

SUBCOMMITTEE MEMBERS PRESENT: Chairman Mello
Vice Chairman Schofield
Mr. May
Mr. Prengaman
Mr. Redelsperger

SUBCOMMITTEE MEMBERS ABSENT: None

GUESTS PRESENT: Senator Wilson
Please refer to the guest list attached
to the minutes of this meeting.

Chairman Mello called the meeting to order at 9:05 A.M.

Mr. Mello indicated that Jan Wilson of the Bill Drafter's Office would go through the new draft of the bill (BDR-1730) with the Subcommittee. A copy of the draft (BDR-1730) is attached to the minutes of this meeting as EXHIBIT A.

Ms. Wilson stated that beginning with Section 2 of the definition- Because just the term consumer's advocate does not really describe that it relates to public utilities, there are two names used for this office. Consumer's advocate is the short name and used throughout the bill. The full name is the advocate for customers of public utilities.

We have defined customers of public utility just for the purposes of later in the bill making sure that they are not subject to -

Mr. Mello indicated that he would like to have complete order in the committee due to the fact that he could barely hear Ms. Wilson.

Ms. Wilson continued her testimony.

The cooperative utility is just a term defined here because that is an exemption from the jurisdiction of the consumer's advocate later in the bill. The definition of public interest, that is subsection 3, comes from I believe New Jersey and was in what Larry Struve proposed at the last meeting of the subcommittee. I don't know if you want to explain anything about that Larry.

Mr. Struve indicated only if the committee had any questions as this was discussed at length at the last meeting.

Mr. Mello asked the subcommittee if there were any questions.

Ms. Wilson stated that it has two parts. One is the interest of the State and the other is a broad class of those citizens, both as they relate to public utilities.

The office is created within the Attorney General's Office. The attorney general appoints the consumer's advocate for a term of four years. The qualifications were the same as were in BDR 1730 the last time you saw it. They are basically the same qualifications I believe as the Commissioner has.

Mr. Redelsperger asked if the committee should go through the bill once before we make any comments?

Mr. Mello indicated he would rather have the committee go through it and then have you mark it and we will come back to the comments of the committee.

Ms. Wilson stated that removal of the consumer's advocate could be for basically cause, inefficiency, neglect of duty or malfeasance in office, that is the same as for the commissioners.

Section 5 - these are general powers of the consumer's advocate; employ the staff necessary to carry out the duties and here is a list of the four unclassified employees whom he could appoint - staff counsel, a person knowledgeable in utility rate design, and accountant or person experienced in financial records of utilities and an administrative assistance and because the attorney general's office had raised a question about the paperwork and the classified employees there is a statement here in subsection 1 of section 5 that says that the employment of the staff is in accordance with personnel practices and procedures established within the Attorney General's office, and then after - Larry, how would you like to explain that.

Mr. Struve indicated that the personnel practices and procedures have to be consistent with State personnel practices and procedures. It is my understanding of this language that pursuant to your request that the authority vest exclusively with the Consumer Advocate to employ. This merely requires the consumer advocate to follow the paperwork type procedures in order to complete the employment. That is my understanding of this language and achieves the objective that I was concerned about.

Mr. Mello indicated that was what he had thought. Mr. Mello asked if Mr. Struve was satisfied.

Mr. Struve indicated they were.

Ms. Wilson continued her testimony. She stated that then after (a), (b), (c) and (d), it goes on to say - the consumer's advocate has sole discretion to employ and remove the members of his staff that are in the unclassified service. So there should be no question. Power to purchase equipment subject to the purchasing act - the power to lease office space and that is subject to the kind of approval to the Board of Examiners which is true for going through Buildings and Grounds. The power to subpoena or make arrangements for witnesses and consultants necessary to

proceedings that the consumer's advocate is involved in and a catchall, number 5, other functions necessary to carry out his duties.

Section 6 creates a special fund - the fund for the consumer's advocate. This is where the money will go from the mill tax. It would be used in subsection 2 to defray the cost of maintaining the office and carrying out the provisions of this act.

Section 7 - Gifts and grants of money - that is - goes into the same fund to make sure that it is with what came from SB 255 of last session about authorization of gifts

Section 8 is the basic section of what this office does; the exceptions listed here except railroads, aircraft, common and contract motor carriers and cooperative utilities and Section 10 is the exception you approved at the last meeting for telephone equipment that is subject to competition. We will come to that.

The powers are much the same as they were in the last bill you looked at. Contracts, conducts studies, examine books of utilities and so forth.

Number 3 is the main one to be concerned with. Petition for request, initiate, appear or intervene in any proceedings before the Public Service Commission or any court regulatory body, board, commission or agency having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the Public Service Commission in which the public interest or the interests of any particular class of customers are involved. This I believe was based on the New Jersey language and Larry had presented something substantially like this at the last meeting.

Mr. Struve stated that the one addition was the limitation on the top of page 4 which limits the ability to enter any court or other administrative agency other than the Nevada PSC only in connection with a matter which the consumer's advocate may bring before or has brought before the Public Service Commission. That is different from New Jersey, but we discussed it at the last meeting and it is definitely a limitation.

Ms. Wilson stated that we did add that the consumer's advocate is a real party in interest so that there would be no question of standing in these proceedings.

Section 9 simply requires that copies of documents that are provided to the PSC also be provided to the consumer's advocate.

Section 10 is the exception -

Senator Wilson indicated that he did not know if the subcommittee wanted to go on through with the bill, but he indicated that he was asking Larry (Struve) what the practical effect of that limitation was. I was not aware off the top of my head as to what he would be

bringing before a court that he wouldn't be normally participating in either by intervention or by initiating before the Public Service Commission. So I was curious about the reason for the language.

Mr. Struve stated at the Chairman's request I spoke with Dave Russell who had raised some questions at your last meeting concerning what the extent of the Consumer Advocate's authority would be. The concern as I understand it is that the Consumer Advocate should not be authorized to get involved in out of state proceedings or federal agency proceedings in connection with matters that have no bearing or no connection to a matter that would be within the Nevada PSC jurisdiction, simply because it may have some other value in the advocate's opinion for getting involved. I am not familiar with these out of state proceedings and I am not familiar with utility interventions, but the language here apparently was satisfactory as a result of our discussions, so that if the matter that is the subject of an out of state proceeding is a matter over which the Nevada PSC has jurisdiction, then they should consider that matter, there would be authority to become involved. If the Nevada PSC does not have authority over that matter that is before another court or administrative agency, he would not have such jurisdiction.

Our office is satisfied with this limitation. I am not sure I can indicate because of my lack of expertise a good response to Senator Wilson's question.

