The Chief Engineer coordinates the activities of the Engineering Division, and is responsible for developing policy and working with the heads of other divisions on major issues.
- The responsibilities of the Communications Engineer include inspections of new services and equipment, tariff reviews, and spot audits of telephone, CATV, and mobile communications installations.

NEVADA PUBLIC SERVICE COMMISSION

ENGINEERING DIVISION



BACKGROUND (Cont'd)

- Currently, the Communications Engineer is also performing some of the responsibilities of the vacant Electrical Engineering position; these include investigation of:
 - o Special problems with tariff applications
 - o On-site inspection of construction activities authorized under the Environmental Protection Act .
- The responsibilities of the Utilities Officer include review of tariff filings and complaint investigations.
 - The Utilities Officer expends approximately 80 per cent of his time reviewing tariff filings, with particular attention to rules compliance and new equipment, and troubleshooting on electrical engineering matters.
 - The Utilities Officer spends the remaining part of his time on consumer complaints.
- The Water and Sewer Engineer's responsibilities include:
 - Analyzing certificate and rate case filings for water and sewer utilities
 - Investigating complaints and testifying before the Commission
 - Assisting small utility companies to prepare tariff filings and develop pipeline maps - both on his own initiative.

BACKGROUND (Cont'd)

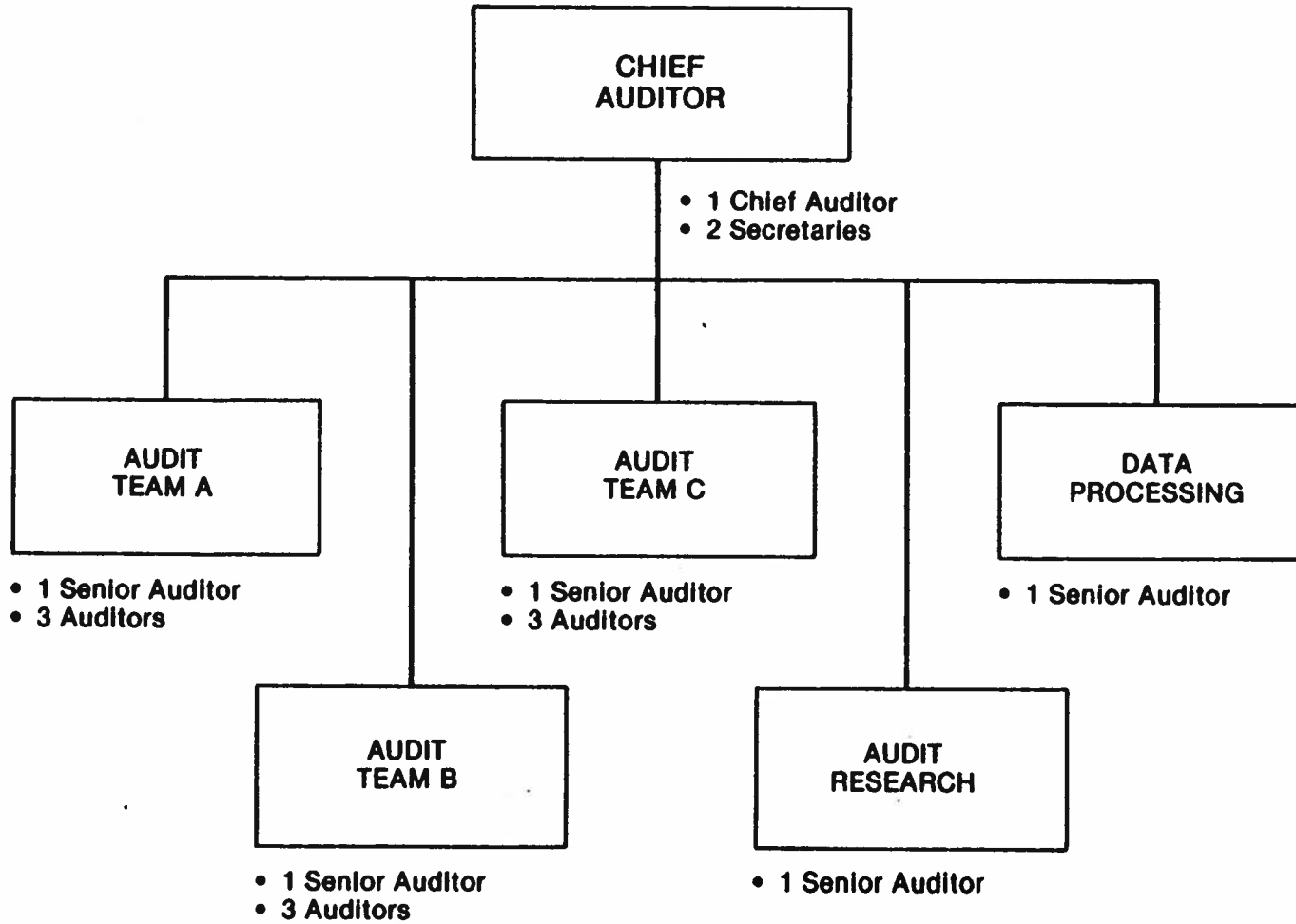
- The Depreciation Engineer is primarily responsible for the review and evaluation of the depreciation studies drafted by major utilities; this includes:
 - Coordinating with the Audit Division
 - Conducting field audits of major equipment included in the studies
 - Testifying in depreciation rate cases and some general rate cases
 - Working with smaller utilities to develop depreciation schedules .
- The position of Gas Pipeline Safety Engineer is funded in part by the Federal Government, and is responsible for:
 - Carrying out federal pipeline safety requirements
 - Reviewing documents relating to pipeline safety, gas company operations, master metering, interstate pipeline building permits, and facility expansion
 - Inspecting gas utility facilities.
- The primary responsibility of the Rate Specialist is to review and evaluate all rate-change applications for all utilities except transportation; his activities include:
 - Testifying on rate design matters
 - Assisting in the development of the Regulatory Analysis Model (RAM) for performing financial analyses on rate applications.

Audit Division

- The mission of the Audit Division is the analysis of the accounting systems and financial data of regulated enterprises to ensure that financial practices are consistent with applicable statutes, regulations, and Commission opinions and orders.
- As interpreted by members of the Audit Division, the role of the audit staff is to:
 - Protect the consumer by ensuring that rates charged are fair and reasonable
 - Provide for continued utility services by enabling regulated utilities to earn reasonable rates of return on invested capital if prudently managed.
- Exhibit II-6 presents the current authorized level of staffing for the Audit Division and its organization; it includes:
 - A Chief Auditor who is responsible for the overall direction and supervision of the Division
 - Five senior auditors, including three who supervise field audit teams; one who conducts audit research; and one who acts as a data-processing specialist
 - Nine auditors who conduct field audits
 - Two secretaries who provide clerical support to the Division.
- All Audit Division professional positions were removed from the state's personnel system to resolve a long-standing problem during the last legislative session; the positions are currently non-classified.

NEVADA PUBLIC SERVICE COMMISSION

AUDIT DIVISION



BACKGROUND (Cont'd)

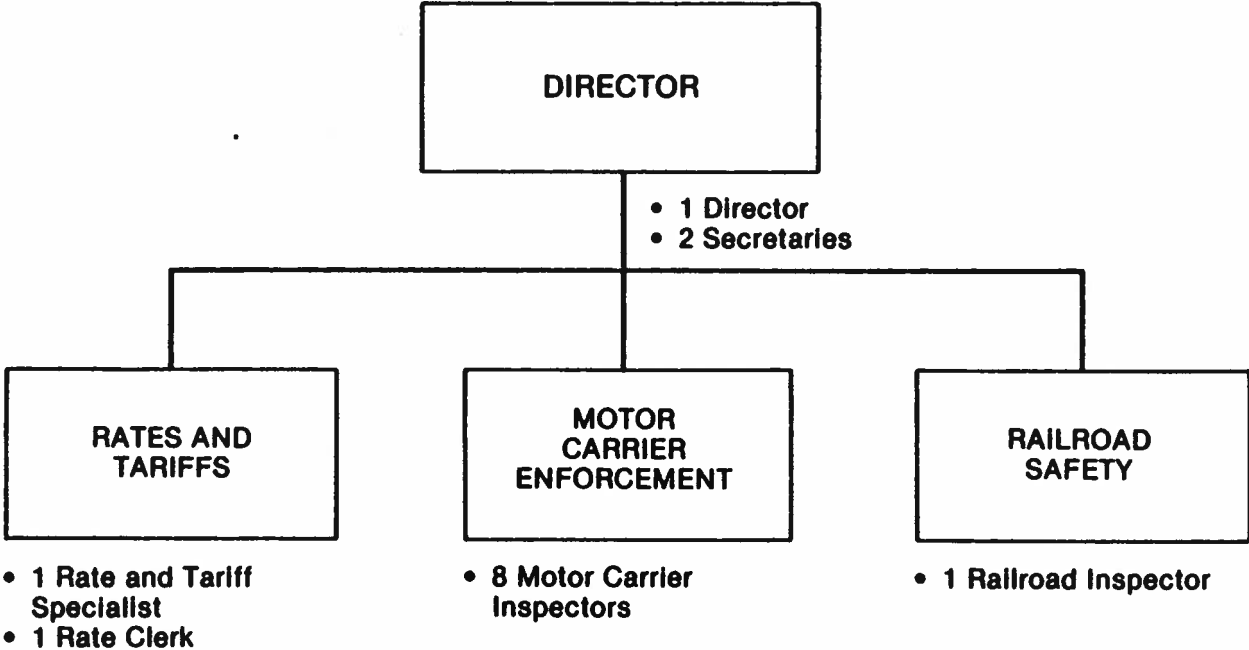
- The Audit Division is responsible for serving as the Commission's technical resource for accounting and financial issues; activities of the Division include:
 - Reviews and field audits of rate cases and deferred energy filings
 - Reviews and possible field audits of tariff filings and Class III motor carrier statements
 - Development of a compliance audit program for jurisdictional companies
 - Maintenance of various files including:
 - o Permanent financial files for each jurisdictional company
 - o Annual reports for regulated motor carriers
 - o Work papers from each audit conducted
 - o Commission orders from previous years.
- To provide conceptual and procedural guidelines for the conduct of utility audits, the PSCN contracted with Fox and Company, a firm of Certified Public Accountants, to prepare an audit manual for use by Audit Division personnel, which at the time of this study, was in its final stages of development.
 - The development of an audit manual was recommended in the most recent Legislative Auditor's report (1978) regarding the PSCN.
 - As part of the Fox engagement, Fox personnel will also assist the audit staff with two major rate cases.

Transportation Division

- The mission of the Transportation Division is the enforcement of state statutes and Commission orders, rules, and regulations related to jurisdictional motor carriers; this is accomplished through the following:
 - Field inspections and review of rate, tariff and other filings for compliance with rules and orders
 - Railroad safety inspections in conjunction with the Federal Railroad Administration
 - o As a result of federal airline deregulation, the Division is no longer responsible for inspecting aviation-related facilities.
- Exhibit II-7 presents the organization and authorized staffing of the Transportation Division which includes:
 - A Director responsible for the overall management and supervision of the Division's staff
 - A Railroad Inspector responsible for track safety inspections
 - Eight Motor Carrier Inspectors who are responsible for motor carrier inspections; they are assigned to specific areas as follows: Reno-Carson City (3), Las Vegas (3), Elko (1), and Fallon (1)
 - A Rate and Tariff Specialist and one Rate Clerk who are responsible for the review of all rate and tariffs filing, and the maintenance of records on current rates and tariffs of jurisdictional motor carriers
 - Two secretaries who provide clerical support for the Division.

NEVADA PUBLIC SERVICE COMMISSION

TRANSPORTATION DIVISION



BACKGROUND (Cont'd)

- Activities of the rate and tariff personnel include:
 - Routing tariff filings which incorporate rate changes to the Engineering and Audit division for review and action
 - Responding to consumer inquiries about existing rates and tariffs
 - Providing public notice on proposed tariff changes as required by law and preparing associated correspondence
 - Assisting motor carrier companies to complete tariff-related applications and forms.
- Motor Carrier Inspectors are non-uniformed "peace officers" authorized by state statute to carry firearms in the performance of their duties which include:
 - Conducting field inspections of regulated vehicles
 - Issuing citations for violations of state statutes, such as failure to identify a vehicle transporting hazardous materials, use of fictitious registration certificates, and so on
 - Investigating complaints about motor carriers
 - Inspecting motor-carrier facilities to determine compliance with operating and safety rules and regulations.
- Motor Carrier Inspectors are primarily concerned with intrastate carriers and operations; interstate carriers are inspected as time permits, at the request of other agencies, or upon personal observation of flagrant violations; Exhibit II-8 presents workload levels of the inspectors during 1978.
- The principal activity of the Railway Safety Inspector is inspection of rail beds and track to enforce state and federal railway safety regulations.

PUBLIC SERVICE COMMISSION OF NEVADA

MOTOR CARRIER INSPECTORS

1978 ACTIVITY LEVELS

<u>Activity</u>	<u>Number</u>	<u>Annual Average/Inspector</u>
Mileage Driven	115,456	16,494
Citations Issued	360	51
Warnings	244	35
Investigations	1,003	143
Assist Other Agencies	338	48
Carrier Assists/Contacts	1,014	145
Motor-Carrier Applications	925	132
Safety Inspections	1,786	255

Source: Transportation Division Workload Summaries, 1978.

BACKGROUND (Cont'd)

- The current inspector is participating in a comprehensive, two-year training program conducted by the Federal Railroad Administration to earn certification as a Federal Inspector.
 - o The Federal Government is reimbursing the state for his training expenses and for 50 per cent of his salary while he is undergoing this training.

Las Vegas Field Office

- The PSCN Las Vegas Field Office houses an Office Manager/Engineer, three Motor Carrier Inspectors, two consumer representatives, and one secretary.
 - The Office Manager reports to the Commissioners in his role as Las Vegas Office manager and to the Chief Engineer in his role as engineer for the area of southern Nevada.
 - Similarly, the Transportation and Consumer Division employees report functionally to their respective division chiefs and administratively to the Las Vegas Office Manager.
- The mission of the Las Vegas Office is to provide local representation to ratepayers and local oversight of jurisdictional companies in the southern part of the state; the responsibilities and activities parallel those of PSCN employees in other offices.

Consultant Resources

- Over the past five years, external consultants have often been retained to supplement PSCN staff resources.
- These consultants have ranged from individual experts to larger firms, such as:
 - Touche, Ross and Company, Certified Public Accountants, for audit assistance

- R. W. Beck and Company, for engineering assistance
- Research Planning Associates, for a utility plant feasibility study.

MAJOR MANAGEMENT AND
OPERATING SYSTEMS

Case Processing

- The management disposition of cases presented before the PSCN is controlled by statutory time constraints and internal procedures delineated in General Order No. 3.
- According to statute, all major rate cases filed with the Commission must be processed within 180 days.
 - The Commission may decide a rate case within 30 days of filing or suspend it for an additional 150 days.
 - o In practice, all such cases are suspended within 30 days and decided within 180 days.
 - The Commission is required to make certain notifications as part of the process, including:
 - o Acknowledge receipt of the filing to the submitter
 - o Disseminate public notices for all hearings related to the filing
 - o Communicate Commission decisions to interested parties.
- Within the Commission, the filing process is as follows:
 - Upon receipt, filings are reviewed by the Commission Secretary, a docket number assigned, and the acknowledgement letter sent.

BACKGROUND (Cont'd)

- Depending on the type of filing, master files are created and maintained as follows:
 - o Utility filings by the Assistant Commission Secretary
 - o Transportation filings by the secretary to the Commission Secretary
 - o Tariff filings by the Rates and Tariff Specialist in the Transportation Division.
- A routing sheet is prepared for each filing and a lead department is indicated by the Commission Secretary.
 - o Responsibility for monitoring and tracking staff activities related to a particular filing is shared by the Commission Secretary and the lead department.
 - o The lead department coordinates staff review of the filing and arranges review meetings and preparation of testimony and exhibits as required.
 - o Other departments are expected to route comments on a particular filing to the lead department, and to prepare their own specific testimony and exhibits.
- The staff is required to present its assessment of the filing within 30 days of the filing receipt or to request that it be suspended for an additional 150 days.
 - o Presentation of the suspension request takes place at a weekly agenda meeting.
- If it is determined at the agenda meeting that a formal hearing is needed, the Commission Secretary sets a hearing date, makes the appropriate notifications, records the appointment of a Commissioner to conduct the hearings and draft the proposed opinion and order or decision.

Hearings And Orders

- The PSCN is required by statute to hold properly noticed public hearings on substantially any matter which may result in an order affecting rates, tolls, charges, schedules, regulations, or practices of jurisdictional companies.
 - Hearings are typically held for applications for rate changes, certificates of public convenience and necessity, new construction, and certain financial or stock transactions; petitions for specific actions on particular problems (e.g., complaints); tariff filings; and issues which affect a class of jurisdictional companies.
 - Although statute permits Administrative Assistants and the Deputy Commissioner to conduct certain types of hearings, they are normally conducted by a Commissioner and may include two or more of the Commissioners when major issues are involved.
- The primary objective of a hearing is to create a complete record of the evidence, testimony, and arguments presented by all parties.
- Staff Counsel, representing the staff, presents cases at hearings.
 - Commission staff testifies at hearings and serves as technical advisors to Staff Counsel as needed.
- A lead Commissioner, aided by an Administrative Assistant, drafts the proposed opinion and order or decision following the presentation of all parties' cases (staff, company, and intervenors).
 - According to written procedure, proposed orders or decisions may be circulated to all affected parties for review and response; in practice the proposed opinion, order or decision is made available to the other Commissioners a few days before the agenda meeting.