Senator Wilson asked why we should not want the advocate - I am assuming that circumstances justified hypothetically - I am wondering we would want to limit his authority to appear before a federal commission. We are processing a resolution - I don't think it's a bill encouraging the Public Service Commission to appear before the Federal Energy Regulatory Board, especially on the question of interstate contracts which has a heck of a bearing frankly on what ratepayers in the State may pay depending upon the rates of those contracts for interstate power. It is a matter over which the Public Service Commission has no jurisdiction. I don't know whether circumstances would warrant the advocate's appearance, but it may and my question is do we want to preclude by jurisdictional language, the right to appear. Maybe Dave Russell ought to speak to the apprehension in the suggestion of the language and there may be other reasons, but -

Mr. Mello asked if Mr. Dave Russell would speak on this question.

Mr. Dave Russell stated that the concern of the utilities was that the language is as broad as was intended in the original drafts that nothing precluded in the office of the consumer advocate from appearing and obviously that could have some impact on rates in Nevada but it would also have to preclude the consumer advocate from appearing in other jurisdictions on matters that could have a potential impact on rates in Nevada. For example, Southwest Gas conducts business in the State of Arizona and the State of California. An argument could be made as to why not let him appear in California. The cost of doing business to the utility

and the pass through rates to the dividends and everything else if the out of state business does effect rates in Nevada.

Senator Wilson stated that he guessed he had to ask the obvious question. What is wrong with that. Assuming those circumstances involve sufficient impact to make the appearance worthwhile in the first place and the priority is such that it warrants it.

Mr. Russell stated first of all we have a Public Service Commission to handle legislation.

Senator Wilson stated that the Public Service Commission will not have jurisdiction in California. It may appear as a party I assume although it would reluctantly.

Mr. Russell stated that there are certain matters beyond the control of the Public Service Commission - matters affecting the business of Southwest Gas. Frankly we feel that the limitation is a reasonable limitation. The consumer's advocate office in the State of Nevada is one that is created by this legislation. It mandates and gives the consumer advocate the ability to do all of this. We think that is sufficient. First of all there will be budgetary limitation.

Mr. Russell asked Senator Wilson if the consumer advocate should have the ability to intercede in any administrative proceedings in the United States?

Senator Wilson indicated that he was not persuaded and wanted to tell Mr. Russell why he was concerned. We are not an island with respect to energy transfer. Everything that happens affects what we pay. Whether it is an interstate contract approved by the Energy Regulatory Commission or whether it is a decision made by some other commission. We are taking a step to authorize and encourage the Nevada Public Service Commission to participate out of state where a decision made out of state has serious impact. I am not sure if only as a matter of academic principle that jurisdiction of the advocate ought to be precluded from doing that if the public interest warrants it. Now your point of budgetary limitations - is he going to be spending his resource chasing shadows in some foreign jurisdiction and not be able to deal effectively in this state where the rate payer lives. But if there is a matter affecting what the Nevada ratepayer is going to pay maybe he ought to intervene if the circumstances warrant it and I would object to jurisdictional language which if adopted would preclude that in any circumstances.

Mr. Russell stated that they were not going to agree philosophically, but what if the consumer advocate got involved in Canada and the United States?

Senator Wilson stated that he could think of circumstances where the consumer advocate may well want to appear even with the Nevada Public Service Commission before the Federal Energy

Regulatory Commission which approves contracts where a power company buys wholesale for distribution in this state and those contract rates directly effect the rates the consumer here pays and the Public Service Commission has no jurisdiction over them. Now why shouldn't he be an advocate for the consumer for the same reason that the Nevada Public Service Commission be an advocate.

The committee discussed this particular point.

Senator Wilson suggested that the committee go to the top of page 4 where the language reads "may bring before or has brought before the public service commission, in which the public interest". He asked that the "," be stricken and insert the word "or" so it reads "commission or in which the public interest or the interests of any particular class of utility customers are involved,"

The committee discussed the BDR in further detail.

Ms. Wilson then discussed co-ops. She indicated that co-ops are not listed but they are treated the same way in another part of the bill so you don't have it there.

Mr. Roger Bos of the Public Service Commission testified next. He stated that the Public Service Commission had no jurisdiction over the airlines.

Mr. Mello questioned Mr. Bos as to whether leaving railroads in here is not all right with him.

Mr. Bos indicated that that was correct.

Ms. Wilson stated that they would pay the tax but still be exempt from the consumer advocate and only pay the tax that goes to the PSC.

Mr. May moved that that language be included in the bill which was seconded by Mr. Schofield. The motion carried unanimously.

Mr. Mello then asked that the committee refer to Page 7 of the BDR with regard to the language on the 5 mills.

Mr. Schofield moved that this language be included, which was seconded by Mr. May. The motion carried unanimously.

Mr. Bos indicated that on Page 9 he was recommending that they substitute quarterly to the fund of the consumer's advocate. He stated that big companies pay on a quarterly basis.

Mr. Redelsperger moved that Mr. Bos' language be incorporated, which was seconded by Mr. Schofield. The motion carried unanimously.

Mr. Struve indicated that he had a question with regard to the transfer being on a quarterly basis. In light of the start up costs that are going to needed, does that mean that on July 1st

1981 there would be a transfer of that quarter so that there is money available to start up the consumer advocate's office.

Mr. Bible indicated that they would be paid their first quarterly installment on August 1, 1981.

Mr. Struve indicated that he wanted to bring this up to the committee because we don't want to be stuck here with no ability to pay the staff.

Mr. Mello indicated that we would have to work that out.

Mr. Bible stated that the committee has indicated that they want to start prior to the start of the fiscal year anyway and perhaps fund it from some of the balance and that would take care of the cash flow problem.

Mr. Schofield asked if the subcommittee would refer to page 7, subsection (a), and indicated that it had not mentioned prior to that about the mills not being included in there.

Mr. Mello indicated that we were going to get into the budget.

Mr. Mello asked if the subcommittee should now start with the budget.

Mr. Mello first asked if there were any other questions with regard to including the budget in the mill tax.

Mr. Bible testified with regard to the budget for the Consumer's Advocate Office and passed out a proposed budget which is attached to the Minutes of this meeting as EXHIBIT B.

Mr. Bible indicated that he had worked with Larry Struve on this particular budget. The first positions you see would be the consumer advocate and would probably be so titled in the law. The staff attorney, the utility rate specialist, the accountant, the administrative secretary although the law - the proposed BDR calls that position an Administrative Assistant. What you see are suggested salaries. The director's salary that the committee discussed at the last meeting would have parity with the proposed salary for top deputy within the attorney general's office. The staff attorney - at the last subcommittee meeting discussed the salary level that was somewhat higher. Apparently the attorney general looked at this position and felt that a \$37,000 deputy would be sufficient for the purposes of maintaining a parity relationship in his office with a Deputy IV position. The utility rate specialist and the accountant both would receive salaries of \$34,600.00. That would provide salary parity with similar positions within the Public Service Commission. The Administrative Secretary position - the Attorney General's office is proposing a salary of \$20,000.00 a year and the one classified position within the office - the senior legal secretary - that salary would be established by the personnel division in concert with the pay plan for classified employees of the state and the suggested salaries for the next two years

would be \$15,346 for next year and then \$16,113 for 1982/1983. Following that line are the various benefits that -

Mr. Mello asked that Mr. Bible stop right there and asked the subcommittee if there were any questions with regard to the positions?