BACKGROUND (Cont'd)

- An opinion and order or decision become official with a majority vote of the Commission and the signature of two Commissioners
 - o Copies of the official opinion and order or decision are distributed to all affected parties.

Complaint Processing

- As previously noted, the Consumer Division is responsible for receiving and investigating complaints concerning any jurisdictional company.
- Complaints, categorized by the manner in which they are received as walk-ins, telephone, or written, are processed as follows:
 - A consumer representative receives or is assigned a complaint.
 - The complaint is logged, noting the class of jurisdictional company, the date, the complaint category, and the general nature of the complaint.
 - A report including more detail than the log is filed; it is updated during the course of the investigation, and eventually reflects the final outcome of the complaint.
- The process leading to disposition of the complaint may take several paths, including the following:
 - The consumer representative may satisfy the complainant with a verbal or written explanation.
 - The jurisdictional company may be required to produce a written explanation.
 - The consumer representative may investigate the matter directly.

BACKGROUND (Cont'd)

- PSCN staff from other divisions may participate in an investigation.
- A formal hearing may be requested, and subsequently ordered by the Commission.
- Deadlines for completion of different stages of the complaint process include:
 - Assignment to a consumer representative within three working days of receipt of the complaint
 - Written acknowledgement to the complainant within five working days of receipt
 - Response from the company involved to a request for explanation within 15 working days
 - Notification of disposition or continuation of the investigation to the complainant within 30 working days of receipt of the complaint.
- A majority of complaints are resolved through discussion among PSCN staff, the complainant, and representatives of the company involved.

Records, Files, And Management Information

- The PSCN maintains two sets of master files, one for utilities in the central records room, and one for motor carriers in the Transportation Division office.
 - As a general rule, master files are organized alphabetically by company name.
 - o Cross indexes by docket number and name of company are maintained in index card files.

BACKGROUND (Cont'd)

- The master files were consolidated at one time, but were recently divided due to facility limitations.
- Records of current rates and tariffs are maintained in notebooks on open shelves in the Transportation Division; they are organized alphabetically by company name.
- A master file of Commission opinions and orders is also maintained by the Commission Secretary's office; concurrently, each division maintains a set of opinion and order files; some duplicate the Commission Secretary's files, some consist of divisional work papers.
- The primary sources of management information utilized within the PSCN include:
 - The docket register
 - Agenda and hearing schedules
 - Budget reports prepared by the State Budget Department and the internal accountant.
- The docket register, maintained by the Commission Secretary's staff, is intended to track the status of dockets before the Commission.
 - The register includes the docket number, the type of case, the name of the submitter, and key actions taken.
- Agenda and hearing schedules show the day, time, and location of each hearing.
 - Public notices of all hearings are prepared, distributed to the media and interested parties, and posted in each PSCN office.

BACKGROUND (Cont'd)

- Budget reports are received from the State weekly; they report the current status of the entire PSCN budget; unaudited financial statements are prepared each month by the internal accountant.
 - Budget status is not reported by division.
- The Consumer and Transportation Divisions compile periodic activity reports covering their non-regulatory activities.

ADMINISTRATIVE AND
SUPPORTIVE SYSTEMS

Financial Support And Budgeting

- PSCN operations are funded through assessments, fees, and charges imposed on regulated enterprises and some federal cost-sharing programs.
 - No funds come from general state tax revenues.
- The PSCN prepares a biennial budget for review and approval by the Legislature.
 - Budgetary modifications between legislative sessions are reviewed by the Interim Finance Committee of the State Legislature.
- Revenues received and annual expenditures by the PSCN for the years 1975 through 1979 are presented in Exhibit II-9; salient information shown in the exhibit includes:
 - The PSCN had accumulated a \$1.2 million surplus in its Regulatory Assessment fund by the end of 1979; excess revenues collected are held by the PSCN to meet future funding requirements.
 - Lowering the utility mill assessment to help reduce the surplus is under consideration.

PUBLIC SERVICE COMMISSION OF NEVADA

BUDGET PERFORMANCE

1975-1979

<u>Fiscal Year</u>	<u>Appropriation</u>	<u>Expenditures</u>	<u>Excess</u>	<u>Cumulative Surplus(a)</u>
1975	\$1,183,476	\$ 943,418	\$240,058	\$ 616,344
1976	1,241,288	1,158,790	82,498	662,577
1977	1,571,198	1,201,946	369,252	954,722
1978	1,627,798	1,316,935	308,863	1,175,130
1979	1,657,543	1,593,793	63,750	1,226,896

(a) Reflects actual surplus after end of year revisions.

BACKGROUND (Cont'd)

- PSCN's authorized budget has increased steadily over the past four years, and expenditures have fallen well within the authorized budget.

Personnel Management

- The Commission Secretary is responsible for personnel administration, including coordination of recruiting and training.
- The PSCN's staff is divided into classified positions, those subject to the State Personnel System, and non-classified or "exempt" positions.
 - Currently, non-classified positions include those of Commissioner, Deputy Commissioner, Staff Counsel, Assistant Staff Counsel, Administrative Assistant, Consumer Division Director, and Auditor; non-classified positions are not subject to state salary classification limitations.
 - o Auditors were recently unclassified by the Legislature in an effort to improve the Commission's ability to recruit qualified auditors.
 - o The Legislature sets compensation individually for non-classified positions through review of analysis and recommendations by the agencies involved.
 - Compensation for classified positions is based on a salary grade system set by the Legislature.
 - o The Legislature sets grades based on position descriptions developed by the individual agencies, compensation surveys covering 200 benchmark positions, and analysis and recommendations from the State Personnel Division.

BACKGROUND (Cont'd)

- All recruiting for classified positions must be coordinated through the State Personnel Division, using the following procedures:
 - Filing a requisition defining the job requirements with the Personnel Division
 - Interviewing the top five candidates appearing on the Personnel Division's "eligible list" that includes all current state employees meeting the requirements stated on the requisition form.
- Annual performance evaluations for classified personnel are required by the Personnel Division; employees are evaluated against performance standards defined in their position descriptions.

Data Processing

- The majority of the PSCN's administrative support operations are manual; exceptions include:
 - Some engineering-oriented application programs which are run through the state's Central Data Processing facility
 - The Regulatory Analysis Model (RAM), used for economic analysis of utilities, has recently been acquired and is being implemented.
- Significant indirect data processing support is provided the Commission through other state divisions including payroll processing, personnel administration, and financial reporting provided by Central Data Processing.

Physical Facilities

- The PSCN maintains two principal office facilities assigned to it by the State Building and Grounds Department; they are:

BACKGROUND (Cont'd)

- The main office in Carson City
- A regional office in Las Vegas.
- The Carson City office space is fully occupied and will support little, if any, additional staff.

III - OBSERVATIONS

This chapter presents the findings and conclusions of the comprehensive management study. An initial section briefly summarizes the positive attributes of the PSCN, and notes the challenges likely to confront the Commission in the years immediately ahead. Building on this perspective, the second, more extensive section of the Chapter identifies opportunities for management improvement at the PSCN.

The first section of the chapter describes the strengths of Nevada's Public Service Commission, and summarizes the important challenges of the 1980s.

STRENGTHS OF THE PSCN

- At the direction of the Commissioners, the principal thrust of this study was to identify management problems and opportunities for improvement, and to devise recommendations to address them.
- Nevertheless, the results of the analysis indicate that several important strengths have been and are evident in the PSCN, which warrant reference in a document of this nature.
- Among the most significant of the strengths identified during the study are the following:
 - The PSCN has enjoyed an extended history of service from Commissioners of exceptional caliber, who have been held in high esteem by most knowledgeable observers.
 - The Commission has, in most cases, achieved timely disposition of formal cases and other matters which are brought before it.
 - o This experience compares favorably with that of regulatory agencies in many other states, where the phenomenon of "regulatory lag" has reached epidemic proportions.
 - The Commission is widely perceived to have maintained a high degree of regulatory balance, objectivity, and equity in an environment characterized in recent years by extraordinary pressure and turmoil.

- Also of importance, numerous initiatives have been launched in recent years by the Commissioners, by the PSCN staff, and by the state legislature to strengthen the effectiveness of the regulatory process in Nevada; these have included such steps as:
 - The creation of the Commission's Consumer Division, which has provided an increasingly effective channel for ratepayers to secure solutions to utility service and other problems
 - The passage of enabling legislation designed to speed disposition of cases involving small water companies, thus addressing significant customer service and utility financial problems
 - The completion of a major program to upgrade the capabilities of the Commission's audit staff (by improving compensation levels, recruiting staff with stronger professional credentials, and retaining competent external counsel) which appears to have achieved positive and beneficial impact.
- Finally, and as noted in the cover letter to this report, the Commission deserves considerable credit for having sponsored a study of this nature; and having committed itself to open public review of the results of the analysis.
 - The adoption of this approach clearly reflects the orientation of the PSCN toward proficient and effective service to the citizens of the State.
- On an overall basis, the Nevada Public Service Commission is, therefore, regarded as a progressive regulatory agency.
- In early 1980, it was often described as being at the strongest point in its history.

**FUTURE
CHALLENGES**

- Notwithstanding its present strengths and recent accomplishments, Nevada's Public Service Commission faces grave challenges in the decade of the 1980's - challenges likely to surpass those met in the 1970's by a wide margin.
- The most tangible and publicly sensitive symptoms of the "energy crisis" - explosive increases in the cost of all forms of energy - are unlikely to abate; and are, therefore, likely to increase ratepayer demands for the most vigilant oversight of energy utility costs.
- The scope and complexity of other issues the Commission may be called upon to address - both in energy and other fields - is likely to grow explosively; a partial list of such issues includes:
 - The increasing impact of federal policies and federal involvement in energy regulatory matters historically regarded as within the purview of state authorities
 - The increasingly important subject of electric utility generating capacity planning, and its relationships to demand growth, the State's economic health, national policies in such areas as the displacement of oil and gas use, and utility access to capital markets
 - The impact of the Natural Gas Policy Act, in terms of the effect of the incremental pricing policies required under this Act, and the prospect of complete deregulation of gas prices after 1985
 - The closely related issue of conservation program management, in terms of the roles that regulatory agencies, utilities, and ratepayers may be requested - or mandated - to assume
 - Trends toward deregulation of important elements of the telecommunications and motor carrier industries at the federal level, which require thoughtful appraisal of the most appropriate State response

PERSPECTIVE (Cont'd)

- The apparent erosion of the capabilities of other public service industries of importance to Nevada, such as water utilities.
- As further discussed in the succeeding section of this chapter, the Commission is not well prepared to simultaneously address both its ongoing responsibilities and the implications of these issues for the State of Nevada and Nevada ratepayers.
- Continued, indeed accelerated development of the capabilities and resources of the PSCN, is, therefore, clearly warranted; fundamental - rather than incremental - improvement and progress are likely to be required to enable the Commission to keep pace with its rapidly changing environment.

OPPORTUNITIES FOR IMPROVEMENT

This section presents the major conclusions developed during the study. Following an introductory overview, observations are presented and opportunities for improvement are identified in six broad areas, including the mission and role of the PSCN; the Commission's regulatory concepts; the number, role, and activities of the Commissioners; the organization and composition of the PSCN's staff; the Commission's major management and operating systems; and its administrative and support systems.

ANALYTIC OVERVIEW

- The observations presented in the succeeding pages of this section are deliberately intended to focus constructive criticism on all important aspects of PSCN management.
- Two key points should, therefore, be kept in perspective in considering these materials.
 - First, the preponderant majority of the opportunities for improvement are closely interlinked, and must be considered on an integrated basis.
 - o For example, uncertainties surrounding the mission and role of the PSCN clearly influence its staff organization and composition.
 - o Similarly, qualitative and quantitative shortfalls in staff composition are inseparably linked to personnel management system deficiencies highlighted in this report.
 - Second, the contents of this section pinpoint many areas in which the Commission can undertake corrective action in the future; however, successful resolution of the most important and critical issues identified will clearly require the concurrence and support of, or action by, other elements of State Government, especially the Governor of Nevada and the Nevada State Legislature.
 - o Such concurrence and support will be critical determinants of the effectiveness with which the PSCN is able to address the complex range of issues noted in the preceding section, and its consequent ability to serve the interests and needs of the citizens of the State.

**MISSION AND ROLE
OF THE PSCN**

Legislative Mission

- Present Nevada law does not provide sufficiently clear policy guidance to the PSCN regarding the mission it should pursue, or the role it should embrace.
 - The key Nevada Revised Statutes applicable to the PSCN (NRS 703; 704; 706) are principally concerned with delineating the structure of the Commission, its general duties, and basic operating procedures.
 - o Certain provisions of these statutes date to 1919 (when the PSCN was created) and most revisions and amendments adopted in the interim have similarly focused on the mechanics of regulation.
 - Several other states have found that clearer statements of legislative expectation and emphasis are necessary in an environment characterized by increased regulatory complexity.
- In Nevada, such direction has been provided for certain functional responsibilities of the Commission.
 - For example, the introductory sections of the Nevada Utility Environmental Protection Act do present a "Declaration of Legislative Findings and Purpose" (NRS 704.825) to guide the PSCN.
- This form of conveying legislative intent has not yet been extended to the programs of the Commission as a whole, though, thus contributing to the emergence of mission-related issues noted during the course of the study and further discussed below.

Mission Interpretation

- In the absence of such legislative policy parameters, differences in orientation and emphasis appear to have emerged between the role deemed most appropriate by the Commission, and that generally favored by most members of the State Legislature interviewed during the course of the study.
- Generally, the Commission is perceived to have adopted a cautious and conservative interpretation of its regulatory duties and powers: many legislative leaders, however, express support for a more aggressive regulatory approach characterized by broader initiative on the part of the PSCN.
- For example, the Commission carefully examines the need for specific facilities (such as new electric generating plants) when utilities seek a certificate of public convenience and necessity under NRS 704.330.
 - Many legislators interviewed favor the conduct of broader inquiries into overall demand for and supply of energy utility services, especially where utility plants may be of use in serving ratepayers/customers in both Nevada and other jurisdictions.
 - However, PSCN responsibility for the conduct of such inquiries is unclear; and some perceive this to be a function of the State's energy department.
- Similarly, the Commission has made sparing use of its powers under NRS 704.183 to order "examinations of specific public utilities" by consultants, preferring to rely on such examinations principally where specific issues or problems have been identified in the processing of individual cases.
 - Many legislators, by contrast, express support for more regular reliance on inquiries into broader aspects of utility management and operation, to ensure that the PSCN exercises close oversight of utility services in the state.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- This dichotomy can be traced in part to public misperceptions, which, in turn, influence legislative views regarding the purposes of the PSCN.
 - Interviews conducted during the study indicate that the Commission is widely, but inaccurately, viewed by the public as an agency intended principally to suppress the amount and frequency of utility rate increases.
 - Such views fail to reflect the balance the Commission must seek between the interests of present and future ratepayers, and the need for long-term viability of regulated enterprises furnishing vital services.
 - This seeking of balance is the most critical aspect of the PSCN's responsibilities; but, as noted above, has not yet been clearly crystallized in legislative form.

Role In State Energy Management

- Further uncertainty appears to exist regarding the most appropriate role for the PSCN to assume in general state energy management programs, and its future relationships with the Nevada Department of Energy (NDOE).
- Currently, working relationships between the Commission and the NDOE are close and cordial.
- Nevertheless, knowledgeable observers express concern that frictions could readily develop between these two agencies in the years ahead, especially in addressing important issues such as those identified in the preceding "Perspective" section of this chapter.
- Clear delineation of the mission and responsibilities of each agency, and the fields in which each will have a leadership role, are viewed by well-qualified observers as prerequisites to forestalling such a possibility.

PSCN Role In Transportation Operations

- The PSCN's role in regulation of the motor carrier industry appears to have been subsumed by the Transportation Division's focus on enforcement operations carried out by the present force of motor carrier inspectors; and other disadvantages are associated with PSCN performance of essentially law enforcement tasks.
- Direction of these activities has deflected the attention of Transportation Division management from more substantive regulatory policy matters, such as assessment of the impact of deregulation trends at the Federal level on motor carrier service in Nevada.
- Furthermore, the PSCN lacks the administrative structure (specifically at the local level) to effectively manage operations similar in many respects to those of a police force.
 - While motor carrier inspectors are empowered to carry firearms, they are not subject to the rigid training and discipline requirements and frequent field supervision characteristic of most police officers so authorized.
 - Other PSCN management systems, such as those for the control of important enforcement records, lack the stringency evident in professional police agencies.
- Finally, the activities of the Commission's motor carrier inspectors duplicate in part the tasks performed by - and could be readily absorbed by - at least two other agencies of Nevada State Government better able to direct dispersed field operations; these include
 - The Inspector force of the Nevada Division of Motor Vehicles
 - The Nevada Highway Patrol.

REGULATORY
CONCEPTS

General Observations

- Opportunities for strengthening the regulatory concepts of the Public Service Commission of Nevada are inseparably linked to the mission definition and interpretation issues discussed above.
- The PSCN has been progressive, in several respects, in its approach to such matters as:
 - The establishment of deferred energy cost recovery systems
 - The consideration of the requirements of PURPA.
- Nevertheless, the Commission has made relatively sparing use of the generic hearing process, orders for staff investigation of policy issues and other mechanisms increasingly relied upon elsewhere to
 - Avoid the limitations of traditional adversary proceedings
 - Thereby establish a more appropriate analytical foundation for regulatory decision-making.
- Similarly, the PSCN has not yet embraced such concepts as "make whole" rate reviews or related techniques which can reduce the number and complexity of general rate case filings, and permit regulatory agencies to focus, instead, on constructive oversight of the industries subject to their jurisdiction.