There being no questions at this point, Mr. Bible's testimony continued.

Mr. Bible stated that following that line are the various fringe benefits that are normally budgeted for state employees of the retirement group insurance assessment payroll. The last item which you would probably see in budgets is a salary adjustment reserve. I have projected this based upon the governor's paid plan recommendation for a 9% salary increase for classified and unclassified employees effective January 1, 1982, so it would be effective for 1/2 year in 1981/1982 and a full year in 1982/1983. Out of state travel is suggested at \$1,000.00 a year. Instate travel at \$7,000.00 the first year with an escalation in the second year. The various items of operating expenses these are the paper, the pens and the typewriters, ribbons and that sort of thing, are fairly self explanatory. The one item that I probably should point out is other contract services for \$6,600.00 and \$7,260 in the second year would provide for funds to lease an automatic typewriter - a mag card II or something of that nature. The building rent is similar to the figures we discussed at the last subcommittee meeting for a total of \$47,850 in the first year and \$52,635 in the second year. The equipment would be \$10,000 in the first year and \$1,000 in the second year. The major category which the subcommittee discussed at the last meeting - \$150,000 in each year - for expert witness fees and consultants. The total budget comes to \$430,000 - or just a little over \$430,000 in the first year of the biennium - \$437,039 in the second year. Now 1/2 mill and I have adjusted the mill levy for the various items that you have excluded from the jurisdiction of the consumer advocate the co-ops and the railroads would have had a very insignificant contribution to the mill levy but a 1/2 mill levy would generate \$351,548.00 in the first year and \$404,485 in the second year.

Mr. Mello questioned if Mr. Bible had figured 2/3 of a mill. Mr. Bible indicated he had figured 3/4 of a mill on the first year would generate \$527,322 which would leave a surplus within the fund of \$97,253 assuming that the estimates of the mill levies are correct. Mr. Bible stated that he did not project it in the second year, it would be \$606,000 - a little over. So in order to fund this particular office, what I would suggest is that the rate be established at 3/4 of a mill in the first year, it would generate a little to the fund and it would be applied in the second year. In the second year, go to a 1/2 mill levy. The reason I was suggesting that is because the bill was originally drafted and provided for a total mill levy of 4 mills and the Public Service Commission's budget proposal before the money committees

is for 3-1/4 mill the first year and 3-1/2 mills the second year so you would be at 4 mills effectively both years.

Jan Wilson indicated that the draft for the Consumer's Advocate does not say that the mill tax would be not more than "X". It says it shall be "X".

Mr. Struve stated that he would like to speak in support of that for the committee's consideration. As we have indicated on prior occasions, the demand of money in the expert witness and consulting category is unknown. My own personal experience in the Washoe County DA's office indicates that any major intervention is a very expensive proposition. If my memory serves me correctly it was close to \$50,000 for one general rate increase intervention in 1976. That would mean if \$150,000 is built in here as the maximum without some kind of supplementation from interim finance, it may severely limit what the consumer advocate can do. One solution would be that if you built into the law the 3/4 mill levy and that goes to this special fund there would be a reserve building up which can be transferred if need be by action of interim finance committee so that if this \$150,000 turns out to be insufficient, and there are a lot of interventions that must be funded and the interim finance is persuaded that that is proper, the money is there without dipping into contingency funds. If you build it too tight, this may be a very severe limitation on how effective the consumer advocate can be.

Mr. Mello questioned what 1/2 mill for 1982/1983 would generate.

Mr. Bible stated it would generate a little over \$404,000.

Mr. Bible indicated that what Mr. Struve was talking about was 3/4 for each year creating some extra monies in the fund that would be available.

Mr. Mello indicated that interim finance would probably have more appetite to increase it upon request if the funds were there without dipping into the general fund.

Mr. Bible indicated that Mr. Mello was the chairman and that he could best speculate on that.

Mr. Mello asked that it not exceed 3/4 in each year.

Ms. Wilson asked who would determine this.

Mr. Mello stated that the money is being transferred by the Public Service Commission, is it not?

Mr. Bible indicated that the language not to exceed 3/4 of a mill. All you need for the use of the consumer advocate 3/4 of a mill as the budget would be the controlling document and that would be enacted by the money committees.

Ms. Wilson indicated that there would not then be any problem of deciding.

Mr. Mello asked if that met with the approval of the committee.

Mr. Schofield moved for the 3/4 mill provision for the office of the Consumer's Advocate which was seconded by Mr. Prengaman. The motion carried unanimously.

Mr. Mello asked if there were any other comments.

Mrs. Westall indicated that she was very happy with the bill so far.

Mr. Mello questioned who was on Mrs. Westall's subcommittee was made up of.

Mrs. Westall indicated she was on the committee with Mr. Marvel and Mr. Coulter.

Mrs. Westall further indicated that they would be happy to meet whenever the Government Affairs Subcommittee on the Consumer's Advocate wanted to.

Mr. Mello asked why Mrs. Westall did not meet with her subcommittee and Bill Bible and come up with your recommendations. Mr. Mello asked if Mrs. Westall would let them know if they go beyond these recommendations or below.

Mrs. Westall agreed.

Mr. Bible indicated that Mr. Mello was then requesting that he work with the Public Service Commission to determine how we could implement this on passage and approval.

Mr. Mello indicated if this was then signed by the Governor in May, then what we are looking at is monies to carry us through until they receive their quarterly payments of the 3/4% mill. Is that right.

Mr. Bible indicated that was correct.

Mr. Mello stated that he would request that we not have any further changes in this bill that we have not voted on.

Ms. Wilson stated that she wanted to tell the committee that there will be some difference in wording that won't be familiar to the subcommittee on the question of taking the tax for the railroads. The tax for them will be different from anybody else. It will be split.

Mr. Mello asked is there were any further questions or comments.

Mr. Mello indicated that the committee would listen to some brief

testimony.

Mr. Andrew Barbano of the Coalition for Affordable Energy testified first. Mr. Barbano passed out a copy of his testimony to the subcommittee which is attached to the minutes of this meeting at EXHIBIT C.

Mr. Mello indicated that he personally saw no problems with the amendments proposed by Mr. Barbano in Section 5, subsection 1-B and 1-C.

Mr. Struve indicated that he agreed with Mr. Barbano. He indicated that Mr. Barbano's suggestion was more general than the more narrow description in the bill drafts. We certainly have no objection.

Mr. Schofield questioned using the language of rate design.

Mr. Barbano stated that an office of consumer advocacy will be most involved in cost of service areas rather than rate design areas. That will be their principal area of involvement.

Mr. Schofield moved that Mr. Barbano's language in his testimony presented to the committee with regard to Section 5, subsections 1 (B) and 1(C) be adopted. The motion was seconded by Mr. Redelsperger and was unanimously carried.

Mr. Barbano then continued his testimony with regard to Section 10 on page 4.

He further read his testimony in this regard.

Mr. Barbano indicated that he had mentioned to Senator Wilson as he left the subcommittee meeting that he was going to recommend that Section 10 be deleted in its entirety. Senator Wilson indicated that he had no problem with that.

Mr. Barbano read the portion of his testimony with regard to Section 10.

Mr. Mello asked if there were any questions or if Mr. Stan Warren of Nevada had any comments with regard to this portion of Mr. Barbano's testimony.

Mr. Warren indicated that he has not seen nor has he had an opportunity to read Mr. Barbano's testimony. Mr. Warren stated that he would rather not comment at this time.

Mr. Mello questioned Mr. Barbano as to the fact that Senator Wilson had no problem with deleting this section.

Mr. Barbano indicated that this was what Senator Wilson expressed to him just as he was leaving.

Mr. Mello stated that in the interests of time and trying to move this along if we left it there would he amend it out in the Senate?

Mr. Barbano indicated that he could not speak for Senator Wilson.

Mr. Mello stated that our problem is that we are going to redraft this thing, come back again and you and other people are still going to have some objections to it. Now this is the eleventh hearing on the Consumer Advocate.

Mr. Barbano stated that we may make the Guinness Book of World Records.

Mr. Mello asked what the pleasure of the committee was.

Mr. Redelsperger indicated he would like to hold off.

Mr. Schofield indicated that he felt that the committee had had adequate testimony on this particular thing. We are beginning something that is a new situation to all of us. We are covering a lot of areas here. I think the subcommittee has done a good job of putting the bill together and I would prefer just to leave it as it is.

Mr. Redelsperger stated that he felt over-regulation in the long run is going to cost the consumer.

Mr. Mello stated that Section 10 would stay in the BDR as it now stands.

Mr. Barbano then completed his testimony before the committee.

Mr. Barbano stated that under the budget, it should read "expert witness fees and costs." This can be found in Mr. Barbano's testimony on page 3.

The subcommittee discussed Mr. Barbano's testimony. Mr. Mello indicated to Mr. Barbano that first of all it is sheer speculation by him how much in state and out of state travel there will be. Mr. Mello stated that we do have interim finance and if they run short they are like any other governmental agency. They can come before Interim Finance and explain why they have run short and it is new and I am quite sure that Interim Finance would appreciate the fact that this budget is only sheer speculation and I can see no problem with leaving it the way it is.

Mr. Mello stated that Mr. Barbano had no idea of what the travel is going to be.

Mr. Barbano stated certainly not.

With regard to Mr. Barbano's correction in the budget relating to "expert fees and costs" Mr. Schofield moved that it be changed to "expert witness fees and costs". The motion was seconded by Mr. Prengaman. The motion carried unanimously.

Mr. Mello stated that the subcommittee had actually done everything that was asked for by Mr. Barbano, except for Section 10.

Mr. Mello asked if there was anyone else that wished to testify on behalf of this bill.

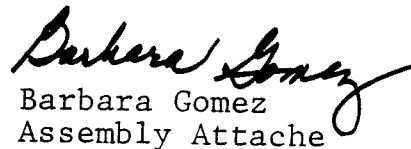
Mr. Mello indicated that he planned to have one more brief meeting. It is only a work session. We will not take any further testimony on this bill but we will go back over the areas that we have changed. Jan, when you are prepared let me know.

Ms. Wilson indicated that it should be the first part of next week when she has the bill.

Mr. Mello indicated that he hoped that Mrs. Westall's subcommittee could have their proposed changes and we can work on them all at the same time.

Mr. Mello indicated that the subcommittee was adjourned subject to the call of the chair at 10:40 A.M.

Respectfully submitted,


Barbara Gomez
Assembly Attache

SUBCOMMITTEE ON
CONSUMER ADVOCACY

March 27, 1981

INDEX OF EXHIBITS

- Exhibit A - BDR 58-1730
- Exhibit B - Proposed Budget for the Office of the Consumer Advocate - submitted by Bill Bible.
- Exhibit C - Testimony of Andrew Barbano of the Coalition for Affordable Energy.

SUMMARY--Creates office of advocate for customers of public utilities within attorney general's office. (BDR 58-1730)
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 advocate for customers of public utilities within the office of the attorney general; defining his powers and duties; imposing an annual assessment upon public utilities for the support of his office; creating a legislative committee to review the performance of his office; providing for independent counsel for the public service commission; 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 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. 1. "Consumer's advocate" means the advocate for customers of public utilities.

2. "Cooperative utility" means a cooperative association or nonprofit corporation or association which supplies utility services for the use of its own members only.

3. "Public interest" means the interests or rights of the State of Nevada and of the citizens of the state, or a broad class of those citizens, which arise from the constitutions, court decisions and statutes of this state and of the United States and from the common law. As used in sections 2 to 12, inclusive, of this act, the term refers to those interests and rights as they relate to the regulation of public utilities.

Sec. 3. The office of advocate for customers of public utilities is hereby created within the office of the attorney general. The advocate for customers of public utilities may be known as the consumer's advocate.

Sec. 4. 1. The attorney general shall appoint the consumer's advocate for a term of 4 years. The person appointed:

(a) Must be knowledgeable in the various areas of the regulation of public utilities;

(b) Must be independent of and have no pecuniary interest in any utility or industry regulated by the public service commission;

(c) Shall devote all of his time to the business of his office and shall not pursue any other business or vocation or hold any other office of profit; and

(d) Must not be a member of any political convention or a member of any committee of any political party.

2. The attorney general may remove the consumer's advocate from office for inefficiency, neglect of duty or malfeasance in office.

Sec. 5. The consumer's advocate may:

1. Employ the staff necessary to carry out his duties and the functions of his office, in accordance with the personnel practices and procedures established within the attorney general's office. The staff shall include:

(a) A person licensed to practice law in this state, who shall serve as staff counsel;

(b) A person knowledgeable in utility rate design;

(c) A person knowledgeable in accounting or experienced in the preparation or examination of financial records of utilities; and

(d) An administrative assistant,

Must who must be in the unclassified service of the state. The consumer's advocate has sole discretion to employ and remove the members of his staff who are in the unclassified service.