Policy And Precedent

- Indeed, the PSCN has generally evinced a reluctance to establish generic regulatory policy, and a preference for the more traditional case-by-case approach to the regulatory process.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- This preference for the case-by-case approach is most clearly highlighted by the absence, until very recently, of a formal indexing or precedent-recording system within the Commission, which would permit consideration of past PSCN decisions and policies in reaching current judgments.
- In situations highlighted during the course of the study, this has led to circumstances where differing - rather than consistent - approaches to such issues as the flow through versus normalization of Federal tax benefits have been applied in closely parallel rate cases.
- Increasingly, however, this reluctance to establish and be bound by regulatory policy and precedent is being challenged by:
 - The contrasting, policy-oriented approaches of other comparable bodies such as the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC)
 - Strongly-worded decisions of the Nevada Courts
 - Spokespersons for regulated industries of all types, who cite the importance of clarity and consistency in regulatory policy in providing a stable business planning environment.
- Moreover, the absence of such policy and precedent can adversely impact the regulatory process in numerous ways; for example:
 - The opportunity to guide regulated industries to pursue well-defined public objectives is precluded.
 - The time and energy of industry personnel and regulatory staff must be devoted to duplicative scrutiny of matters which have often been reviewed on numerous occasions before.
- In a state like Nevada, the use of available regulatory, policy-formulation mechanisms can aid in smoothing workload peaks occasioned by the concurrent filing of rate cases by major utilities after the close of the fiscal year.

- Policy formulation initiatives can be undertaken during relative lulls in rate case workload; and the completion of these steps can reduce the complexity of cases subsequently filed by diminishing the range of issues which must be contested in each.

NUMBER, ROLE AND ACTIVITIES
OF THE COMMISSIONERS

General Observations

- The results of this analysis clearly indicate that the PSCN's Commissioners devote considerable time, effort, and attention to the most conscientious discharge of their responsibilities; nevertheless, the utilization of their skills and capabilities does not appear to be fully optimized.
- This is attributable, in part, to the matters discussed above, including:
 - The need for clarification of the Commission's mission and role
 - Opportunities for greater involvement in anticipatory policy formulation, thereby providing clearer direction to the PSCN staff and jurisdictional utilities.
- It is also clearly linked, in large measure, to weaknesses in PSCN organization, staffing, and management systems further discussed below, which require the Commissioners in general - and the Chairman in particular - to invest considerable energies in essentially administrative tasks such as:
 - Securing adequate resource support for PSCN operations, especially in such areas as budget development and personnel administration
 - Seeking coordination of effort among staff divisions
 - Informing and educating the public regarding the nature of the PSCN's responsibilities and the reasoning underlying its decisions.

Impediments To Commissioner Effectiveness

- Of equal, if not greater importance, however, are more direct impediments to effective utilization of the Commissioners' talents; these result from the combined impact of and interaction between Nevada's Administrative Procedures Act, the state's Open Meeting Law, the manner in which both have been interpreted, and the relatively modest size of the PSCN and its staff.
- As in many states, Nevada's Administrative Procedures Act precludes ex parte communication (substantive discussion of any issue or matter related to a pending case) between a Commissioner and a member of the regulatory staff who is involved in the case.
 - In larger regulatory agencies elsewhere, the preclusion of ex parte is of minimal impact, as the staff in any given field or discipline is usually of sufficient size to ensure that several sources of expertise are available to Commissioners when they seek counsel on technical questions.
 - Within the PSCN, however, only the Audit Division is of adequate size and depth of staff resources to render this approach workable.
 - In other areas, the imposition of ex parte and the PSCN's modest staff size often serves to isolate the Commissioners from access to technically knowledgeable staff.
- Similarly, the application and rigorous interpretation of Nevada's Open Meeting Law has had the effect of undermining the Commission concept.
 - As currently interpreted by the PSCN, NRS 241 prohibits any substantive discussion between two Commissioners outside of a properly noticed, open and public meeting.
 - NRS 241.015 defines a "meeting" as "...gathering of members of public body at which a quorum is present to deliberate toward a decision or to make a decision on any matter over which the public body has supervision, control, jurisdiction or advisory power."

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Under these circumstances, the Commissioners are effectively barred from the informal dialogue and discussion of alternatives and perspectives which are inherent advantages of the Commission form of organization.
- Instead, most proceedings must be assigned to one Commissioner for analysis; and that Commissioner's findings must be presented to his or her colleagues only in the most formal proceedings.
- This induces a forced isolation of the Commissioners from each other, as well as from the staff, as noted previously.
- Indeed, this growing isolation of the Commissioners from their colleagues and their staff is recognized by many knowledgeable observers - especially those with legal training - as severely detrimental to effective regulation in Nevada.
 - Observers with first-hand experience in Commission proceedings are particularly outspoken in noting that application of the Open Meeting Law has served to "hamstring" the PSCN.

Number Of Commissioners

- There appear to be few, if any, pressing requirements of a practical nature for increasing the numbers of PSCN Commissioners.
- Nevertheless, numerous persons contacted during the study suggested that the size of the Commission be increased to five members, solely to overcome the inimical effect on the PSCN of the Open Meeting Law.
 - With a five-member Commission, it is noted, any two members could confer on any pertinent subject, and the inherent advantages of the Commission concept could be regained.
 - More direct action to exempt the PSCN from this law (as is now the case with the Nevada Legislature) was perceived to be fraught with political risks.

- However, significantly increasing the costs of government service to offset the adverse effect of such legislation would also appear to be unwise public policy.

ORGANIZATION AND COMPOSITION OF THE PSCN STAFF

General Observations

- Numerous opportunities for improvement are evident in the organization and composition of the PSCN's staff.
 - These are in turn related inseparably to issues regarding the Commission's overall role and mission discussed above, and management and administrative systems deficiencies further noted below.
- The single, most evident weakness in present PSCN staff arrangements is the absence of a clear focal point for leadership, direction, and management of the staff.
 - Past effort to resolve this situation - for example, through creation of the position of Executive Director - proved unsuccessful, for reasons unrelated to organizational considerations.
 - At present, neither the Deputy Commissioner nor the Secretary have been clearly chartered to fulfill such an executive role.
 - Interviews with PSCN Division heads indicate that their reporting relationships vary; and, depending on the subject and the individual concerned, they may report to:
 - o The Commission as a whole
 - o The Commission Chairman
 - o The Deputy Commissioner
 - o The Secretary.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Consequently, staff Divisions function in a highly autonomous manner, rather than as elements of a cohesive organization; and frictions have emerged between some Divisions which have not yet been effectively resolved.
- There are no focal points within the present organization structure for the coordination or direction of regulatory functions found to be of increasing importance in comparable bodies elsewhere; these include:
 - Tariff administration and interpretation (which is currently fragmented between the Secretary, the Consumer Division, the Engineering Division, and the Transportation Division of the PSCN)
 - Supply/demand planning, economic forecasting, and other aspects of utility operations oversight.
- As further noted elsewhere in this report, efforts to build a strong regulatory staff have been severely impeded by weak state personnel policies, practices, and procedures.
 - Importantly, the Public Service Commission must compete in a national marketplace - and with regulated industry - for capable human resources.
 - Where the PSCN has been able to so compete - as has recently been the case in the Audit Division - it has been successful in attracting skilled and seasoned regulatory personnel, able to vigorously and effectively represent the public interest.
 - Where it has been unable to do so, the Commission has suffered predictable consequences, including:
 - o The inability to attract fully qualified applicants to fill vacancies, or to retain experienced personnel
 - o High rates of turnover in key functions and positions
 - o The resulting employment of eager, but inexperienced staff in several areas.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Qualitative and quantitative shortfalls in staff resources, therefore, appear to exist in several key PSCN functions, including legal services, engineering, consumer services, and rate design, among others.
- Moreover, PSCN organizational design has also been negatively influenced by personnel system considerations.
 - Illustratively, the Commission was able to retain an employee skilled in computer technology and development of management information systems only by offering him a position as a Senior Auditor.
 - This valuable staff resource has, therefore, become closely aligned with Audit Division operations; his ability to contribute to the operations of the PSCN as a whole have, therefore, been restricted (in part due to the inter-Division friction previously noted).

Deputy Commissioner

- The creation of the position of Deputy Commissioner has proven to be a positive step in structuring a more cohesive approach to regulatory policy development within the PSCN.
 - The Deputy Commissioner has assumed a useful and important role in developing the Commission's approach to the requirements of PURPA, and in other areas (such as the coordination of external consulting services in several fields).
- However, the responsibilities of this position have not yet been fully crystallized, especially in regard to:
 - Coordination and supervision of the activities of other PSCN staff (as noted previously)
 - The documentation of Commission policy (in such areas as maintenance and updating of PSCN case-law precedents).

Legal Services

- The Deputy Attorneys General assigned to the PSCN have provided capable counsel to the Commission in recent years; and the effectiveness of their support has been enhanced by:
 - Their location in the Commission's offices
 - Their concentration on Commission matters on an essentially full-time basis.
- Opportunities exist, however, for the DAG's to contribute more effectively to regulatory effectiveness in Nevada, especially through:
 - More active participation in internal PSCN staff meetings and similar activities
 - The provision of counsel and direction to the Commission's Administrative Assistants
 - The review of Commission opinions and orders in draft form to upgrade their clarity and consistency.
- The Commission has also benefitted from able incumbents in the office of Staff Counsel in recent years, although high turnover has limited the development of experience among office personnel.
- Presently, though, the office is overburdened: its staff complement is unable to respond fully to requests for counsel from other PSCN Divisions, as well as to engage in comprehensive and thorough preparation for all matters coming before the Commission.

Commission Secretary

- The office of Commission Secretary has benefitted from dedicated service by several, long-term Commission employees; nevertheless, succeeding pages of this section indicate that significant opportunities for improvement are evident in many of the management and administrative functions that are the responsibility of the office.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Of particular concern, no position within the office is focused full time on personnel administration and training, although the contents of this report indicate that needs for concentrated staff support in this area are pressing.
- Similarly, organizational and other weaknesses are abundant in provisions for secretarial and clerical support within the Commission.
 - The assignment of secretarial support responsibilities within the PSCN is loosely defined.
 - Methods have not yet been developed to allocate workload among support staff to assure balance and timeliness of performance.
 - Sufficient cross-training of support staff has not been accomplished.
 - o Desk manuals or position duty guides have not been developed.
 - o The Commission is clearly dependent on the knowledge and skills of certain personnel who are approaching retirement.
- On balance, therefore, the functions of the office of the Secretary appear to be underdeveloped.

Consumer Division

- The PSCN Consumer Division has proven to be a valuable arm of the Commission's staff, but exhibits several important opportunities for improvement.
- The workload of the Division has increased more rapidly than projected; accordingly, it appears to be understaffed.
 - For example, the Division's 1978 workload (as measured by telephone complaints) was 64 per cent higher than 1977, while staffing was only 25 per cent higher.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- The 1979 workload was 40 per cent higher than in 1978, while staffing remained the same for the first six months and staffing effectively declined 20 per cent for the second six months.
 - o This decline in staffing resulted from the transfer out of the present Engineering Division Utilities Officer (who had worked full time on consumer activities until that juncture).
- Continuation of these trends could restrict the thoroughness and aggressiveness with which Division staff pursue individual consumer complaints.
- The Division's effectiveness has also been restricted by the uneven nature of the support it has received from other elements of the PSCN.
 - Generally, support from the Audit Division has been highly responsive.
 - Difficulties have been encountered, though, in securing comparable support from the Engineering and Transportation Divisions, and in obtaining clear interpretations of the provisions of tariffs fixed under PSCN rate orders.
- Due to the foregoing, the ability of the Division to undertake an active role in consumer information and education programs, especially those intended to better inform the public regarding the Commission's responsibilities and activities, has been restricted.

Audit Division

- The Audit Division has clearly been strengthened by recent changes in personnel practices pertaining to audit staff, and by the capable assistance rendered by Fox and Company.
- While the present Division organization structure and staffing levels appear appropriate in most respects, certain matters require further definition or resolution.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- First, the future efforts of the Division will require clearer Commission guidance, especially in terms of the extent to which the Division should engage in compliance audits and PSCN-initiated financial probes.
- Second, following the completion of the current Fox and Company engagement, the Division will continue to require external assistance in certain specialized areas, such as tax accounting.
- Finally, responsibilities have not been clearly delineated for the Division regarding the development of either internal or contractual sources of expertise concerning the cost of capital for regulated enterprises.

Engineering Division

- Numerous opportunities for improvement are evident in the PSCN's Engineering Division, which has been adversely affected, to a notable degree, by the personnel management deficiencies noted elsewhere in this report.
- Division personnel resources, therefore, appear weak in three key areas, including:
 - Electrical engineering, (where extreme recruitment and staff retention difficulties have been encountered)
 - Telecommunications engineering (where the rate of industry technological development has outpaced the PSCN's monitoring capability)
 - Ratemaking (where the development of staff knowledge and skill is in an embryonic stage).
- The rationale for the assignment to this Division of several functions and responsibilities is unclear; these include:
 - Ratemaking and tariff administration activities
 - The management of the Las Vegas office.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Although engineering matters - such as the effectiveness and efficiency of utility plant operations - are of growing importance in rate cases, the Division is not perceived to have been an aggressive participant in PSCN staff involvement in such cases.
- Moreover, certain functions performed by members of the Division staff - such as investigation of routine service complaints - are not professionally challenging, and could readily be performed in a more cost-effective manner by technician-level personnel, were the latter available.
- Consequently, the technical capabilities of many staff engineers are underutilized (with the notable exception of the Gas Safety Engineer, who appears to be overburdened).

Transportation Division

- Transportation Division management has been closely involved in the direction of the motor carrier enforcement program previously discussed, and aspects of motor carrier tariff administration.
- The Division's involvement in motor carrier certificate and rate cases appears to be passive, however; a review of case files, and insights gained during study interviews, indicate that principal initiatives in these matters rests with intervenors, or with the Audit Division staff.
- Moreover, the Division does not appear to have undertaken probing analyses of critical regulatory issues in the field, such as the prospective implications of motor carrier deregulation at the federal level.

Economist

- The Commission has recently retained an economist for full-time staff service; however, the duties, responsibilities, and reporting relationships of this position have not yet been fully documented.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

Consultant Resources

- Generally, the PCSN appears to have made wise use of external consultant resources, both to supplement staff capabilities and to analyze particular issues and problems, where staff resources were lacking.
- Continuing use of consultants is warranted, moreover, where
 - The range of requisite skills is broader than the PSCN can reasonably expect to maintain
 - Manpower needs are characterized by periodic surges in workload.
- Often, though, the retention of consultants by the PSCN has been a response to immediate pressures and problems; and overall "make or buy" strategies (e.g., definition of where priority is to be placed on development of internal capabilities versus continuing resort to outside expertise) have not been formulated to date.

MAJOR MANAGEMENT AND OPERATING SYSTEMS

General Observations

- PSCN's operational effectiveness is hindered by a paucity of well-defined and documented management systems.
- Such deficiencies characterize most facets of Commission operations, and are most clearly evident and of concern in three critical areas; these include:
 - General staff coordination
 - Case management
 - Records, files, and management information.

Staff Coordination

- The PSCN is perceived by Commissioners, staff members, and external observers to have encountered considerable difficulty in:
 - Setting goals and priorities for the performance of staff work
 - Marshalling staff resources in response to shifting workload patterns
 - Integrating the views and perspectives of various staff elements on major issues and cases
 - Securing sound collaboration and mutual support among the Divisions.
- Past efforts to strengthen such coordination - such as the introduction of regular staff and staff/Commission meetings - have not proven fully satisfactory.
 - The combined impact of ex parte and open meeting requirements, previously noted, has restricted the potential usefulness of staff/Commission meetings in particular.
- Other approaches and techniques have been considered from time to time; however, none appear likely to offset the absence of a focal point for strong executive leadership of the Commission's staff.

Case Management

- The PSCN currently lacks a cohesive, disciplined, and documented system for managing the processing and disposition of formal cases and other significant regulatory transactions such as generic inquiries and investigations.
 - Deficiencies exist at most stages of case processing, from initial case receipt through interim review to final post-hearing disposition steps.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Several limitations are evident in the initial screening of cases:
 - Assignment of lead Division responsibility for particular cases is presently made on an intuitive basis by the Secretary, before all affected elements of the PSCN have reviewed the filing in detail; and the regulatory issues involved have been pinpointed.
 - Such predesignation of lead responsibility may cause other Divisions to devote only perfunctory attention to the filing at this early stage.
 - Moreover, the authority of the lead Division to require support from, and enforce deadlines upon, other Divisions is vaguely defined, at best.
- Similar weaknesses characterize later case processing; for example:
 - A centralized and coordinated case calendaring system is lacking: once a case is suspended, it is usually assumed that the full 150 days will be consumed for the Commission's proceedings (even if a case could be resolved in a significantly shorter period of time).
 - Pre-hearing conferences are rarely utilized to seek consensus on issues lending themselves to ready resolution or stipulation; and to crystallize those to be resolved through the hearing process.
 - As a result, Staff Counsel (who must present the PSCN staff position on cases) may not become intensively involved until the work of other Divisions is well underway, or completed; and case processing deadlines are approaching.
 - Until very recently, moreover, formal case tracking systems were not in use within the Commission.
 - Consequently, staff preparation was often deferred until the later stages of the case processing cycle, adversely affecting the depth and thoroughness of the staff presentation.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Further opportunities for improvement are evident in the terminal stages of case processing; for example:
 - As previously noted, no formal provision is made for review of draft Commission opinions and orders by senior legal personnel.
 - Systems have not yet been put into place to ensure that:
 - o Jurisdictional utilities and motor carriers fully comply with all provisions of Commission orders
 - o Tariffs filed, pursuant to rate orders, are completely consistent with these orders.
 - Procedures have not yet been formulated to compile an index of issues addressed and judgments reached in closed cases.
 - o A precedent book compiled by an outside law firm for its own use has been made available to the PSCN staff.
 - o Responsibility for maintaining and updating this document has not been fixed, however.