2. Purchase necessary equipment.

3. Lease or make other suitable arrangements for office space, but any lease which extends beyond the term of 1 year must be reviewed and approved by a majority of the members of the state board of examiners.

4. Subpena or make arrangements for the appearance of and pay the fees or costs of any witnesses or consultants necessary to any proceeding in which he is a party or intervener.

5. Perform such other functions and make such other arrangements as may be necessary to carry out his duties and the functions of his office.

Sec. 6. 1. The fund for the consumer's advocate is hereby created as a special revenue fund. All money collected for the use of the consumer's advocate 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 maintaining the office of the consumer's advocate and carrying out the provisions of sections 2 to 12, inclusive, of this act.

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

Sec. 7. All gifts or grants of money which the consumer's advocate is authorized to accept must be deposited with the state treasurer for credit to the fund for the consumer's advocate.

Sec. 8. The consumer's advocate may, with respect to all public utilities except railroads, aircraft, common and contract motor carriers and cooperative utilities, and except as provided in section 10 of this act:

1. Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

2. Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the public service commission in the same manner and to the same extent as authorized by law for members of the public service commission and its staff.

3. Petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the public service commission or any court, regulatory body, board, commission or agency

having jurisdiction over any matter which the consumer's advocate may bring before or has brought before the public service commission, in which the public interest or the interests of any particular class of utility customers are involved, and represent those interests. The consumer's advocate is a real party in interest in any such proceeding.

Sec. 9. All public utilities, except railroads, aircraft, common and contract motor carriers and cooperative utilities, and except as provided in section 10 of this act, shall provide the consumer's advocate with copies of any proposed changes in rates or service, correspondence, legal papers and other documents which are served on or delivered or mailed to the public service commission.

Sec. 10. The powers of the consumer's advocate do not extend to matters directly relating to the consideration of tariffs requested by a telephone utility for products or equipment which the utility certifies under oath are subject to competition.

Sec. 11. 1. The consumer's advocate has sole discretion to represent or refrain from representing the public interest and any class of utility customers in any proceeding.

2. In exercising his discretion, the consumer's advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his participation.

3. If the consumer's advocate determines that there would be a conflict between the public interest and any particular class of utility customers or any inconsistent interests among the classes of utility customers involved in a particular matter, he may choose to represent one of the interests, to represent no interest, or to represent one interest through his office and another or others through outside counsel engaged on a case basis.

Sec. 12. 1. There is hereby created an interim committee of the legislature to review the performance of the office of the consumer's advocate.

2. The committee consists of:

(a) The majority leader of the senate or a member of the senate of the same political party designated by him;

(b) Two members of the senate designated by the majority leader of the senate, one of whom is from the majority party and one of whom is from the minority party;

(c) The speaker of the assembly or a member of the assembly of the same political party designated by him; and

(d) Two members of the assembly designated by the speaker of the assembly, one of whom is from the majority party and one of whom is from the minority party.

3. The members from the assembly shall select a chairman from among their number to serve for the period ending with the convening of the 62d session of the legislature. The members from the senate shall select a chairman from among their number to serve during the next legislative interim, and the chairmanship shall continue to alternate between the houses of the legislature according to this pattern.

4. The committee exists only when the legislature is not in regular or special session. During those times, it shall meet at the call of the chairman to review and evaluate the effectiveness and functioning of the office of the consumer's advocate. It may make recommendations to the consumer's advocate, the legislative commission, the interim finance committee and the legislature.

5. The director of the legislative counsel bureau shall provide a secretary for the committee. Each member of the committee is entitled to receive out of the legislative fund a salary for each day or portion of a day of attendance at a meeting of the committee, in an amount equal to the salary established for members of the legislative commission, and the per diem allowance and travel expenses provided by law.

Sec. 13. 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. Money collected for the use of the consumer's advocate must be transferred pursuant to the provisions of subsection 8 of NRS 704.035.

2. Money in the fund which belongs to the commission 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.

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. 14. NRS 703.210 is hereby amended to read as follows:

703.210 1. The [attorney general] commission may employ, or retain on a contract basis, legal counsel who shall:

(a) Except as provided in subsection 2, be counsel and attorney for the commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the [State] public service commission of Nevada all civil actions for the enforcement of chapters 704, 704A, 705, 706, 708, 711 and 712 of NRS and for the recovery of any penalty or forfeiture provided for therein.

(c) [If the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities and motor carriers under the jurisdiction of the commission and their officers, agents and employees.

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

2. Each district attorney shall:

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

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

3. The attorney general shall, if the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities and motor carriers under the jurisdiction of the commission and their officers, agents and employees.

4. The attorney general is not precluded from appearing in or moving to intervene in any action and representing the interest of the State of Nevada in any action in which the commission is a party and is represented by independent counsel.

Sec. 15. NRS 704.033 is hereby amended to read as follows:

704.033 1. The commission shall levy and collect an annual assessment from all public utilities subject to the jurisdiction of the commission.

2. The annual assessment [shall] must be [not more than 4 mills] :

(a) For the use of the public service commission, not more than ... mills; and

(b) For the use of the consumers' advocate, ... mills,

flush on each dollar of gross operating revenue derived from the intra-state operations of such utilities in the State of Nevada, except that the minimum assessment in any 1 year [shall] must be \$10. The total annual assessment must be not more than 4 mills.

3. The gross operating revenue of [such] the utilities [shall] must be determined for the preceding calendar year. In the case of:

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

(b) [Railroads and airlines, such revenues shall be deemed to be revenue received only from freight and passenger intrastate movements.

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

4. Railroads and airlines are not subject to the jurisdiction of the commission for the purposes of this section and NRS 704.035.

Sec. 16. NRS 704.035 is hereby amended to read as follows:

704.035 1. On or before June 1 of each year, the commission shall mail revenue report forms to all public utilities under its jurisdiction, to the address of [such] those utilities on file with the commission. [Such] The revenue report form [shall serve] serves as notice of the commission's intent to assess the utilities, but failure to notify any [such] utility [shall] does not invalidate the assessment with respect thereto.

2. Each public utility subject to the provisions of NRS 704.-033 shall complete the revenue report referred to in subsection 1, compute the assessment and return the completed revenue report to the commission accompanied by payment of the assessment and any penalty due, pursuant to the provisions of subsection 5.

3. The assessment [shall be] is due and payable on July 1 of each year, but may, at the option of the public utility, be paid quarterly on July 1, October 1, January 1 and April 1.

4. The assessment computed by the utility is subject to review and audit by the commission, and the amount of the assessment may be adjusted by the commission as a result of [such] the audit and review.