Records, Files And Management Information

- As noted by the Commissioners and PSCN staff prior to the commencement of this study, the records and filing systems presently utilized are insufficient for current regulatory management purposes; among the numerous limitations noted during the project are:
 - An overly simplistic docket numbering system is relied upon, and there is no written policy regarding the types of filings which should be assigned a docket number.
 - Insufficient controls have been set into place to assure the preservation of the Commission's master files; nor have definitive written requirements for the contents of these files been promulgated.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Each of the various Divisions has established files and records systems of varying degrees of effectiveness, completeness and utility which are not effectively linked.
- As noted previously by the Legislative Auditor, a clear records retention policy has not yet been developed.
- Modern records storage technologies have not yet been utilized by the PSCN.
- Similarly, the Commission functions without the benefit of effective management information systems.
 - Intensive and time-consuming manual review of Commission files by PSCN staff was required to develop the data on the number of jurisdictional enterprises and case filings presented in Chapter II of this report.
 - o Such overall workload indicators have not been regularly tracked in the past.
 - Workload and activity measurement are inconsistent among the Divisions.
 - o Some maintain complete records of their activities, while others maintain virtually none.
 - As noted immediately above, case status and tracking systems have only recently been introduced.
- The volume of the Commission's caseload and the size of its staff have already outpaced past informal practices in these important management system areas; and the need for more advanced systems is urgent if the PSCN is to function effectively in the future.

ADMINISTRATIVE AND
SUPPORTIVE SYSTEMS

Personnel Management

- The personnel management systems upon which the PSC must rely are especially weak; the Commission is, therefore, very poorly positioned to compete in the national marketplace for individuals with the professional skills and technical knowledge required for successful regulatory performance in the contemporary era.
- The single most significant and pressing deficiency noted during this study is the relatively poor compensation levels offered for many key PSC positions, when compared to the alternatives available to persons of talent.
 - Salary shortfalls commence with the Commissioners, who are undercompensated when their remuneration is weighed against the significance of the decisions they must reach, and the monetary rewards available to their counterparts elsewhere.
 - o As is evident from the data presented in Appendix A to this report, Nevada's Public Service Commissioners are compensated at levels lower than those prevailing in three quarters of the states in the western United States from which comparable data could be obtained.
 - o Moreover, PSCN Commissioners are compensated at lower rates than mid-level professionals in the enterprises they must regulate; engineers, attorneys, auditors, and even rate specialists in jurisdictional utilities (which must continually maintain competitive salary programs) often command greater remuneration than the Commissioners.
 - Moreover, low levels of Commissioner compensation restrict the compensation which can be offered to attract professional staff.
 - o PSCN staff members may not be compensated at levels greater than 95 per cent of the Commissioner salary level, without the approval of the interim Finance Committee of the Nevada Legislature.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- o As indicated above, jurisdictional utilities frequently provide greater compensation for comparable professional skills.
 - o Moreover, as depicted in Appendix A, other states have proved more willing to attract competent staff by offering remuneration beyond that set for Commissioners; in many cases the maximum salaries for senior engineers and attorneys are allowed to exceed those established for members of the regulatory body.
 - o Consequently, salary levels for certain types of positions within the PSCN are clearly noncompetitive; for example, the maximum salary offered to a senior engineer is some 15 per cent less than the average salary offered by regulatory agencies elsewhere in the western United States, and more than 23 per cent below the average offered by the jurisdictional utilities surveyed during the study.
- As previously noted in this section, and repeated here for emphasis, where the Commission has been able to offer competitive remuneration, it has been able to attract capable personnel.
 - It is unrealistic at best, however, to expect qualified applicants to be drawn to the Commission's service in the absence of realistic salary levels, especially in view of other deficiencies noted immediately below.
 - The results of such short-sighted practices are inevitable, but often invisible, degradation of the capacity of the Commission to function effectively, and to ensure that the interests of Nevada ratepayers/citizens are effectively considered in the regulatory process.
- The impact of noncompetitive salary programs is compounded by the fact that:
 - State policies precluding reimbursement of job-site visit and relocation expenses are clearly noncompetitive in the recruitment of professional staff.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Fringe benefits also are competitively weak, especially in comparison to industry levels.
- Numerous other weaknesses beset the personnel management systems of the PSCN; for example:
 - Position descriptions are not uniformly prepared, or kept current.
 - Performance evaluations are often conducted by persons without direct knowledge of position duties.
 - o Moreover, requirements for annual performance evaluations have not always been met, and files of prior evaluations are inconsistently maintained.
 - Merit salary increases are not perceived to be linked to demonstrated performance levels.
 - No formal staff training program exists within the Commission.
 - Delays of over two months have been encountered in filing even entry-level clerical personnel.
 - The divided personnel system - under which some employees are exempt and others are classified - has evoked disharmony in some quarters.
 - While resorting to the use of exempt positions has proven to be an effective expedient to overcome deficient salary levels (for some previously classified positions), suitable merit system protection for incumbents has concurrently been removed.
 - o Such career protection is an important advantage for staff whose actions and recommendations may prove controversial.
- On balance, the existing personnel systems have not served the interests of Nevada citizens by leading to situations where:
 - The PSCN has operated with vacancies in as many as 20 per cent of its authorized positions.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Critical positions - such as that of Chief Engineer - have remained vacant for periods of about one year.
- It is most unlikely that the Commission will be able to address the challenge of the 1980's, if it is unable to adopt more competitive and and progressive approaches to the management of its vital human resources.

Data Processing Support

- The PCSN has not yet developed a cohesive plan for the application of modern data-processing technology to regulatory management.
- Some constructive steps have been taken towards systems applications, including:
 - The acquisition of an IBM System 6 (a word-processing system often misconstrued within the PCSN as "a computer")
 - The introduction of the RAM model.
- Nevertheless, a comprehensive needs assessment has not yet been undertaken, and development efforts launched in the past have been pursued on a sporadic basis at best.
 - On at least two occasions in recent years, Nevada's Central Data Processing (CDP) organization has been called in to assist in the assessment of computer-based systems opportunities.
 - In both bases, the efforts languished within CDP awaiting action or decisions by the PCSN.

Physical Facilities

- The PCSN's present facilities in Carson City are close to being over-taxed, and are unsuitable for Commission purposes in several ways:
 - For example, these facilities limit the extent to which PCSN files and records could be consolidated for better control.

OPPORTUNITIES FOR IMPROVEMENT (Cont'd)

- Options for realigning the layout of the existing office space, or for moving to more suitable quarters, have recently been given consideration.
 - A final decision in this regard was deferred, pending the Commission's receipt of and response to the recommendations presented in the succeeding chapter of this report.

IV - RECOMMENDATIONS

RECOMMENDATIONS

This chapter presents recommendations to capitalize on the opportunities for improvement identified in the preceding chapter. Following an initial overview, recommendations are presented regarding the mission and role of the PSCN, the Commission's regulatory concepts, the number, role, and activities of the Commissioners, the organization and composition of the PSCN staff, the Commission's major management and operating systems, and its administrative and support systems.

OVERVIEW

- The recommendations presented in this chapter set forth an ambitious and far-reaching program of management improvement for the Public Service Commission of Nevada.
- This program has been formulated to prepare the Commission to effectively meet the challenges of the 1980's, and incorporates suggestions for the following:
 - The assumption of increased initiative by the Commission in seeking clarification of its role, and in vigorously pursuing that role
 - A redirection of the PSCN's regulatory approach through greater anticipatory planning and application of the concepts of management by objectives and management by exception
 - More effective concentration of the efforts of the Commissioners on policy formulation, oversight, and evaluation responsibilities
 - A thorough restructuring of the PSCN staff (most elements of which are specified herein, while others are dependent upon the ultimate definition of the Commission's mission)
 - An intensive effort to upgrade and refine the Commission's management and administrative systems.
- As in the case of the observations presented in the preceding chapter, these recommendations are closely interlinked and interdependent.

RECOMMENDATIONS (Cont'd)

- Certain recommendations are of preeminent importance, however, in that they are most likely to influence the future success of the PSCN; these include:
 - Clarifying the Commission's mission
 - Placing greater emphasis on generic policy formulation
 - Establishing firm executive leadership for the staff
 - Overhauling weak personnel management systems.

**MISSION AND ROLE
OF THE PSCN**

General Recommendations

- The Commissioners of the PSCN should undertake a series of steps designed to secure legislative approval of a clear statement of the role and mission the Commission is to pursue in the future.
 - This mission statement should ultimately be incorporated in NRS 703 in a "Declaration of Legislative Findings and Purpose" similar to, and incorporating the content of, NRS 704.825.
- Subject to the additional steps proposed below, this mission statement should:
 - Clearly emphasize the balanced, quasi-judicial role appropriate to a regulatory body
 - Emphasize the regulatory aspects of the PSCN's responsibilities, and discourage - if not preclude - Commission assumptions of operational or program management duties.
- Examples of two such mission statements, enacted elsewhere in recent years, have been furnished to the PSCN under separate cover.

RECOMMENDATIONS (Cont'd)

PSCN Role In State Energy Management

- Before preparing draft mission statements for legislative consideration, however, the PSCN should seek concurrent review of the legal mandates of the NDOE.
- Specifically, the Chairman of the PSCN should confer with the Governor of the State and the Director of the Department of Energy, and enlist their collaboration in an effort to:
 - Pinpoint the responsibilities each agency is to assume in the 1980's
 - Clarify, in particular, the respective roles of the two agencies in
 - o Energy resource planning, especially electric utility supply and demand forecasting and capacity construction review
 - o Energy emergency planning, especially as this would affect the operations of electric and gas utilities and motor carrier enterprises
 - o Planning, organizing, financing, and evaluating energy conservation programs in the State
 - o Other subject areas of mutual interest, including the energy implications of state economic development.
- Where differences in viewpoint and perspective on these issues emerge between the two agencies, the Governor should resolve them.

PSCN Role In Program Operations

- Consistent with the mission emphasis proposed above, the PSCN should also request that the legislature transfer responsibility for motor carrier enforcement functions to one of the two, better-suited agencies noted in the preceding chapter.

RECOMMENDATIONS (Cont'd)

- Concurrently, the Commission should seek the transfer of all but two of the existing Motor Carrier Inspectors to this agency, and should enter into an interagency agreement specifying the following:
 - The level of operational activity and support the designated enforcement unit will commit to functions previously performed by the Commission
 - The manner in which the PSCN will provide funding to defray resulting enforcement costs.
- The duties and responsibilities of the two former inspector positions remaining within the PSCN should then be redesigned to encompass consumer complaint investigation, more vigorous industry oversight activities, and support of other responsibilities later proposed for a reoriented PSCN Transportation Division.

Mission Interpretation

- Concurrent with the foregoing, and consistent with the PSCN's mission statement as ultimately defined, the Commission should gradually adopt a more visible role in the oversight of regulated industries.
- The PSCN should not, of course, seek to usurp or intrude upon the management prerogatives of individual industries or companies; it should, though, become more familiar with the characteristics and problems of these enterprises, and more active in ensuring that their operations are efficient and responsive to the needs of Nevada rate-payers.
- In accomplishing this goal the Commission should, for example, make broader use of its powers under NRS 704.183.

RECOMMENDATIONS (Cont'd)

- It should also give consideration to the use of the "Annual Review" concept which has been adopted successfully elsewhere and under which
 - Informal, but open and publicly noticed meetings are scheduled annually between the Commissioners and the management of key regulated utilities, or groups of regulated firms (such as various types of motor carriers).
 - Such meetings are scheduled when rate cases are not under review, and provide an opportunity for Commissioners to:
 - o Raise questions regarding current industry trends and directions, customer complaint patterns, and the like.
 - o Gain awareness of industry problems and concerns, especially those relating to the regulatory process.
- These meetings, if held at various locations throughout the State, can also be beneficial in promoting greater public comprehension of regulatory complexities and of the responsibilities of various parties to the regulatory process.

**REGULATORY
CONCEPTS**

- The PCSN should also place significantly increased emphasis in the future on the development of clear regulatory policy and precedent, in an effort to:
 - Reduce the uncertainties of the case-by-case adversary process
 - Minimize the cost of regulatory proceedings to regulated industries and the public
 - Permit industry and the public to reach decisions on the basis of informed guidance, thus minimizing the frustration of both with the regulatory process.

RECOMMENDATIONS (Cont'd)

- Depending upon the final delineation of the PSCN's mission, there appear to be numerous areas - in addition to current PURPA matters - where the use of generic inquiries and the issuance of policy statements or application of the Commission's rule-making powers could be beneficial.
- These means could be utilized to establish clear policy in such areas as flow-through versus normalization of taxes; allowance of construction work in progress in rate base, and more specific matters of interest to ratepayers and jurisdictional enterprises alike - such as methods for financing the federally mandated Residential Conservation Service.
- They should also prove beneficial to the Commission as a vehicle through which new regulatory management vehicles could be assessed, and their application to the Nevada environment explored; these might involve the use of indexation techniques, abbreviated "make-whole" reviews, and other mechanisms designed to reduce the number and complexity of general rate cases and their cost.
- Finally, this broadened approach to the formulation of regulatory policy should also be relied upon to inquire into regulatory issues where further refinements to or changes in state law may become appropriate; such issues would include, for example:
 - Changes in statutes pertaining to motor carrier and telecommunications regulation, based on the impact of federal initiatives in each field
 - Further changes in the State's approach to water utility regulation, which would enable the PSCN to forestall utility financial difficulties the Commission must often now address post facto
 - The application of regulatory incentives for utility cost containment and control, which could require revision of the provisions of NRS 704.110 (which precludes PSCN use of prospective test years).
- A more definitive list of analytical areas and regulatory issues warranting generic inquiry should be developed by the Deputy Commissioner, after consultation with the Commissioners and other key PSCN staff.

RECOMMENDATIONS (Cont'd)

- The Commissioners should then set priorities for items on this list, and schedule staff investigations and hearings on the basis of these priorities.
- The process of completing such investigations and hearings should proceed deliberately, and be scheduled at times when the PSCN's general caseload is least pressing.
- The listing of areas and their prioritization should be reviewed and revised annually to adapt to changing conditions and circumstances.
- The results of such generic policy formulation steps, together with the important implications of various case decisions, should eventually be incorporated in an indexed Commission policy manual, which should, thereafter, be maintained on a current basis and widely disseminated.
 - This manual should serve as a useful reference document for all persons concerned with PSCN proceedings.
 - It would be especially valuable, moreover, in orienting and training new Commissioners, staff members, or others regarding the PSCN's policy history and directions.
- A focal point of accountability for development and maintenance of the manual is identified in the organizational recommendations presented in this section.

NUMBER, ROLE AND ACTIVITIES
OF THE COMMISSIONERS

- For the foreseeable future, the PSCN should continue to consist of three Commissioners, headed by an appointed Chairman.
- Increasingly, though, the Commissioners should concentrate their energies more directly on regulatory policy formulation and oversight, as well as on the processing of major cases.

RECOMMENDATIONS (Cont'd)

- The organization and staffing recommendations of this report should reduce the need for Commissioner involvement in internal administrative matters.
- Similarly, the policy formulation and organization and staffing recommendations presented herein should partially alleviate the problem of Commissioner isolation.
- Further initiatives should be undertaken by the Commissioners, though, to offset or minimize the difficulties occasioned by application of the Open Meeting Law to the PSCN.
 - To clarify the situation, the Commission Chairman should formally request an Attorney General's opinion on the extent of flexibility the PSCN may have available in interpreting NRS 241.
 - Following this, the Chairman should confer with state legislative leaders to determine ways in which full or partial exemption from various provisions of the law can be secured.
 - In this effort, the Commission should also consider retaining expert legal counsel, with extensive experience in administrative law, to aid in formulating suitable strategy and approaches.
- The Nevada State Legislature should be encouraged to collaborate in this effort, and to recognize the significant cost disadvantages of pursuing the other alternative to overcoming Commissioner isolation - expansion of the PSCN to five members.

ORGANIZATION AND COMPOSITION OF THE PSCN STAFF

Overview And Perspective

- A major reorganization of the PSCN staff is proposed on the following pages and suggestions are offered for augmenting staff capabilities in several ways.

RECOMMENDATIONS (Cont'd)

- These recommendations have been designed to enable the Commission to effectively address its present and future responsibilities.
 - Nevertheless, further refinement of the PSCN staff structure, and further augmentation of Commission staff capabilities, may be called for once the uncertainties regarding PSCN-NDOE mission definition are resolved.
 - Specific areas most likely to be affected are noted herein.
- These proposals are also based on the assumption that short-term action will be taken to resolve personnel management system deficiencies, in order that skilled and professionally qualified staff can be attracted to the Commission, and that the PSCN's organizational relationships can be determined by administrative needs rather than by personnel system aberrations.
- They also reflect the assumption that it would be unwise for the PSCN to maintain internally, and on a full-time basis, all skills and capabilities conceivably required for regulatory purposes.
 - Accordingly, the establishment of core staff capabilities to be supplemented frequently by outside expert assistance is proposed in several specific areas as an alternative, or the preferred structural approach.
- Finally, implementation of these recommendations will require an increase in the resources devoted to support of the PSCN which is:
 - Significant, in percentage terms
 - Minimal, when compared to the importance of the decisions reached by the Commission, and when compared to the cost implications of these decisions for Nevada ratepayer/taxpayers.

General Staff Structure

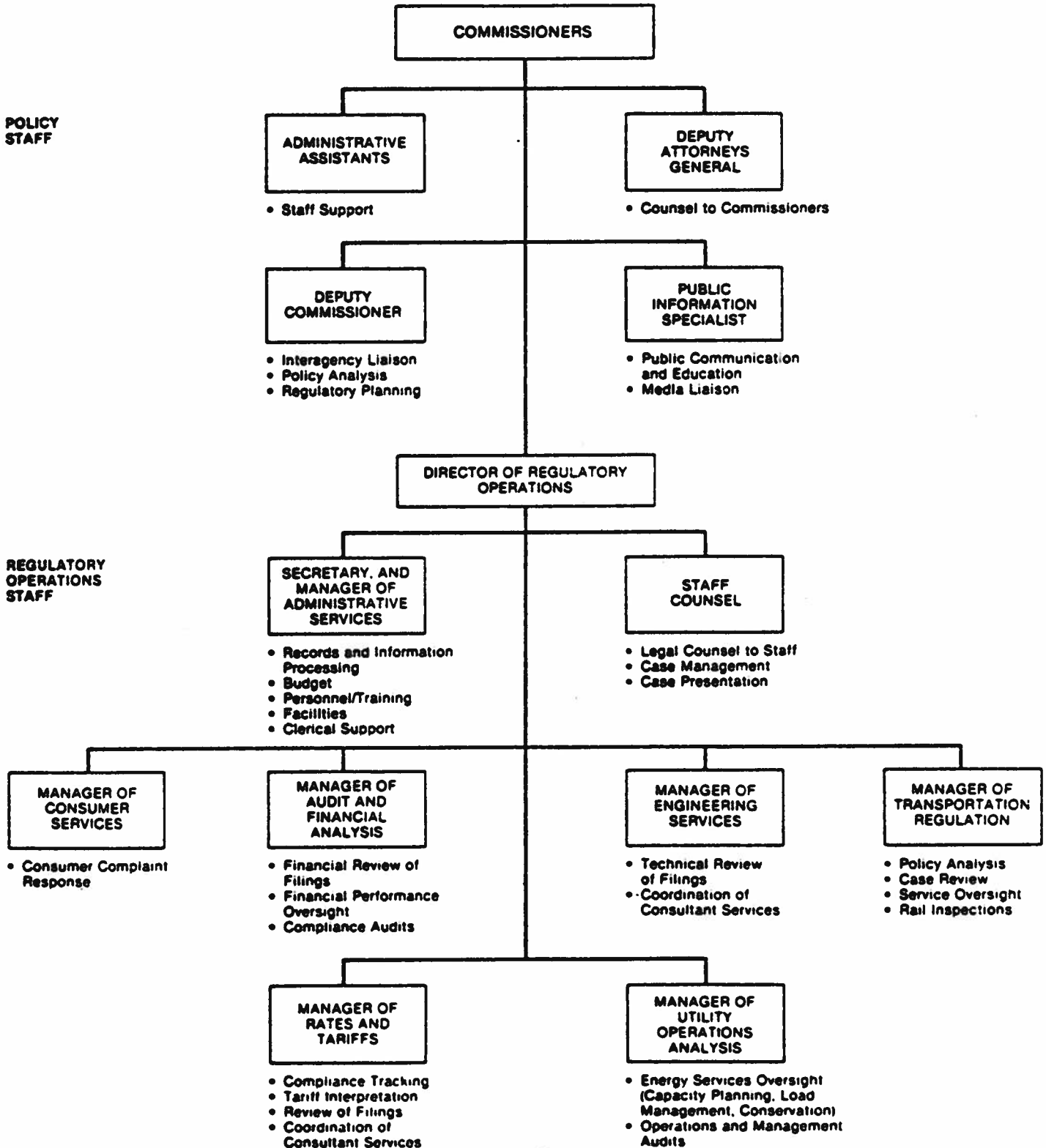
- The general staff structure proposed for the PSCN is graphically depicted in Exhibit IV-1 on the following page, and further described below.

NEVADA PUBLIC SERVICE COMMISSION

PROPOSED ORGANIZATION ARRANGEMENTS

POLICY STAFF

REGULATORY OPERATIONS STAFF



RECOMMENDATIONS (Cont'd)

- In addition to the Commissioners, the staff should be divided into two major elements, including:
 - An immediate support staff to the Commissioners
 - A Regulatory Operations Staff.
- The immediate support staff would consist of the Administrative Assistants, the Deputy Attorneys General (DAG), the Deputy Commissioner, and a new Public Information Specialist.
 - Generally, these staff members would provide broad policy counsel and immediate support to the Commissioners, but would have very little direct involvement in case processing.
 - Accordingly, they would only infrequently be subjected to ex parte communication preclusions.
- The Regulatory Operations Staff, headed by a strong Director, would focus principally on the analysis, presentation, and disposition of cases filed by jurisdictional enterprises, and on the pursuit of investigations and other endeavors ordered by the Commissioners.
 - Generally, therefore, the members of this staff would be subject to ex parte preclusions.
 - In several key areas, however, the staff would be responsible for maintaining lists of resource consultants who could be called upon to provide direct counsel to the Commission in responding to technical questions which arise in processing cases.
- The duties, responsibilities, and staffing levels of each of the key organizational units proposed are outlined below with emphasis on the way in which these may differ from present arrangements.

Deputy Attorneys General

- The Deputy Attorneys General should continue to provide legal counsel and representation to the Commissioners.

RECOMMENDATIONS (Cont'd)

- They should be more actively involved in several aspects of Commission operations, especially in the following areas:
 - Providing thorough, senior level review of all opinions and orders issued by the Commission
 - Furnishing guidance to the Commissioners and Administrative Assistants in the preparation of these documents
 - Participating directly in internal staff meetings and major regulatory proceedings, such as generic policy hearings.
- The DAG should continue to be collocated within PSCN facilities.
- To absorb the increased responsibilities proposed above, the number of DAG assigned to the Commission should be increased to a total of three, and adequate secretarial support should also be provided.

Deputy Commissioner

- The position of Deputy Commissioner should be retained and should become the focal point for coordinating staff-level participation in PSCN mission definition and policy formulation initiatives.
- In particular, the Deputy Commissioner should be responsible for:
 - Maintaining liaison with other regulatory and governmental agencies (such as the State and Federal Departments of Energy)
 - Identifying priority areas and issues warranting policy analysis or rulemaking or both by the Commission
 - Monitoring staff support of generic policy investigations and hearings ordered by the Commission
 - Developing and maintaining the previously proposed regulatory policy manual

RECOMMENDATIONS (Cont'd)

- Responding to Commission inquiries regarding policy precedents, or policy implications of alternative courses of action which may be considered in important proceedings.
- The position should be held by a senior staff member with extensive regulatory experience, preferably with a legal background.

Public Information Specialist

- This position should be established to strengthen the PSCN's communications with the public at large, and to provide staff assistance to the Commissioners in public education efforts.
- The responsibilities of the position should include:
 - Preparing and disseminating pamphlets and other materials designed to inform the public about the PSCN's mission and activities
 - Maintaining close communication with the media, and preparing interpretive press releases describing the reasons underlying - and impact on the general public of - PSCN decisions
 - Assisting the Commissioners (and other staff as appropriate) in responding to public or official inquiries regarding PSCN operations
 - Arranging for speaking engagements, media interviews, and other public appearance activities by the Commissioners and senior PSCN staff.
- Initially, this position should be filled, on a part-time basis, by a person with experience in the public relations field.

Director Of Regulatory Operations

- The position of Director of Regulatory Operations should be established to provide firm supervision and clear direction of all remaining staff divisions and their operations.

RECOMMENDATIONS (Cont'd)

- The Director should be accountable to the Commissioners for:
 - Organizing and managing the staff in an effective manner
 - Providing thorough staff analysis of, and effective staff presentations regarding, all case filings and other matters brought before the Commission
 - Employing and retaining competent staff, consultant support, and other resources throughout the organization
 - Assuring coordination and collaboration among the various elements of the staff.
- The heads of all staff divisions should report to the Director, who should, in turn, be responsible for evaluating their performance.
- The position of Director should be held by an individual with extensive experience in regulatory operations, and with demonstrated, successful experience in managing an interdisciplinary professional staff.

Secretary

- The role of the Commission Secretary should be revitalized, and the Secretary should also be designated as the PSCN's Manager of Administrative Services.
 - In this capacity, the position of Secretary should provide leadership and direction to the numerous system improvement recommendations presented in succeeding sections of this chapter, and should be accountable for their successful and timely implementation.
- Under the Secretary's direction, the Assistant Secretary should be charged with particular responsibility for redeploying the existing clerical work force to better respond to workload requirements, and for effectively integrating the augmented clerical work force proposed in this report.

RECOMMENDATIONS (Cont'd)

- In this context, the Assistant Secretary should undertake a review of clerical support needs of each Commission staff unit.
- Also, the Assistant Secretary should prepare more detailed position descriptions - or desk manuals - to ensure that clerical support staff can be quickly rotated to fill vacancies and absorb workload peaks in particular units.
- Within the Secretary's office, the position of Management and Data Processing Systems Specialist should be created, reflecting a transfer from the Audit Division of the former Senior Auditor, Data Processing position.
 - This position should be assigned lead responsibility for staff assistance in:
 - o The development of general management systems proposed herein
 - o The development and maintenance of a PSCN "Operations Manual," formally documenting these management and operating systems.
 - The position should also be responsible for liaison with the State Central Data Processing organization, and for guiding the further introduction of data systems technology within the Commission.
- A new Personnel Specialist position should also be established within the Secretary's office, and charged with lead responsibility for:
 - Maintaining close liaison with the State's personnel authorities
 - Implementing the personnel management systems proposed in a succeeding section of this chapter.

Staff Counsel

- The Office of Staff Counsel should continue to be the focal point for legal representation of the PSCN staff.

RECOMMENDATIONS (Cont'd)

- In addition, however, the office should be expanded to a total of three attorneys, plus associated support staff, in order to:
 - Render legal counsel more accessible to other members of the regulatory operations staff
 - Permit Staff Counsel and his assistants to undertake a vital leadership role in the case management system subsequently proposed for use by the PSCN.

Consumer Division

- With the employment of the proposed Public Information Specialist, the staff of this Division should concentrate entirely on the investigation and resolution of consumer complaints forwarded to the PSCN.
- In the short-term, the staff of the Division should be augmented by two additional consumer representatives
 - One each should be added to the staff in both Carson City and Las Vegas.
- Later, this Division should assume responsibility for the supervision of the Las Vegas office (now held by the Engineering Division)
 - Within the next two to three years, an assistant Division Manager position should be created to undertake this assignment.
- Concurrent with these organizational changes, the Manager of the Consumer Services Division should seek the assistance of the Director of Regulatory Operations in ensuring that full cooperation and support are rendered by the other Divisions of the PSCN.

Audit And Financial Analysis Division

- Under the proposed organization, the role of the former Audit Division should be expanded to encompass broader financial analysis of regulated enterprises.

RECOMMENDATIONS (Cont'd)

- The basic, current Division structure should be maintained with two key exceptions, as follows:
 - As previously proposed, the position of Senior Auditor, Data Processing should be transferred to the Office of the Secretary.
 - The present Economist position should henceforth report to the Manager of the Audit and Financial Analysis Division.
- Under this new reporting arrangement, the Economist should be charged with the strengthening of the Commission's cost of capital expertise.
 - This should be accomplished principally by identifying and establishing contractual relationships with well-qualified expert witnesses, rather than through acquisition of additional PSCN staff.
- Concurrently, the Manager, Audit and Financial Analysis, should encourage a redirection of staff audit activities.
 - Lessened emphasis should be placed on routine and exhaustive probes of rate case filings.
 - Increased emphasis should, instead, be placed on compliance audits and in-depth examination of significant problem areas detected during these compliance audits or rate case reviews.
- Finally, the Division should be authorized to enter into a continuing contractual arrangement with well-qualified certified public accountants in order to:
 - Provide the capacity to absorb intermittent workload surges without requiring expansion of the permanent audit staff
 - Secure access to specialized expertise in areas such as tax accounting, where the maintenance of full-time, internal staff is unlikely to prove cost-effective.

RECOMMENDATIONS (Cont'd)

Engineering Division

- The PSCN confronts the choice of two difficult alternatives for strengthening its engineering capabilities; these are to:
 - Rebuild internal staff capabilities, once personnel management systems have been revised to permit recruitment of well-qualified personnel
 - Place increased reliance on outside engineering counsel.
- Considering the range of technical skills and knowledge required and present employment market conditions, the optimum course for the Commission to follow should encompass:
 - Reduction of the PSCN's full-time engineering complement to five, well-qualified professional personnel, including:
 - o A Chief Engineer
 - o An Electrical Engineer
 - o A Gas Engineer
 - o A Water Engineer
 - o A Telecommunications Engineer
 - In addition, two or three technician-level personnel should be employed to perform field work for these professionals, and to assist in the investigation of complaints reported to the Consumer Division.
- These staff should be responsible for administration of the day-to-day business of the Commission, and should be based in Carson City.
- As major cases or important issues arise, however, the engineering staff should be able to draw upon expert consultants in pertinent fields and disciplines.

RECOMMENDATIONS (Cont'd)

- Accordingly, the Chief Engineer, with the assistance of his subordinates, should be responsible for establishing per diem resource consultant arrangements with reputable external firms, or individual, in such areas as electric engineering, telecommunications engineering, and depreciation engineering (in the various industries subject to PSCN jurisdiction).

Transportation Division

- The PSCN's Transportation Division should undergo substantial re-orientation and organizational realignment, as follows:
 - Six of the present Motor Carrier Inspectors should be transferred to a designated enforcement agency.
 - o The two remaining Inspectors (one each in Carson City and Las Vegas) should be assigned to new and different duties, as previously proposed.
 - Personnel responsible for rate and tariff processing should be transferred to the new Rate and Tariff Division proposed below.
- The responsibilities of the Manager, Transportation Regulation, should be substantially redirected; in particular, the Manager should focus on:
 - Analysis of motor carrier regulatory policy issues previously identified
 - Active review of motor carrier certificate and rate case filings, and preparation of proposed staff positions in these proceedings
 - Coordination of assistance to the Consumer Division in the investigation of complaints
 - Liaison with the agency selected to administer motor carrier enforcement programs previously performed directly by the PSCN.
- In addition, the Railroad Inspector should continue to serve as a member of this Division.

RECOMMENDATIONS (Cont'd)

Rates And Tariffs Division

- This new Division should be established to provide a focal point for
 - Review of rate schedules and tariffs prepared pursuant to Commission orders, and maintaining current rate and tariff files
 - Monitoring compliance with the terms and conditions of all PSCN orders
 - Interpretation of rate schedules and tariffs (with the assistance of Staff Counsel).
- The Division should be formed from four positions currently involved in rate and tariff matters, including two each drawn from the present Transportation and Engineering Divisions.
- The Division should also be the focal point for coordinating, but not developing, the PSCN staff approach to rate design aspects of cases.
 - The Division should not seek to establish internal rate-making expertise in all the industries subject to PSCN jurisdiction.
 - The Division should, instead, rely on outside experts, with advanced knowledge of these industries, to help shape the staff position on rate-making issues.

Utility Analysis Division

- This new Division should be formed to provide a focal point for Commission monitoring and oversight of energy and telecommunications utilities, in particular.
- The Division should be assigned particular responsibility for maintaining current awareness of the capacity planning, load management, and conservation program initiatives of the State's major energy utilities; and for coordinating PSCN review of the conduct and outcome of management audits and other operations improvement endeavors in these companies.

RECOMMENDATIONS (Cont'd)

- Initial Division staffing should be modest, and consist of a senior analyst and suitable clerical support.
 - Significant later expansion of this staff may be required, as the PSCN's mission and its future relationship to NDOE are clarified.
 - Even if primary responsibility for capacity planning, emergency management, load management, and conservation is assigned to NDOE, however, the PSCN will require some modest staff capabilities to monitor developments in these areas (especially in view of their likely impact on Commission certificate and rate cases).

Consultant Resources

- As proposed above, the PSCN should continue to rely upon sources of external expert counsel in several areas.
- Such use of consultants should be guided by an overall strategy to rely on outside counsel as a way to:
 - Assure the availability of technical expertise to the Commissioners free of ex parte communication prohibitions.
 - Provide resources with which the PSCN can meet intermittent peaks in workload without increasing permanent staff to levels which would not be continually utilized.
 - Provide access to a range of knowledge and skills it would not be cost-effective for the Commission to maintain on a full-time basis.

Summary

- Exhibit IV-2 summarizes the principal organizational and staffing changes proposed herein.
- On a net basis, the full-time-equivalent staff of the PSCN would increase by seven personnel, or an increase of ten per cent.

PUBLIC SERVICE COMMISSION OF NEVADA

STAFFING IMPLICATIONS OF PROPOSED ORGANIZATION

**INTERNAL STAFF
TRANSFERS**

- | <u>From</u> | <u>To</u> |
|--|---|
| • Senior Auditor/Data Processing,
Audit Division | • Management and Data Processing Systems
Specialist, Office of the Secretary |
| • Rate Specialist, Engineering Division | • Similar Position, Rates and Tariffs Division |
| • Utilities Officer, Engineering Division | • Similar Position, Rates and Tariffs Division |
| • Rates and Tariffs Specialist,
Transportation Division | • Similar Position, Rates and Tariffs Division |
| • Rates and Tariffs Clerk,
Transportation Division | • Similar Position, Rates and Tariffs Division |
| • Economist | • Economist, Audit and Financial Analysis
Division |

**POSITIONS PHASED OUT
OR TRANSFERRED TO
OTHER AGENCIES**

- **Six Motor Vehicle Carrier Inspectors - transferred to designated enforcement agency, PSCN funds via interagency agreement**
- **Las Vegas Office Manager, Engineering Division - responsibility eventually transferred to Consumer Division**
- **Depreciation Engineer**

**NEW POSITIONS
CREATED**

- **1 Deputy Attorney General**
- **1 Public Information Specialist - part time**
- **1 Director of Regulatory Operations**
- **1 Personnel Specialist**
- **1 Assistant Staff Counsel**
- **1 Las Vegas Office Manager, Consumer Division - long term**

**NEW POSITIONS
CREATED (CONTINUED)**

- **2 Consumer Service Representatives**
- **2 Technicians, Engineering Division**
- **1 Manager of Utility Operations Analysis**
- **Approximately 4 secretarial and clerical staff**

RECOMMENDATIONS (Cont'd)

- In addition, however, the Commission would continue to bear responsibility for fiscal support of six positions transferred to another agency for motor carrier enforcement purposes.
- The cost implications of these changes are explored in the following chapter.