5. Any public utility failing to pay the assessment provided for in NRS 704.033 on or before August 1, or if paying quarterly,

on or before August 1, October 1, January 1 or April 1, shall pay, in addition to such assessment a penalty of 1 percent of the total unpaid balance for each month or portion thereof that [said] the assessment is delinquent, or \$10, whichever is greater, but no penalty [shall] may exceed \$1,000 for each delinquent payment.

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

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

8. The commission shall, on a monthly basis, transfer to the fund for the consumer's advocate that portion of the assessments collected which belongs to the consumer's advocate.

Sec. 17. NRS 704.675 is hereby amended to read as follows:

704.675 Every cooperative association or nonprofit corporation or association and every other supplier of services described in this chapter supplying those services for the use of its own members only is hereby declared to be affected with a public interest, to be a public utility, and to be subject to the jurisdiction, control and regulation of the commission for the purposes of NRS 703.191, [704.033, 704.035,] 704.330, 704.350 to 704.430, inclusive, but not to any other jurisdiction, control and regulation of the commission or to the provisions of any section not specifically mentioned in this section.

Sec. 18. NRS 705.360 is hereby amended to read as follows:

705.360 1. Every company, corporation lessee, manager or

receiver, owning or operating a railroad in this state, shall equip, maintain, use and display at night upon each locomotive being operated in road service in this state an electric or other headlight of at least 1,500-candlepower, measured without the aid of a reflector. Any electric headlight which will pick up and distinguish a man dressed in dark clothes upon a dark, clear night at a distance of 1,000 feet is deemed the equivalent of a 1,500-candlepower headlight measured without the aid of a reflector.

2. This section does not apply to:

- (a) Locomotive engines regularly used in switching cars or trains.
- (b) Railroads not maintaining regular night train schedules.
- (c) Locomotives going to or returning from repair shops when ordered in for repairs.

3. Any railroad company, or the receiver or lessee thereof, which violates the provisions of this section is liable to the [State] public service commission of Nevada for a penalty of not more than \$1,000 for each [offense.] violation.

Sec. 19. NRS 705.370 is hereby amended to read as follows:

705.370 1. Each railroad company or corporation or its receiver, owning or operating any railroad within this state, shall equip and maintain in each of its passenger trains, cabooses, locomotives, motors or diesel engines used in the propelling of trains or switching of cars an emergency first aid kit whose contents must be those prescribed by the public service commission of Nevada. Each passenger train and each caboose must be equipped with at least one stretcher. All of the contents of the emergency first aid kits, except the stretchers, must be stored on each passenger train, caboose, locomotive, motor or diesel engine, in a clean, sanitary and sterile container and in an accessible place at all times, which places, including the storage places of stretchers, must be plainly designated.

2. The employee of any railroad company or corporation or its receiver, having charge of any passenger train, caboose, locomotive, motor or diesel engine, shall as soon as possible report in writing to the office or officer designated by the company, corporation or receiver for the purpose, whenever any of the emergency first aid kit has been used or has been found missing. The emergency first aid kit must only be used to render first medical or surgical aid to injured passengers, employees or other injured persons requiring first aid.

3. Any railroad company or corporation or its receiver, which refuses, neglects or fails to comply with the provisions of this section is liable for a penalty to the [State] public service commission of Nevada of \$25 for each failure to equip a passenger train, caboose, locomotive or motor or diesel engine with the emergency first aid kit specified in subsection 1.

4. Any person who removes, carries away from its proper place or uses any emergency first aid kit provided in this section, except for the purpose of administering first aid in the event of injury to any passenger, employee or other person is guilty of a misdemeanor and may be punished by a fine of not more than \$500.

Sec. 20. NRS 705.420 is hereby amended to read as follows:

705.420 Any railroad company or receiver of any railroad company, and any person, firm, company or corporation engaged in the business of common carrier doing business in the State of Nevada, which violates any of the provisions of NRS 705.390 to 705.410, inclusive, is liable to the [State] public service commission of Nevada for a penalty of \$500 for each [offense.] violation.

Sec. 21. The attorney general shall appoint the first consumer's advocate pursuant to section 4 of this act for a term ending December 31, 1984.

Sec. 22. This act shall become effective upon passage and approval.

PROPOSED BUDGET

OFFICE OF THE CONSUMER ADVOCATE

	<u>1981-82</u>	<u>1982-83</u>
Director (U)	\$ 40,000	\$ 40,000
Staff Attorney (U)	37,000	37,000
Utility Rate Specialist (U)	34,600	34,600
Accountant/C.P.A. (U)	34,600	34,600
Administrative Secretary (U)	20,000	20,000
Senior Legal Secretary	15,346	16,113
Total Salary	<u>\$181,546</u>	<u>\$182,313</u>
Retirement	\$ 14,524	\$ 14,585
Group Insurance	5,328	5,832
Personnel Assessment	127	134
Payroll Assessment	417	419
Retirement Group Insurance	218	219
Unemployment Compensation	762	766
Salary Adjustment Reserve	11,297	20,436
Total Salary/Payroll	<u>\$214,219</u>	<u>\$224,704</u>
Out-of-State Travel	\$ 1,000	\$ 1,000
In-State Travel	\$ 7,000	\$ 7,700
Operating:		
Office Supplies	\$ 1,500	\$ 1,650
Operating Supplies	1,500	1,650
Communications	3,700	4,070
Printing	3,000	3,300
Insurance	100	110
Other Contract Services	6,600	7,260
Equipment Repair	150	165
Maintenance B & G	100	110
Legal and Court Costs	15,000	16,500
Building Rent	16,200	17,320
Total	<u>\$ 47,850</u>	<u>\$ 52,635</u>
Equipment	\$ 10,000	\$ 1,000
Expert Witness Fees and Consultants:	<u>\$150,000</u>	<u>\$150,000</u>
	<u>\$430,069</u>	<u>\$437,039</u>

Coalition for Affordable Energy

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

TESTIMONY BEFORE THE
ASSEMBLY COMMITTEE ON GOVT. AFFAIRS
SUBCOMMITTEE ON UTILITY CONSUMER ADVOCACY, 3/27/81

Exhibit C

6045
E-11110

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, FOR THE RECORD, MY NAME IS ANDREW L. BARBANO AND I AM REPRESENTING THE COALITION FOR AFFORDABLE ENERGY. THANK YOU FOR THE OPPORTUNITY TO SPEAK BEFORE YOU THIS MORNING.

THE COALITION FEELS THERE IS MUCH MERIT TO THE NEW VERSION OF BDR 58-1730, BUT WE FEEL THAT IT NEEDS A BIT MORE WORK AND OFFER THE FOLLOWING AMENDMENTS TO THE BILL DRAFT.