MAJOR MANAGEMENT AND OPERATING SYSTEMS

Overview

- The appointment of a well-qualified Director of Regulatory Operations should be instrumental in securing greater internal coordination, effectiveness, and productivity in PSCN staff activities.
- These activities should be further strengthened, however, by the development and introduction of improved case management systems, records and files, and management information systems.
- The Director should accordingly instruct the Secretary and others to implement the systems proposed below on an expeditious basis.
 - Staff assistance in this effort should be provided by the Management and Data Processing Systems Specialist.

Case Management

- The PSCN should adopt a significantly strengthened and formal case management system.
 - Under this system, the Office of Staff Counsel should be assigned the lead role in marshalling staff resources against individual cases.

RECOMMENDATIONS (Cont'd)

- Under this system, a case filed by a jurisdictional utility should be processed in the following manner:
 - Upon receipt, the filing should be routed to the Office of Staff Counsel for initial review of its compliance with Commission rules and regulations regarding the submission of applications.
 - o It should be the responsibility of the Staff Counsel to ensure that an Assistant Staff Counsel is regularly available to conduct this preliminary review within two working days of receipt.
 - Filings, which meet Commission requirements, should be routed to the Secretary, who should assign the case a docket number, enter it on the Commission's official records, and return the case file to Staff Counsel.
 - o Filings not meeting Commission requirements should be returned to the submitter or the submitter should be notified of corrective actions required before it can be accepted.
 - The Staff Counsel or an Assistant should then be assigned as the Case Manager, and should route copies of the filing to the appropriate divisions with a date and time set for a preliminary staff review of the filing.
 - o To facilitate scheduling, consideration should be given to establishing different days and times each week when the case managers would hold their review sessions.
 - o This should reduce the likelihood of division personnel being required to attend two meetings simultaneously.
 - In preparation for the preliminary staff review, division personnel should review the individual filing in order to:
 - o Identify what they consider to be the key issues
 - o Determine the nature and scope of the investigation required

RECOMMENDATIONS (Cont'd)

- o Identify the time frame required for the completion of field work or analytical review
- o Identify the need for suspension action, if any.
- At the staff review session, the Case Manager and Division representatives should agree on:
 - o The key issues in the case, and the extent to which these lend themselves to resolution through such means as pre-hearing conferences
 - o The scope of work to be performed by each Division
 - o Specific due dates for the completion of staff work.
- Following this session, the Case Manager should monitor the progress of the various divisional activities related to a particular filing and should schedule interim review meetings, as required.
- Within the time frame agreed upon, a final staff review session should be held at which time:
 - o Divisional staff should present for review and discussion their proposed testimony and exhibits.
 - o Testimony and exhibits should be discussed in terms of their role in the case and the manner by which the assistant staff counsel plans to integrate them into his presentation.
 - o A plan of action should be agreed upon for the presentation of the staff's efforts before the Commission.
- At the scheduled time and location the Case Manager should present the case before the Commission, incorporating the agreed upon testimony and exhibits.

RECOMMENDATIONS (Cont'd)

- o Throughout this process, the Case Manager should seek to incorporate the perspectives of the staff divisions into a cohesive presentation.
- o Moreover, staff divisions should be permitted to offer divergent viewpoints during the case presentation.
- Following the hearing process, a Deputy Attorney General should review the draft opinion and order for form and legal precision, as suggested above.
- Also, as earlier proposed, the Deputy Commissioner should assess the policy implications of the decisions in the case, for notation in the PSCN's regulatory policy manual.
- The final order and opinion should then be conveyed to the Rates and Tariff Division, which should closely monitor compliance with the provisions of the order.
- Cases or investigations initiated by the PSCN staff, with Commission's approval, should be processed in an essentially similar manner, with some exceptions.
 - Policy-oriented, generic inquiries or investigations should be reviewed with the Deputy Commissioner prior to the assignment of a Case Manager.
 - The Director of Regulatory Operations should also review and concur in cases or other proceedings which may arise through staff initiative.
- The Director of Regulatory Operations, the Staff Counsel, and the Secretary should also confer frequently, and ensure that the Commission's schedule is not congested by the need to concurrently hear a large number of major cases.

RECOMMENDATIONS (Cont'd)

- To facilitate this process, the Case Manager should convey to the Secretary the schedule established for important steps to be taken in the processing of each case (such as the dates for initial and subsequent staff review sessions, as well as the hearing date).

Records And Files

- During the course of the study, a new regulatory records system was developed which should be promptly adopted by the PSCN.
 - The foundation element of this records system should be a more descriptive docket number assigned to all significant cases filed with or proceedings initiated by the Commission.
 - This number would be more complex than the ones now relied on by the Commission, but such complexity is required if Commission records are to lend themselves to ready recapitulation for management information and control purposes.
 - Exhibit IV-3 on the following page depicts the proposed docket numbering format.
 - As noted in the Exhibit, further work should be undertaken to develop appropriate coding lists; responsibility for such development should be assigned to the Secretary.
- Other elements of the proposed PSCN records system should include:
 - The establishment of a master logbook for recording the initial assignment of docket numbers, and centrally maintained cross-indexed files cards by company, utility type, and case type
 - The establishment and maintenance by the Secretary of a master calendar, case tracking, and assignment system on which key dates for all cases should be recorded
 - o The Case Manager's schedules should provide the input for the calendar and tracking system.

PUBLIC SERVICE COMMISSION OF NEVADA

PROPOSED DOCKET NUMBERING FORMAT

<u>Numeric Identifiers</u>		<u>Alpha Identifiers</u>			
80	001	AAA	BBB	CC	D
Year Filed	Sequential Number	Company Identifier	Utility Type	Case Type	Case Manager

Notes: The specific number of characters for each code will need to be determined based upon the jurisdiction and workload of the PSCN.

Specific code lists will need to be developed for the alpha identifiers.

RECOMMENDATIONS (Cont'd)

- Centrally-controlled master files for the original documents in all Commission proceedings, and the imposition of stringent controls (including a formal check-out procedure) over their removal
 - o The master files should be organized in numerical case order, to facilitate quick identification and foster such close control.
- To supplement these steps, the PSCN should develop a formal records retention policy.
 - In advance of a currently planned study by the State Printer, a review should be undertaken by the DAG and Staff Counsel on legal aspects of PSCN records retention policies.
 - Concurrently, the Secretary should explore the feasibility of applying modern microfilm or other technologies to Commission records management needs.

Management Information

- The proposed records system should facilitate more frequent review by the Commission of the nature and extent of its workload.
- In addition, however, the Management and Data Processing Systems Specialist should assist each Division Manager in the development of internal workload and activity measurement systems.
 - These systems should, in turn, facilitate future assessment of workload trends and staffing needs within the individual components of the Commission's staff.

Personnel Management

- Numerous improvements and refinements should be introduced into the personnel management systems of the PSCN.
 - The implementation of many recommendations presented below should ultimately be delegated to the proposed Personnel Specialist in the Secretary's office.

RECOMMENDATIONS (Cont'd)

- However, the Commissioners and the Director of Regulatory Operations (once employed) should assume the lead role in their development, in securing necessary external approvals, and in closely monitoring their implementation.
- As noted in the preceding chapter, preference should be given in the long term to providing merit system career protection to most PSCN staff positions.
 - Given the priority which must be attached to upgrading the Commission's staff resources, however, it would be unwise to defer upgrading or expanding the Commission's staff until more general problems in the state's classified service can be overcome.
 - As an undesirable, but unavoidable interim measure, therefore, all professional and managerial positions on the PSCN staff should be made exempt for the next several years.
- Thereafter, high priority should be placed on securing authorization for compensation levels for such exempt positions which will enable the PSCN to recruit, or retain, requisite staff capabilities.
- Complete delineation of the salary levels which would be provided for all exempt positions by the state legislature lay outside the scope of this analysis; nevertheless, the following recommendations should be conveyed to the legislature by the Commission:
 - Salary ranges set for all PSCN exempt positions should be sufficient to both: (1) render the compensation offered competitive under present market conditions for professional staff, and: (2) incorporate a realistic projection of inflation levels over the next biennium.
 - The salary levels for PSCN Commissioners should be increased to levels above \$40,000 per annum (in 1980 dollars), or the legal relationship between staff salaries and Commission salaries should be severed.

RECOMMENDATIONS (Cont'd)

- Base salary levels of up to \$40,000 (in 1980 dollars) should be established for the positions of Deputy Commissioner and Director of Regulatory Operations.
- Salary levels for professional positions should be established at levels which will enable the PSCN to attract well-qualified personnel; based on recent experience with the Audit Division; these levels should be reasonably comparable to those offered by jurisdictional utilities.
 - o Information presented in Appendix A should facilitate the development of comprehensive salary recommendations by the Commission, with staff assistance from the Secretary.
 - o Significant increases in salary ranges for engineers and senior attorneys should be reflected in these proposals.
- In considering these final recommendations, the state legislature should recognize that decisions regarding PSCN compensation will be a principal determinant of the Commission's regulatory effectiveness in the near future and for years to come.
- Concurrently with efforts to improve the competitiveness of PSCN salaries, the Commission should also request legislative relief from current policies precluding the payment of job-site visits and relocation expenses.
 - o Securing a waiver of current requirements in this area should also be regarded as an important step toward the development of a first-class regulatory staff.
- Other improvements and refinements in personnel management systems which should be implemented in the near term include the following:
 - The development of complete job descriptions for all positions within the proposed PSCN organization structure

RECOMMENDATIONS (Cont'd)

- The concurrent identification of criteria for evaluating position performance, and the application of the concept that all personnel, specifically including management personnel should undergo an annual performance evaluation

- The development and implementation of PSCN orientation and training programs, designed in particular to familiarize current and new staff with the Commission's mission and functions, and designed around such previously proposed documents as:
 - o The PSCN's legislative mission statement

 - o The Commission's policy manual

 - o The Commission's operations manual

 - o The docketing, case calendaring, and case tracking systems.

Data Processing Support

- The PSCN should arrange for a comprehensive systems needs analysis by State's Central Data Processing (CDP) at the earliest possible date.

- The Director of Regulatory Operations should coordinate support to this CDP effort by all elements of the Commission, through the Management and Data Processing Systems Specialist.

- The objective of this needs analysis should be the development of a specific, time-phased plan for cost-effective systems applications within the PSCN, commencing with such internal operations as calendaring.

- Once such a plan is agreed upon, the Director should ensure that its implementation benefits from cooperation by all PSCN Divisions.

V - SUMMARY

SUMMARY

This chapter suggests the steps to be taken following receipt of this report by the PSCN and summarizes - in the form of a Management Improvement Plan - principal study recommendations. The chapter concludes with identification of the cost implications of these recommendations.

NEXT STEPS

- Following receipt of this report, the Commissioners should review and thoroughly discuss its findings and recommendations.
 - Questions, if any, should be resolved with the consultants.
- Following this review, the Commissioners should adopt, in principle, those recommendations with which they are in essential concurrence.
- Copies of the report and the Commission's reaction to its contents should then be conveyed to:
 - The Governor and legislative leaders
 - Key PSCN staff executives.
- A courtesy copy should also be provided to the Director of the Nevada Department of Energy.
- Steps should then be taken to commence implementation of approved recommendations.
- Pending the recruitment of a Director of Regulatory Operations, the Commission Chairman and the Deputy Commissioner should assume primary leadership responsibility for implementation of those recommendations requiring the concurrence or support of external individuals or agencies.

MANAGEMENT
IMPROVEMENT PLAN

- Exhibit V-1, "Management Improvement Plan", is presented in the following pages.
 - It summarizes the recommendations contained in this report, assigns a priority to the implementation of each step, presents the position(s) having primary implementation responsibility, and recommends timing for the implementation of each step.
 - Proposed implementation timing is divided into two periods, to identify:
 - o Those steps that should be taken during the balance of 1980
 - o Those steps that should be implemented in 1981, following the meeting of the State Legislature.
 - Priorities reflect the importance of the recommendation rather than a chronological sequence for implementation.
 - Major recommendations appear in the Management Improvement Plan; minor and related recommendations are found in the text of Chapter IV.
- The Plan should be used as a basis, both for scheduling the implementation of adopted recommendations, and for monitoring overall implementation progress.

COST
IMPLICATIONS

- The costs associated with implementation of certain recommendations of the study can be gauged with reasonable accuracy, while others cannot be pinpointed until further work is accomplished by the PSCN.

NEVADA PUBLIC SERVICE COMMISSION

MANAGEMENT IMPROVEMENT PLAN

Priority	Action Step	Principal Action Responsibility	Timing	
			1980	1981
1	Develop draft PSCN Mission Statement for presentation to legislature.	Chairman	X	
2	Secure the collaboration of the Governor and the Director - NDOE in delineating future PSCN/NDOE roles and responsibilities.	Chairman	X	
3	Recruit or appoint a well-qualified Director of Regulatory Operations	Chairman, Commissioners		X
4	Request exempt designation of all PSCN professional positions.	Commission	X	
5	Prepare recommendations for competitive salary scale for professional positions.	Commission, Secretary	X	
6	Prepare an initial list of areas and issues for generic policy analysis.	Deputy Commissioner	X	
7	Develop an initial indexed Commission Policy Manual.	Deputy Commissioner	X	
8	Request Attorney General's opinion on PSCN flexibility under NRS 241.	Chairman	X	
9	Redirect the focus of Transportation Division activities.	Chairman	X	
10	Transfer Motor Carrier enforcement operations to a more suitable state agency.	Director of Regulatory Operations		X
11	Add an additional Deputy Attorney General to the PSCN staff.	Chairman		X
12	Add an additional Assistant Staff Counsel to the PSCN staff.	Director of Regulatory Operations		X
13	Establish a Utility Analysis Division within the PSCN.	Director of Regulatory Operations		X
14	Add two additional Consumer Representatives to the PSCN staff.	Director of Regulatory Operations		X
15	Develop position descriptions for all PSCN positions.	Secretary	X	
16	Develop PSCN orientation and training programs.	Secretary		X

Priority	Action Step	Principal Action Responsibility	Timing	
			1980	1981
17	Develop and document a formal case management system.	Secretary	X	
18	Implement the proposed docket numbering system.	Secretary	X	
19	Establish master calendar and case tracking systems.	Secretary	X	
20	Establish PSCN master files and file controls.	Secretary	X	
21	Request comprehensive systems needs analysis by CDP.	Secretary	X	
22	Add a Personnel Specialist to the PSCN staff.	Secretary	X	
23	Add two technicians to the Engineering Division.	Director of Regulatory Operations		X
24	Add a part-time Public Information Specialist to the PSCN staff.	Chairman		X
25	Develop a PSCN Operations Manual.	Secretary		X
26	Consider use of the "Annual Review" concept.	Commission		X
27	Expand the use of utility operations reviews authorized under NRS 704.183.	Commission		X
28	Establish a Rates and Tariffs Division within the PSCN.	Commission	X	
29	Develop a formal records retention policy.	Secretary	X	
30	Transfer management responsibility for the Las Vegas office to the Consumer Services Division.	Director of Regulatory Operations		X
31	Relocate PSCN offices.	Director of Regulatory Operations		X

Quantifiable Costs

- Cost increases above current budget levels which can be quantified with reasonable accuracy include the following:
 - Depending upon final competitive salary ranges, the staffing changes proposed in this report (and summarized in Exhibit IV-2 in the preceding chapter) are likely to require an annual investment of some \$300,000 (including fringe benefits).
 - Compensation changes for other existing positions are likely to require a further investment of some \$200,000 to \$250,000 (again, including proportionately increased fringe benefit expense).
 - Similarly, increased reliance upon outside experts and consultants in such areas as rate design and engineering is likely to increase PSCN costs by some \$50,000 to \$100,000 per year.

Other Costs

- Other related costs would also be incurred, but cannot be estimated with precision, and are likely to include:
 - Increased office equipment and supply costs
 - Increased costs for data processing support
 - Increased travel and subsistence budgets for Commissioners and staff
 - Increased space costs for new PSCN facilities.

Implications

- It can readily be projected, therefore, that the full costs of implementing the recommendations contained in this report may amount to some \$750,000 per year (in 1980 dollars).

SUMMARY (Cont'd)

- As noted in Chapter IV, this would require a significant increase in resource support for the PSCN, on the order of some 30 per cent of the Commission's authorized 1980-1981 budget.
- However, and as also emphasized in the preceding chapter, this amount is minimal indeed when compared to the importance of the decisions which the PSCN must reach and the cost implications of these decisions for Nevada ratepayer/taxpayers.
- Such an investment is vital, moreover, if the Nevada Public Service Commission is to effectively address the regulatory challenges of the 1980's with the degree of skill and proficiency evidently expected by the leaders of the State.

APPENDIX A

COMPARATIVE COMPENSATION SURVEY

APPENDIX A

This appendix describes and presents the results of the compensation survey conducted as a part of this study. The survey encompassed five benchmark positions that are typical of regulatory commission staffs. It also covered the position of Commissioner.