FIRST, WE PROPOSE THAT SECTION 5, SUBSECTION 1-B, BE AMENDED TO READ AS FOLLOWS: "A PERSON KNOWLEDGEABLE IN RATEMAKING AND PRINCIPLES AND POLICIES OF RATE REGULATION." WE HAVE CONSULTED WITH DR. DAVID S. SCHWARTZ OF BELTESDA, MARYLAND, WHO SPOKE BEFORE YOU ON FEBRUARY 4 AND FEBRUARY 11, AND HE RECOMMENDED THIS AMENDMENT. WE ALSO CONSULTED WITH DR. RODNEY STEVENSON OF THE UNIVERSITY OF WISCONSIN, WHO COLLABORATED WITH DR. SCHWARTZ IN PREPARING THE MATERIAL SUBMITTED TO YOU LAST MONTH. THE REASON FOR THIS CHANGE IN LANGUAGE IS THAT THE CURRENT LANGUAGE IS TOO RESTRICTIVE. WHILE UTILITY RATE DESIGN IS CERTAINLY AN IMPORTANT AREA, THERE ARE AREAS OF UTILITY REGULATION EQUALLY AS IMPORTANT, AND MORE OF A GENERALIST IS NECESSARY IN A SMALL OFFICE. AREAS SUCH AS ALLOWANCE OF CONSTRUCTION WORK IN PROGRESS IN THE RATE BASE AND FUEL ADJUSTMENT CLAUSES ARE "COST-OF-SERVICE" RATHER THAN "RATE DESIGN" ISSUES, AND ARE OF PARAMOUNT IMPORTANCE TO NEVADA. SIERRA PACIFIC POWER'S RECENT CONTROVERSIAL EMERGENCY APPLICATION INVOLVES CONSTRUCTION WORK IN PROGRESS AS THE CENTRAL ISSUE. WE URGE ALLOWING FOR THIS NEEDED ADDITIONAL FLEXIBILITY IN THE JOB DESCRIPTION IN SECTION 5, SUBSECTION 1- ON PAGE 2 OF THE BDR.

WITH RESPECT TO THE NEXT SUBSECTION, 1-C, WE PROPOSE THE FOLLOWING LANGUAGE BE SUBSTITUTED: "A SPECIALIST IN PUBLIC UTILITIES KNOWLEDGEABLE IN ACCOUNTING, OR FINANCE, OR ECONOMICS, OR RELATED PROFESSIONAL AREAS." WITH THIS AMENDMENT, WE AGAIN GO TO DR. SCHWARTZ AND DR. STEVENSON, WHO SUGGEST THAT A BROAD DESCRIPTION IS NECESSARY TO AVOID THE POTENTIAL SITUATION OF FINDING A VERY QUALIFIED PERSON, WITH A LOT OF GENERAL UTILITY EXPERIENCE, WHO CANNOT QUALIFY FOR A JOB IN THE ADVOCATE'S OFFICE BECAUSE THE JOB DESCRIPTION IS TOO NARROWLY DRAWN. PROPER LATITUDE IS CRITICAL.

WE WOULD NEXT LIKE TO GO TO SECTION 10 ON PAGE 4. THIS SUBCOMMITTEE ON MARCH 13 VOTED UNANIMOUSLY TO INCLUDE THIS SECTION. SINCE ITS INCLUSION, WE HAVE DEVELOPED SOME STRONG ARGUMENTS AGAINST IT, AND THEY ARE OF GREAT IMPORTANCE TO CONSUMERS. THIS ENTIRE SECTION MUST BE DELETED, AS THE POTENTIAL FOR ABUSE AND PROFIT GOUGING WILL BE WIDE OPEN IF IT IS INCLUDED.

IT SEEMS THAT EVERY TIME A TELEPHONE LOBBYIST MAKES A SPEECH, HE EXTOLLS THE FACT THAT HIS COMPANY IS NOT A MONOPOLY ANYMORE. ALL THE UTILITIES YOU HEARD EARLIER THIS WEEK HAVE LONG BEEN USING THE HALLOWED SENSE OF FREE-ENTERPRISE TO FURTHER THEIR MONOPOLISTIC PROFIT CENTERS. THERE IS NO WORSE OFFENDER OF MONOPOLY POWER THAN TELEPHONE COMPANIES, AND THE ABUSES ARE LEGENDARY. THEY WOULD HAVE YOU BELIEVE THAT THEY SHOULD BE EXEMPT FROM THE POTENTIAL REVIEW OF A CONSUMER ADVOCATE'S OFFICE IN EQUIPMENT AREAS WHERE THEY HAVE COMPETITION.

FIRST, ASK YOURSELF, WHAT DOES A PHONE COMPANY DO THAT DOES NOT INVOLVE EQUIPMENT? SECOND, YOU HAVE HEARD DR. SCHWARTZ AND OTHERS TALK ABOUT THE TELEPHONE UTILITIES' DECLINING COST CURVE. ONE WOULD HOPE THAT THE DECLINING COST CURVE DUE TO EQUIPMENT EFFICIENCY WOULD BE OF BENEFIT TO CONSUMERS. IN THE SENSE THAT IT MEANS THAT GENERAL RATE INCREASES ARE FEWER AND FARTHER BETWEEN THAN THOSE OF OTHER UTILITIES, THAT IS TRUE. BUT HAVE YOU HEARD ABOUT THE NEW YORK CASE WHERE A TELEPHONE UTILITY PUT OUT EQUIPMENT THAT WAS SO ARTIFICIALLY UNDERPRICED THAT ALL COMPETITION DRIED UP? THEY SIMPLY ASSIGNED THE COSTS OF RESEARCH AND DEVELOPMENT TO OTHER AREAS---IN OTHER WORDS, THE CONSUMER GETS IT AGAIN---AND PUT OUT NEW EQUIPMENT AT A CUT-THROAT LOW PRICE. THEY HAVE SUCH A TREMENDOUS CASH FLOW AND SO MANY DEPARTMENTS AND EMPLOYEES THAT IT IS RELATIVELY EASY TO BURY COSTS. IT IS ONLY BY ALLOWING FOR POTENTIAL REVIEW THAT THESE INEQUITIES CAN BE UNCOVERED. AN OFFICE OF CONSUMER ADVOCACY WITH A SMALL STAFF WOULD NOT UNDULY SNAG EVERY EQUIPMENT TARIFF FILING FOR EVERY LITTLE NEW ITEM---BUT THE LATITUDE TO REVIEW A CERTAIN PROJECT IS CRITICAL.

DR. SCHWARTZ PUTS IT BEST, AND I WILL QUOTE: "JUST BECAUSE EQUIPMENT MAY BE SUBJECT TO COMPETITION, (AND ACCORDING TO THE BDR, THE PHONE COMPANY INVOLVED WILL SWEAR TO IT), DOES NOT MEAN THERE IS COMPETITION."

(PLEASE REMEMBER THAT AMONG HIS OTHER QUALIFICATIONS, HE IS A FORMER SENIOR ECONOMIST WITH THE FEDERAL COMMUNICATIONS COMMISSION).

DR. SCHWARTZ CONTINUES: " WESTERN ELECTRIC PROVIDES 99% OF PHONE EQUIPMENT. ALTHOUGH WESTERN ELECTRIC PRICES MAY BE SUBJECT TO COMPETITION FROM, SAY, MOTOROLA, THEY IN FACT MAY NOT BE IN COMPETITION AT ALL DUE TO THE AFFILIATION PROBLEM WITH PHONE UTILITIES. THE FEDERAL COMMUNICATIONS COMMISSION REDUCED AN ALLOWANCE IN THE RATE BASE OF A.T.&T. LONGLINES BECAUSE WESTERN ELECTRIC HAD EARNED AN EXCESSIVE RATE OF RETURN IN THEIR SALES TO A.T. & T. LONGLINES. EVERY OPERATING COMPANY PAYS A LICENSING FEE TO WESTERN ELECTRIC AND THE CONSUMER PAYS FOR THE RESEARCH AND DEVELOPMENT INVOLVED.

"THEY CAN USE CONSUMER-PAID R&D TO MARKET EQUIPMENT COMPETITIVELY FOR PREDATORY REASONS AND THEN CHARGE WHAT THE TRAFFIC WILL BEAR AFTER ALL COMPETITORS HAVE BEEN FORCED OUT OF THE MARKETPLACE. FOR YEARS, A.T. & T. EARNED A NEGATIVE RETURN ON LONG LINES SERVICE TO KEEP SUCH COMPETITION AS WESTERN UNION OUT OF THE LONG DISTANCE BUSINESS. THEY WERE ABLE TO DO SO BECAUSE THEY EARNED SUCH A HEAVY AMOUNT OF MONEY ON LOCAL EXCHANGES AND LONG DISTANCE. THERE IS A HISTORY OF TAKING MONEY FROM THE MONOPOLY SERVICES WHICH EARN MORE THAN A FAIR RATE OF RETURN, AND KEEPING THE COST OF COMPETITION-AFFECTED AREAS DOWN. BECAUSE WESTERN ELECTRIC SUPPLIES SO MUCH, SOMETIMES COMPETITORS DON'T EVEN APPEAR TO BID. IF YOU CANNOT EXAMINE THE BOOKS, YOU HAVE NO WAY OF DETERMINING LEGITIMATE COSTS."

UNDER THE LANGUAGE OF THE BDR, IF A TELEPHONE UTILITY SWEARS THAT AN ITEM IS SUBJECT TO COMPETITION, THEN THE CONSUMER ADVOCATE WOULD BE BARRED FROM REVIEW. AS MR. ORLAND OUTLAND TOLD YOU ON WEDNESDAY, IF SIMPLY SWEARING TO TELL THE TRUTH WERE THE ONLY TEST OF FACT IN OUR JUDICIAL SYSTEM, THEN OUR PRISONS WOULD BE EMPTY.

THE INITIATIVE PETITION INCLUDED TELEPHONE UTILITIES WITHOUT EXEMPTION. THE FULL ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS AND THE SENATE COMMITTEE ON COMMERCE AND LABOR VOTED TO FOLLOW THAT INITIATIVE SIGNED BY MORE THAN 38,000 REGISTERED VOTERS AS CLOSELY AS POSSIBLE AND TO STRENGTHEN IT WHERE NECESSARY. SECTION 10 IS A SUBSTANTIAL WEAKENING, AND SHOULD BE COMPLETELY DELETED.

OUR FINAL RECOMMENDATION IS WITH RESPECT TO BUDGET. WE HAVE REVIEWED THE BUDGET SUBMITTED TO BILL BIBLE FROM MARLENE LOCKARD. THAT BUDGET IS MUCH MORE COMPLETE THAN THE PRELIMINARY BUDGETS WE SUBMITTED TO THIS COMMITTEE ON JANUARY 28. FOR INSTANCE, WE DID NOT INCLUDE FRINGE BENEFITS IN OUR PROJECTIONS. WE DO THINK SOME ADDITIONAL MONIES COULD BE ADDED IN TWO AREAS. FIRST, THE OUT-OF-STATE TRAVEL BUDGET IS SO LOW AS TO BE NON-EXISTANT. THERE MAY BE CASES WHERE A TRIP OUT OF STATE FOR ONE STAFFER CAN BE FAR LESS EXPENSIVE THAN BRINGING A CONSULTANT TO NEVADA ON A SUBSTANTIAL DAILY RATE. SECOND, WE THINK THE CONSULTANTS BUDGET COULD BE LARGER, GIVEN THE SIZE OF THE OFFICE'S STAFF. AS YOU WILL RECALL, OUR BUDGET HAD A \$150,000 CONSULTANT BUDGET IN IT, BUT IT ALSO HAD A STAFF OF SEVEN PEOPLE, AND THIS COMMITTEE IS GOING WITH SIX.

WE WOULD ALSO SUGGEST THAT THE TITLE OF THE CONSULTANTS BUDGET BE EXPANDED TO THE FOLLOWING: "EXPERT ^{witness} FEES & COSTS, AND CONSULTING OR OTHER PROFESSIONAL SERVICES." THIS IS SIMPLY REALISTIC, AS THERE WILL BE SOME FUNDS EXPENDED WITH INDIVIDUALS WHO MAY NEVER BE CALLED UPON TO BE EXPERT WITNESSES.

WITH RESPECT TO TOTAL BUDGET, WE AGREE THAT NO LESS THAN 3/4 MILL SHOULD BE APPROPRIATED THE FIRST YEAR TO GET THE OFFICE STARTED, AND NO LESS THAN 1/2 MILL IN THE SECOND YEAR. WE ALSO SUPPORT THE POLICY BEING ADOPTED OF ASSIGNING ANY SURPLUS TO THE CONTRACTUAL SERVICES AREA. WE ALSO SUPPORT ADOPTION OF A POLICY GUIDELINE IN THE OFFICIAL MINUTES OF THIS SUBCOMMITTEE THAT IT IS THE DESIRE OF THIS SUBCOMMITTEE AND OF THE GOVERNMENT AFFAIRS COMMITTEE AS A WHOLE TO CARRY ANY SURPLUS FORWARD TO MEET ANY FISCAL 82-83 SHORTFALL. THIS SIGNAL OF INTENT WILL SERVE TO GUIDE THE INTERIM FINANCE COMMITTEE IN ITS ACTIONS.

THANK YOU VERY MUCH ONCE AGAIN FOR THE PRIVILEGE OF BEING ALLOWED TO SPEAK. THIS CONCLUDES MY TESTIMONY.