SCOPE OF
THE REVIEW

- The survey covered the five positions listed below:
 - Clerk/Stenographer
 - Utility Rate/Tariff Specialist
 - Senior Attorney
 - Senior Engineer
 - Senior Auditor.
- The brief position descriptions used to describe the positions to the cooperating commissions and jurisdictional utilities are presented in Attachments 1 through 5 presented at the conclusion of the appendix.
- Nine western state regulatory commissions and six utilities, which are jurisdictional in Nevada, cooperated in the survey, with the explicit assurance that the data generated would not be attributed to individual agencies or companies.
 - The regulatory commissions participating included those serving the states of Arizona, California, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming.
 - The utilities participating included:
 - o Central Telephone Company
 - o Idaho Power Company
 - o Nevada Bell Telephone Company
 - o Nevada Power Company

- o Sierra Pacific Power Company
- o Southwest Gas Corporation.

DATA
DEVELOPED

- Exhibit A-1 on the following page summarizes the salary data secured for benchmark positions in regulatory commissions elsewhere, and compares these data to current PSCN salary levels and ranges.
- Similarly, Exhibit A-2, also following, summarizes and compares utility industry and PSCN data.

ANALYTICAL
IMPLICATIONS

General Implications

- In comparing PSCN salary data with those of other comparable bodies in the western United States, several implications can be drawn.
 - While PSCN clerical salaries appear to be slightly above average, those for professional staff positions, especially engineering and legal positions, may be substantially below average.
 - By contrast, compensation for senior-level audit personnel at the PSCN are substantially above that offered their counterparts elsewhere.
- Different implications emerge when comparing PSCN salaries to those offered by jurisdictional utilities, however.
 - PSCN clerical salaries are modestly below average.
 - However, professional level salaries, especially for engineers and attorneys, are substantially below average.
 - Senior auditor salaries are generally competitive, though, except at the maximum authorized level.

PUBLIC SERVICE COMMISSION OF NEVADA

BENCHMARK POSITION BASE SALARY COMPARISON:
WESTERN REGULATORY COMMISSIONS

<u>Position</u>	<u>1</u> (000)	<u>2</u> (000)	<u>3</u> (000)	<u>4</u> (000)	<u>5</u> (000)	<u>6</u> (000)	<u>7</u> (000)	<u>8</u> (000)	<u>9</u> (000)	<u>PSCN Comparison</u> <u>Group Average</u> (000)	<u>PSCN</u> (000)	<u>PSCN Versus</u> <u>Average Per Cent</u>
<u>Clerk/Stenographer</u>												
Minimum	\$	\$ 9.4	\$10.0	\$10.0	\$ 8.7	\$ 9.1	\$ 9.0	\$ 8.5	\$ 9.6	\$ 9.3	\$ 9.7	+ 4.3
Average				11.6	11.5		11.0	9.2		10.8	11.4	+ 5.5
Maximum		12.1	13.4	13.4	14.2	11.4	12.0	11.3	12.0	12.5	13.2	+ 5.6
<u>Utility Rate/ Tariff Specialist</u>												
Minimum	19.2	12.9	21.0	15.5	17.3	22.4	28.0	16.8	23.0	20.1	18.1	- 10.0
Average		23.0		18.0	22.7		29.0	17.7		22.1	24.9	+ 12.7
Maximum	26.0	23.0	28.2	20.8	28.2	28.6	30.0	22.2	27.7	26.1	25.0	- 4.2
<u>Senior Engineer</u>												
Minimum	19.2	21.9	25.6	18.0	22.1	22.4	25.3	14.1	26.4	21.7	18.1	- 16.6
Average		27.1		20.8	29.0		28.9	16.4		24.4	24.0	- 1.6
Maximum	28.6	28.0	34.3	24.1	36.0	28.6	33.3	18.6	31.9	29.3	25.0	- 14.7
<u>Senior Attorney</u>												
Minimum	23.0		29.0	19.8	23.2	32.5		20.1	37.1	26.4	24.0	- 15.3
Average		N/A			30.5		N/A	24.1		N/M	25.0	
Maximum	31.3		38.8	26.9	37.8	41.4		26.4	44.9	35.4	26.0	- 26.6
<u>Senior Auditor</u>												
Minimum	16.4	18.9	24.4	18.0	18.2	24.2	19.8	18.4	25.8	20.5	26.2	+ 27.8
Average		21.3		20.8	23.9		22.1	19.3		21.5	27.5	+ 27.9
Maximum	21.5	24.1	32.7	24.1	29.6	30.9	24.5	24.2	31.1	27.0	28.8	+ 6.7
<u>Commissioner</u>												
Adjustment Base		40.5	36.5	28.0	33.3	35.8	35.5	26.8	46.9	35.4	33.2	- 6.2
For Chairman		10%	10%	-0-	4%	-0-		-0-	5%	7 1/4%	5%	- 31.0

Note: N/A = Not applicable
N/M = Not meaningful
Blank space indicates no response.

PUBLIC SERVICE COMMISSION OF NEVADA

BENCHMARK BASE SALARY COMPARISONS:
JURISDICTIONAL UTILITIES

<u>Position</u>	<u>1</u> (000)	<u>2</u> (000)	<u>3</u> (000)	<u>4</u> (000)	<u>5</u> (000)	<u>6</u> (000)	<u>Comparison Group Average</u> (000)	<u>PSCN</u> (000)	<u>PSCN Versus Average Per Cent</u>
<u>Clerk/Stenographer</u>									
Minimum	\$12.5	\$ 9.8	\$11.3		\$ 9.2	\$11.4	\$10.8	\$ 9.7	- 10.2
Average	13.4		13.2	\$12.1	13.0	12.7	12.9	11.4	- 11.6
Maximum	13.4	15.3	14.3		14.0	14.2	14.2	13.2	- 7.0
<u>Utility Rate/ Tariff Specialist</u>									
Minimum	26.7	25.9	19.6	26.9	15.3		22.9	18.1	- 20.1
Average	28.1		24.5	28.9	16.5	21.3	23.9	24.9	+ 4.2
Maximum	28.1	30.1	28.5	40.3	23.6		30.1	25.0	- 16.9
<u>Senior Engineer</u>									
Minimum	25.7	30.1	26.8	26.9	17.8	24.6	25.3	18.1	- 28.5
Average	27.2		29.1	35.4	22.3	27.8	28.4	24.0	- 15.5
Maximum	27.2	39.0	31.5	40.3	25.5	31.9	32.6	25.0	- 23.3
<u>Senior Attorney</u>									
Minimum				30.2			N/M	24.0	
Average	N/A	N/A	38.6	40.2	N/A	25.6	34.8	25.0	- 28.2
Maximum				45.3			N/M	26.0	
<u>Senior Auditor</u>									
Minimum	28.3	30.1		26.9	16.5		25.5	26.2	+ 2.8
Average	30.7		N/A	35.3		19.1	28.4	27.5	- 3.2
Maximum	30.7	39.0		40.3	23.2		33.3	28.8	- 13.5

Note: N/A = Not applicable
N/M = Not meaningful
Blank space indicates no response.

Commission Compensation

- As indicated in Exhibit A-1, the remuneration of PSCN Commissioners is somewhat lower than average.
 - Moreover, Commissioners are offered higher salary levels than in Nevada in six of the eight states providing such data.
- Several states have found it necessary to offer higher salaries to skilled staff professionals, in such areas as engineering and law, than those offered to Commissioners.
- Similarly, the salary levels offered to such professionals by jurisdictional utilities in Nevada frequently exceeds, by a wide margin, those made available to PSCN Commissioners.

Other Considerations

- The competitive disadvantages of regulatory agencies such as the PSCN, in securing qualified professional staff, are further highlighted by disparities in the availability of various fringe benefits illustrated as follows:
 - The average value of fringe benefits (as a per cent of base salary) offered by the eight responding regulatory commissions was 23.5 per cent.
 - The comparable figure for six Nevada jurisdictional utilities was 36.5 per cent.
 - The comparable figure for PSCN staff is 26 per cent.

CONCLUSIONS

- Attention is drawn to the observations presented in Chapter III of the report; essentially these note:
 - Where the PSCN has been able to offer remuneration competitive in the marketplace for skilled personnel (e.g., at levels comparable to those offered by jurisdictional utilities), it has been able to attract well-qualified applicants.
 - Where the Commission has been unable to compete for capable staff, it has encountered acute personnel management difficulties (including high rates of staff vacancies and turnover, and the inability to attract or retain seasoned regulatory staff).
 - This inevitably, but invisibly, degrades the capacity of the Commission in general, and the PSCN staff in particular, to effectively represent the best interests of Nevada's ratepayers/citizens.

CLERK/STENOGRAPHER

GENERAL RESPONSIBILITIES

- Typical stenographer-typist activities and routine office clerical work.
 - Transcribing machine-based dictation.
 - Typing correspondence, memorandums, testimony, exhibits, etc.
 - Sorting, routing, classifying and filing mail.
 - Preparing internal administrative reports, documents, and calendars.
- As required, handle reception and telephone traffic requirements.

QUALIFICATIONS

- High school graduate or equivalent.
 - Technical training beyond high school desirable.
- Fifty words per minute, corrected, typing.
- Competence in use of transcribing equipment.

UTILITY RATE/TARIFF SPECIALIST

GENERAL RESPONSIBILITIES

- Analyzes and designs rates and rate structures of utilities and evaluates tariff rules and regulations.
 - Reviews rate applications for adequacy, content and validity.
 - Provides advice to staff counsel and other staff on rate and tariff matters.
 - Prepares technical reports related to reviews, evaluations and interpretation of rates, rate structures and tariffs.
 - Presents expert testimony on rate and tariff matters.
- Maintains current knowledge of rate and rate structure concepts and practices.
- Provides technical support to Consumer Affairs complaint investigations.

QUALIFICATIONS

- Minimum of undergraduate degree in accounting or electrical engineering from an accredited college or university.
 - Working knowledge of revenue estimating techniques, rate base concepts, cost of capital concepts, load management techniques, economics, and engineering/accounting.
- Annual participation in utility rate making and tariff design courses or workshops.
- Two or more years of direct experience in rate making and tariff design.
- Three or more years experience in underlying discipline.

SENIOR ATTORNEY

GENERAL RESPONSIBILITIES

- Represents the Commission staff before the Commission and in meetings with outsiders.
 - Reviews items of business before the Commission.
 - Coordinates preparation of staff position and testimony for hearings.
 - Presents staff case in hearings.
 - Examines and cross examines witnesses.
- Provides legal advice and counsel to staff.
- Directs one or two junior attorneys engaged in similar activities.

QUALIFICATIONS

- Law degree from accredited school of law.
- Member of a state bar.
- Three or more years experience as a practicing attorney.

SENIOR ENGINEER

GENERAL RESPONSIBILITIES

- With respect to rate tariff, certification, show cause, EPA applications, and general order hearings:
 - Reviews applications for adequacy
 - Inspects physical plant operations as related to hearings
 - Provides engineering related advice to staff counsel and other staff
 - Prepares technical reports related to reviews, investigations, and proposed testimony
 - Presents expert testimony on technical matters.
- Maintains current knowledge of federal regulatory matters related to the engineering discipline.
- Provides technical support to Consumer Affairs complaint investigations.

QUALIFICATIONS

- Minimum of undergraduate degree from accredited school of engineering.
 - Electrical, mechanical or civil.
- Registered Professional Engineer.
- Four or more years of related experience.

SENIOR AUDITOR

GENERAL RESPONSIBILITIES

- Functions as Audit Project Manager over audit assignments.
 - Reviews prior audits of assigned regulated company, as well as related Commission orders and background information.
 - Prepares audit plan including audit objectives, time budgets and staff assignments.
 - Directs and coordinates efforts of audit team (two or three junior auditors).
 - Directs preparation of reports, testimony, exhibits and documentation for hearing presentations.
- Provides audit and accounting related advice to staff counsel and other staff.
- Provides technical support to Consumer Affairs complaint investigations.

QUALIFICATIONS

- Undergraduate degree in accounting from an accredited college or university.
- Certified Public Accountant.
- Four or more years of related experience.

APPENDIX B

**POTENTIAL IMPACT OF
A CONSUMER ADVOCATE ON THE COMMISSION**

APPENDIX B

This appendix addresses the potential impact on the PSCN of the creation of an Office of Consumer Counsel in Nevada.

BACKGROUND

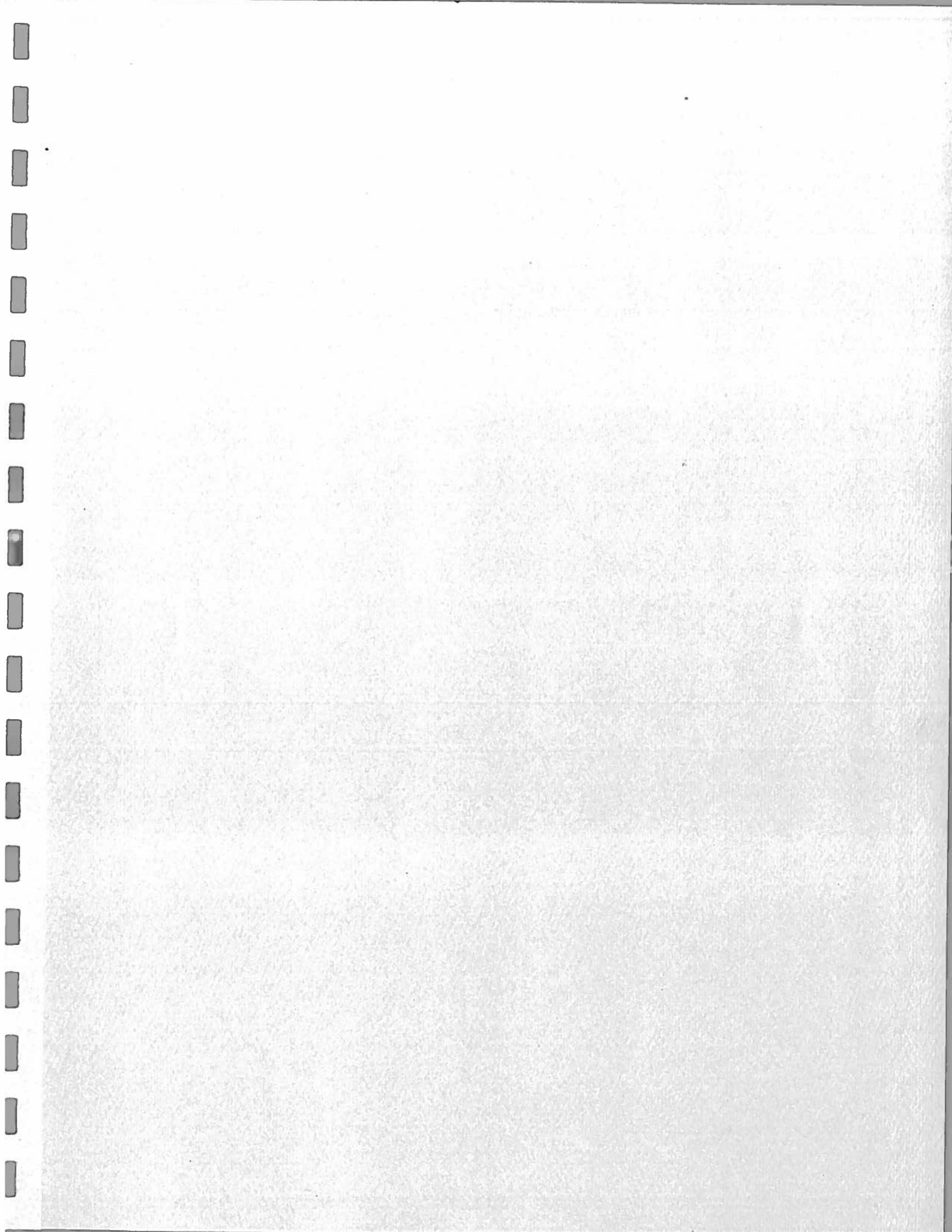
- The scope of this management analysis did not include the conduct of a feasibility study of the establishment of such an office in the State.
 - No definitive conclusions were therefore reached regarding the need for such an office.
- Nevertheless, creation of such an office has been suggested in the past, and the PSCN wished to be appraised of the consultants' impressions regarding its potential impact on the Commission itself.

INTERPRETIVE COMMENTS

- Should an Office of Consumer Advocate be created, it would most probably result in one of the following actions:
 - The establishment, over time, of a substantial independent staff with legal, accounting, engineering, and rate-making skills, or
 - The retention of expert witnesses and consultants in these fields.
- While the capabilities, thus established, would largely parallel those of the PSCN staff, it is doubtful that a significant reduction in the size of the Commission staff could concurrently take place.
- Indeed, PSCN staffing needs might grow rather than diminish.
 - In the experience of the consultants, the processing of cases involving such officially sanctioned intervenors tends to become more, rather than less, complex.
 - Extensive attention is often focused upon exhaustive investigation of points and issues of relatively modest overall importance, which nevertheless requires an investment of regulatory staff time.

APPENDIX B (Cont'd)

- Recognizing the "bargaining" environment which often emerges, the rate case filings of jurisdictional utilities tend to become larger, reflecting the inclusion of requests that can be conceded away in the bargaining process.
- Thus, the hearing process also tends to become more lengthy, requiring investment of greater amounts of Commissioner and staff time to resolve given cases.
- Also, as proceedings grow more adversarial in nature, needs for close communication between the Commissioners and their regulatory staff subordinates intensify.
 - Accordingly, adherence to ex parte communications requirements becomes especially burdensome, and impedes the decision-making process.
- Finally, resort to the Courts by Consumer Counsel and jurisdictional utilities may grow, further imposing a substantial burden on the regulatory legal staff.
- The extent to which such developments might occur in Nevada would depend on numerous factors which cannot be ascertained at present; these include:
 - The mission and role of the office, as these might be specified by the legislature
 - The scope of office jurisdiction, in terms of the types of cases and range of jurisdictional industries within its purview
 - The organizational placement of the office within state government, and the nature of its accountability to state policy makers
 - The methods used to fund the office, and the nature of controls, if any, on its expenditures.



MINUTES OF THE
MEETING OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY THE PUBLIC SERVICE COMMISSION OF NEVADA
A.C.R. 22
Carson City, Nevada
August 29, 1980

The fifth meeting of the Legislative Commission's Subcommittee to Study the Public Service Commission of Nevada was called to order by Chairman Virgil M. Getto at 10:30 a.m., Friday, August 29, 1980, in the Legislative Building, Carson City, Nevada. Please see Exhibit A for the Meeting Notice and Agenda, and Exhibit B for the Attendance Roster.

SUBCOMMITTEE MEMBERS PRESENT:

Assemblyman Virgil M. Getto, Chairman
Assemblyman Peggy Westall, Vice Chairman
Senator Don Ashworth
Assemblyman Tod Bedrosian
Assemblyman Nicholas J. Horn

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Samuel F. Hohmann, Senior Research Analyst
Jim Spencer, Legal Division
Lyndl Payne, Research Secretary

Chairman Getto introduced the members and staff of the subcommittee and asked each of the individuals in the audience to introduce themselves. He stated that this is the last meeting of the subcommittee.

The chairman commented that the subcommittee hopes to produce legislation which will give the public more confidence in the public service commission of Nevada.

Assemblyman Westall complimented the Governor on his proposal to create a department of Utility Customer Representation. (See the ACR 22 Legislative Recommendations, Exhibit C, Attachment II-1.) She said that she did not think the director of this department should be appointed to a term as are the PSC commissioners, but should be placed under the state unclassified service. She also submitted for the record, approximately 14,000 signatures on a petition to protest rate increases for Sierra Pacific Power Company. (See Exhibit D for the petition, and the signatures are on file at the Legislative Counsel Bureau.)

Assemblyman Bedrosian distributed copies of an initiative petition to create an Office of Consumer Advocacy for Utility Customers, drafted by himself and the Coalition for Affordable Energy. He hoped that a compromise could be reached between this proposal and that of the Governor's office. (See Exhibit E for the Coalition's petition.) He said that this petition will be distributed statewide and then presented to the 1981 legislature. He noted that the primary difference between this proposal and the Governor's proposal is the office of consumer advocacy in this petition will be controlled by the Nevada legislature. The outline for the office is patterned after the functioning consumer advocate's office in the state of Florida. The assemblyman said that he does support the concept in the

Governor's proposal to utilize existing PSC consumer relations staff. He felt that the office should be administered by the legislature because the legislative and executive branches have a "natural bargaining nature." The Governor would make the PSC commissioner appointments and the legislature would have control over the consumer advocate. Also, it would be easier for the public to communicate their concerns to their representatives who are located in their own districts. He added that the PSC support staff should not be totally removed from the PSC. And, it is not practical to remove the deputy attorney generals from the PSC. He said the PSC will need legal representation and the attorney general is charged by law to provide this assistance. He concluded that the subcommittee should adopt enabling legislation to create the office of consumer advocacy, utilizing some of the existing PSC staff, with control by the state legislature.

Chairman Getto said that even though he wishes to reach a compromise between the two proposals, he does support the portion of the Governor's proposal which would have the administrator of the department appointed by the Governor. He said it would be too difficult for the legislature to administer a department that functions with normal working days when the sessions are held biennially.

Mr. Bruce Greenhalgh, director of the department of general services, said that the Governor requested that he chair a committee to study the consumer advocate proposal. Mr. Greenhalgh outlined the present organization of the PSC for the subcommittee and compared this with the proposed organization (Exhibit F). In the proposed organization the PSC commissioners would be a quasi-judicial body with administrative assistants, deputy attorney generals, and the deputy commissioner. All other sections would be moved into a separate department, headed by an administrator appointed by the Governor. The utilities would be presenting their rate case to the commissioners, and the new department would be presenting the consumers' viewpoint to the commissioners who would in turn make a decision from the two inputs.

Assemblyman Horn questioned why the PSC staff cannot presently conduct rate research which is unbiased to all parties. Mr. Greenhalgh stated that they probably do present unbiased data to the commissioners. However, Mr. Greenhalgh explained, the new department will not be representing the PSC, but will be representing the consumers and will be intervening on the consumers' behalf. The staff of this new department will also have the right of appeal on Commission decisions as do the entities making the filing. He added that this new organization will redefine the role of the staff and clarify that they are only representing the consumers.

Ms. Roz Parry, of the attorney general's office, clarified for Assemblyman Bedrosian the role of the administrative assistants under the commissioners: even though they have legal backgrounds, they only perform as their title indicates -- they assist the commissioners in researching and organizing filings. The deputy attorney generals under the commissioners represent the PSC in court hearings and provide legal opinions.

Assemblyman Bedrosian also questioned how the new department can be separate from the commissioners when the commissioners can request the staff's technical assistance through the administrator. Mr. Greenhalgh replied that all requests will be channelled through the director in order that the prior process of direct contact with staff can be eliminated. He said the commissioners will only be making this request for additional technical information in order to assist in their determinations. The commissioners also will make these same requests to the filers.

Chairman Getto asked Mr. Frank Daykin, legal counsel for the legislative counsel bureau, to explain the procedure for processing an initiative petition.

Mr. Daykin said that the petition must be filed at least 30 days prior to a regular session of the legislature. If the petition is correctly filed and has the correct number of signatures, the secretary of state presents the petition to the legislature when it convenes. The petition will take precedence over all other measures except an appropriation bill. It must be enacted or rejected by the legislature as is stated in the Constitution, "without change or amendment," within 40 days. If it is not enacted, then the question is submitted to the vote of the public at the next general election. If the petition is enacted by the legislature or put into effect by vote of the people, it can, after three years, be amended by the legislature, the same as any other statute. Mr. Daykin said that the only initiative measure that is currently in the statutes is the "right to work" law. He further explained that if the legislature wished to alter the intent or language of the initiative, they would not act on the initiative itself and would draft their own bill containing their own proposals. Then the public could either vote for the initiative at the general election or defeat it and endorse the enacted legislation. In order to prevent two laws becoming effective on the same issue, the legislative measure could include a clause which would allow it to expire if the initiative was passed.

Senator Don Ashworth asked Mr. Daykin for his opinion on the Coalition's proposal to have the director of the consumer advocacy office appointed by the legislature. Mr. Daykin said if the legislature did no more than make this appointment, they would not be transgressing the constitutional mandate of separation of powers. However, it has been a matter of policy that positions of this nature are under the jurisdiction of the executive branch of government. He noted that to his knowledge there is not currently any position in state government which is appointed by the legislature and responds to the public.

Assemblyman Bedrosian asked Mr. Daykin if the last two paragraphs of the Coalition's petition were constitutional (Exhibit E, page 4). Mr. Daykin responded that the paragraph which begins "The Nevada Legislature shall appropriate * * *," is ineffective because no legislature can require the following legislature to make an appropriation. The final paragraph which begins "The Governor's office of the state of Nevada shall have no power * * *," is constitutional because the legislature makes all appropriations, and the state budget act is only a statute. So, if the act were not in effect the legislature could make appropriations without any input from the Governor and the executive branch.

Mr. Daryl Capurro of the Nevada Motor Transport Association asked Mr. Daykin how the position of director would be filled under the Coalition's proposal if the legislature were not in session and the position were vacated. Mr. Daykin said a special session would not be called because the Constitution provides that if an office is created and there is no method in the Constitution or statutes for filling a vacancy, then the Governor may make the appointment until the next session of the legislature.

Mr. Orland T. Outland, a consumer, spoke next on the proposals for the reorganization of the PSC. (See his prepared text as Exhibit G.) Before reading his statement into the record, Mr. Outland remarked that the group Common Cause has submitted a document to the PSC entitled, "Money, Secrecy, and Regulation of Public Utilities or the Lack Thereof," and if so requested he will make this document available to the subcommittee. This is a review of the public service commissions in all 50 states. Mr. Outland suggested that this data should accompany any drafts that are submitted to the legislature. In summary, Mr. Outland requests that the subcommittee not make any specific recommendation regarding the reorganization of the PSC. He felt that further public hearings on the matter should be held. Assemblyman Westall explained that a great deal of research has been done to analyze how consumer advocacy is handled in other states, and she added that this subcommittee will only submit drafts to the 1981 legislature which will have to undergo the entire legislative process of committee hearings in both houses prior to possible enactment.

Senator Ashworth moved that a copy of the document entitled, "Money, Secrecy, and Regulation of Public Utilities or the Lack Thereof," be obtained for reference by the legislature.

Assemblyman Horn seconded the motion.

The motion carried.

Mr. Outland described to the subcommittee the process wherein utilities charge the ratepayers for utility construction work in progress when a ratepayer may never benefit from the operating power plant. Mr. William C. Branch of Sierra Pacific Power Company said that the ratepayer only pays for the financing costs involved in construction work in progress; the ratepayer does not contribute to the capital expenses of the plant. Senator Ashworth did not feel that Mr. Outland had a valid point. The senator stated that taxpayers always bear the costs of public improvements. The senator did commend Mr. Outland for the thoroughness of his presentation.

Ms. Rosalia Beasley opened the afternoon session of the meeting. She read a prepared statement into the record (Exhibit H) and stated that she represented a group called Concerned Citizens. She began by stating that the ratepayers are the individuals who support the fund which would finance an office of consumer advocacy, so they should be able to decide whether they wish to create such an office or not. Her statement described the concern of both northern and southern Nevadans over increasing public utility rates. She

also said that her group is joining with the Coalition for Affordable Energy to establish an independent office of consumer advocacy.

Ms. Helen Lucky of the Economic Opportunity Board of Clark County said that she is working for the Energy Crisis Assistance Program which is funded by the Community Services Administration through the federal government. She said that this program is geared toward assisting residential consumers with continuing utility rate increases. She remarked that the PSC when contacted with problems involving individuals who because of fixed incomes are having difficulty paying their bills, state that the increases in rates are allowed in accord with the law. She also expressed dissatisfaction that only one commissioner from the PSC was present at the consumer hearing which was held in Searchlight. The commissioner was injured on route to the hearing and all of the retired citizens who appeared were not able to express their concerns as the meeting was cancelled. This is just one instance, Ms. Lucky said, that illustrates that a segment representing the consumers is necessary as the PSC is not able to perform this function.

Mr. Andrew L. Barbano of the Coalition for Affordable Energy commented on remarks that were made earlier in the meeting. He said that a precedent has been established where the legislature administers a position of administration. To substantiate this, Mr. Barbano read a sentence from Assemblyman Don Mello's press release regarding his version for creating an office of consumer advocacy. (See Exhibit I.) The release states that the consumer division within the PSC should be separated from the commission and become an advocate for the consumers. And, the release continues, "However, the consumer division would not be supervised by the Public Service Commissioners and would be answerable to the Legislature for its operations. (A similar precedent has been set with the Nevada Industrial Commission's Claimant Attorney.)" Mr. Barbano also questioned how the Governor's proposal will address the problem of proper consideration of rate cases when the management study of the PSC indicates that the PSC is under-staffed now and cannot meet the demands of their present workload. He felt that removing the backbone staff from the PSC to create representation for the consumers rather than create a separate staff would only result in more problems for the PSC. He also said that the concept of creating an independent entity is endorsed by the Attorney General, Mr. Richard Bryan. He said that although it was stated earlier that additional data may be needed before this office can be established, he felt that data has been accumulated on this subject since 1975 and the Coalition will only accept input on their petition for another two weeks. The Coalition will be distributing the petition for signatures immediately after the primary election.

Mr. Barbano then read his prepared remarks into the record (Exhibit J). His statement contained several suggestions for legislative consideration in the 1981 session. These are in summary: (1) create "lifeline" rates for residential customers; (2) require that records of utilities be open to the public; (3) prohibit PSC or consumer advocate employees from accepting employment with any entity regulated by the PSC for at least one year from leaving their state service; (4) require competitive bidding for utility construction;

(5) consider decreasing allowable rates for public utilities; and (6) establish an office of consumer advocacy. In closing, he asked that the subcommittee vote on a recommendation for the office of consumer advocacy at this meeting.

Ms. Westall clarified that Assemblyman Mello only meant that the office of consumer advocacy would be answerable to the legislature if a separate budget were established for the department that could not be affected by any other branch of government.

The subcommittee discussed with the audience the various methods that could be used to combine or incorporate the two proposals for an office of consumer advocacy (Governor's and the Coalition's). Mr. Barbano suggested that perhaps the Coalition's petition could be changed to state that the Governor would appoint the administrator of the program, as is done in unclassified state service, but this appointment would require confirmation by the legislature.

Senator Ashworth discussed the present and proposed structures of the PSC with Mr. R.C. Bos, commissioner for PSC. The senator understood that the commissioners do on occasion rely on their engineering and audit staff to provide technical data in order to reach a decision on a case. He could not comprehend how the commissioners could adequately function without this input, and yet he did not feel that separation of purpose could be maintained if the commissioners were able to make technical requests to the new consumer department. The senator is basing his comments on the Governor's reorganization plan (Exhibit F). Senator Ashworth said he is only trying to establish that the new department will be structured in such a manner that it becomes a meaningful agency to the consumers who will be paying the costs of the agency.

Chairman Getto suggested that the commissioners could be given the authority to contract with engineering and audit specialists in order to obtain data on matters relating to their cases. This arrangement would bring about separation of the two entities.

Assemblyman Horn moved that the subcommittee support the formulation of an independent consumer affairs department to be housed in the executive branch. Further, the director of the department of consumer affairs should be appointed by the Governor with confirmation by the Nevada State Legislature.

Assemblyman Bedrosian moved that the motion be amended to reflect that the director of the proposed department of consumer affairs be confirmed by the legislature every 2 years.

Senator Don Ashworth seconded the motion on the amendment.

The amendment carried. (Chairman Getto voted to "Abstain.")

Assemblyman Westall seconded the motion, as amended.

The motion, as amended, carried.

Assemblyman Bedrosian moved that the subcommittee request the legislative counsel to assist the Coalition for Affordable Energy in redrafting the petition presented by Mr. Andrew Barbano (Exhibit E) in order that it will be compatible with the subcommittee's bill draft request, which will be prepared by staff, supporting the formulation of an independent consumer affairs department.

Senator Don Ashworth seconded the motion.

The motion carried.

Ms. Rosalie Beasley of the Concerned Citizens group stated that her organization would endorse the actions taken by the subcommittee on this issue.

Mr. Hohmann was asked to explain the "Legislative Recommendations" as stated in the draft report (Exhibit C). He reviewed the document by each major section.

Section I. Community Antenna Television Systems

Assemblyman Westall moved for the repeal of chapter 711 of the Nevada Revised Statutes and encouragement of local governments to exercise their option to regulate safety standards.

Assemblyman Horn seconded the motion.

The motion carried.

Section II. Consumer Advocacy

Actions on this subject taken by the subcommittee are reflected in these minutes.

Section III. Public Service Commission Organization and Management

Assemblyman Horn moved that the report to the Legislative Commission should include all of the information gathered by the subcommittee and should reflect that the subcommittee wished to take no action on amending Nevada Revised Statutes 706 to remove motor carrier enforcement from the public service commission's jurisdiction and further, that the matter should be considered by the 1981 Legislature.

Senator Ashworth seconded the motion.

The motion carried.

Senator Ashworth moved that the public service commission retain the powers cited in NRS 704.183 instead of transferring those powers to the proposed department of consumer affairs.

Assemblyman Horn seconded the motion.

The motion carried.

Staff was directed to prepare two bills, one for the separation of the department of consumer affairs from the public service commission and one for the ordering of management audits as stated in Senator Don Ashworth's motion.

Assemblyman Horn moved to require competitive bidding on all capital improvement projects of \$2,500 or more or repair to be undertaken by public utilities. This does not include in-house maintenance and repair.

Assemblyman Bedrosian seconded the motion.

The motion carried. (Senator Ashworth voted "No.")

Senator Ashworth asked that the record reflect his concern with the complex definitions of such words as "capital expenditures", "repairs", and so on.

Section IV. Conservation and Renewable Resources

The subcommittee addressed items one through nine in Exhibit C, page IV-1, as follows:

Item 1:

Assemblyman Horn moved that a concurrent resolution be drafted requesting that the utility companies operating within the state of Nevada provide no interest or low interest loans for home energy conservation and home insulation.

Assemblyman Westall seconded the motion.

The motion carried.

Item 2:

No interest.

Item 4:

No interest.

Assemblyman Westall moved that the subcommittee adopt the following items as a Concurrent Resolution.

Item 3: As stated in the draft, page IV-1, Exhibit C.

Item 5: Amended to read -- "Encourage local governmental entities to adopt regulations which promote use of solar, geothermal and other alternative resources in new subdivisions."

Item 6: Amended to read -- "Encourage public service commission to provide incentives for conservation and renewable resources by reducing line extension charges for structures that meet higher conservation standards or which use renewable resources, and by providing for conservation and standby energy policies that do not discourage use of renewable resources.

Item 7: As stated in the draft, page IV-1, Exhibit C.

Item 8: Amended to read -- "Encourage utilities to examine use of alternative energy resources like geothermal for new power facilities.

Item 9: Amended to read -- "Encourage utilities to examine feasibility of reducing demands for energy capacity as an alternative for new plant construction.

Senator Ashworth seconded the motion.

The motion carried.

Staff was directed to prepare the bill draft requests and forward them to the subcommittee members for review.

The minutes of the subcommittee's meeting of June 26, 1980, were approved unanimously. There was no formal motion made on this action.

Chairman Getto thanked the members of the subcommittee and the staff for their efforts during the study.

There being no further business, the meeting adjourned at 5:55 p.m.

Respectfully submitted by:



Lyndi Payne, Research Secretary/
Transcribed by -- Sheba Frost

APPROVED BY:

Assemblyman Virgil Getto, Chairman