

MEMBERS PRESENT: Mr. Craddock
Mr. Redelsperger

MEMBERS ABSENT: None

GUESTS: Heber Hardy, Public Service Commission
Joe Cathcart, City of North Las Vegas
George Peek, Water Company
G. P. Etcheverry, Nevada League of Cities

Mr. Craddock called the meeting to order at 9:07 A.M. This was a subcommittee meeting on AB 38 which provides for jurisdiction of public service commission over small water companies.

Mr. Craddock stated that the question now is whether or not we want to lower the size of the companies of the Public Service Commission.

Mr. Redelsperger said we can get right into the lines of having the associations using language following the jurisdictions of the county commissions that they are not already under the jurisdiction of the Public Works Commission. Then we can go from there to the small water companies under \$2500.00 or \$5000.00 a year.

Mr. Craddock said the committee would like to involve someone from the county commission, city council or whatever to some extent. One of the things we want to do is try to insure that the construction aspects of the company is such that it can service the customers over an extended period of time.

Mr. Craddock asked Mr. Herber Hardy, from the Public Service Commission, if he would like to start out with some recommendations.

Mr. Hardy asked if Mr. Craddock was suggesting that the subcommittee look at 704.681 to place nonprofit associations under the supervision or the jurisdiction of the Board of County Commissioners. If you are going to do that, all you have to do is remove under Section I, right after political subdivision, "and services furnished to its members by a nonprofit association in which the rights and interests of all its members are equal." If you remove that portion, I think that places them under the jurisdiction of the county. If that is what the subcommittee is looking at. However, I think you would have to look back at another area back in Chapter 675. Nonprofit corporations and associations are only under the limited jurisdiction of the Public Service Commission right now. We do have to issue a certificate to protect the integrity of an area so we don't have two of them operating in the same area.

Mr. Redelsperger asked Mr. Hardy, when you say they come under the limited jurisdiction of the Public Service Commission what area is that?

Mr. Hardy answered if you look at 704.675 it lists specific sections which made it applicable to the Public Service Commission. Under NRS 703.191, it's the duty to furnish an annual report to the commission. 704.033 is the mill assessment. They have to pay a \$200.00 filing fee to process an application for certificate. We in affect do nothing for them after they have their certificate. What you should do if you are looking toward the county having open jurisdiction of nonprofit associations is simply take them out of our statutes entirely and the Board of County Commissioners may regulate by ordinance any company not under the jurisdiction of the Public Service Commission.

Mr. Redelsperger said then from there we better get into the discussion or breakdown of the cooperative association as far as the voting rights are concerned.

Mr. Hardy said that he had made his recommendation the other day. The problem that we have right now is rates for water service do not effect somebody who merely owns a lot and doesn't have any thing on it. It is really an unreasonable situation to me to allow a person who is not going to be affected by a water rate to participate in voting what the rates are going to be.

Mr. Craddock said to get right to the problem that you have in Silver Springs, the expansion that they have in the water system there, what does the Public Service Commission perceive as an oversized tank.

Mr. Hardy answered that we haven't made that investigation but that is what has been represented to us. I think it is oversized to serve the existing customers.

Mr. George Peek said that he agreed to that and also in getting into the area of one customer, one vote. Water companies are a bad financial risk, unless someone is behind it and has the ability to at least have a pretty good say in setting the rates, you are going to harm the water companies. If you go in there and say the county commission has the right to do something with them, I think they can make a more liberal decision than the PSC can. The only change that I feel I can live with is for the county commissioners to take a look at them.

Mr. Hardy said the only problem you run into is that some of the counties don't want and even when they have the authority they don't do it. Also, several of them come to us to ask for assistance and we have been willing to give it in the past to help them establish procedures and we are still willing to do that. Counties have not been terribly anxious to take on this responsibility. It says "may regulate by ordinance." Maybe you better say "shall."

Mr. Craddock commented, George, this relates to your problem and if you would work with the county commission maybe we would consider mandating the thing.

Mr. Peek said he could live with that. If the county commissioners can come to the PSC for assistance, maybe they will recognize that once it is put into print.

Mr. Redelsperger said to Mr. Hardy you have certain qualifications from the engineering water companies. Do they go along with the health divisions guidelines.

Mr. Hardy said we rely upon the health division as to the quality of water and quantity of water to a large degree for a new system going in. Our engineer takes a look whether or not it is engineered properly as to the size of the mains or the sufficient storage, sufficient number of wells, that sort of thing. It is kind of a joint effort.

Mr. Redelsperger asked at what point would Mr. Hardy's office come in.

Mr. Hardy said under 704.679, any application to any city or town for a new subdivision or land development projects which require water supply or connection with a sewer system must file an application with the Public Service Commission and technically and by this law no county or city is to issue a final approval on zone applications until we have approved it in writing. Since two years ago, we have had a few more applications than we used to. We went for years and years without any applications. Yet these things are going in on a regular basis. This is another area where the counties and cities have been ignoring the law. Even though the county may regulate the ordinance, those that don't fall in the jurisdiction of county or certificated water companies must submit their applications to PSC for approval on continuity and adequacy of the system.

Mr. Peek said that was pretty heavy to start with from a realistic standpoint from the health department and the division of water resources in a new subdivision.

Mr. Redelsperger said we have a Catch 22 situation here where you have a water company that may have 60 or 70 eventual owners or people that actually live on the property but it is not a planned unit development where people are going to build in a 10 year period to fill up those lots and in the first two years you might not have 25 people there but a few people want to build a home and they want to get VA or FHA financing and because they are not certified they can't get that financing, so they can't build their homes.

Mr. Peek said that still can happen because for all intensive purposes the Division of Water Resources, when it issues a permit, says that you have a right to pull that out of the ground. It doesn't say that the resource is there.

Mr. Redelsperger said I would like to see 25 or under really come under the jurisdiction as far as rates are concerned. They could certify it in a way where they could get financing.

Mr. Hardy said that one of the suggestions he made the other day was that any subdivision or development which plans to serve 25 more customers should be jurisdictional from day one. As far as rates, as far as everything is concerned we reduced that to \$5000.00 and, by the way, that's 25 customers and \$5000.00 and it requires both in order to be jurisdictional. \$5000.00 I think equates to about \$15.00 a month for 25 customers. Maybe the dollar limit ought to be dropped entirely. We don't know when they reach that dollar limit and then they sometimes drag their feet awhile before they come in for an application and when they do sometimes they have made an increase in rates in between the time they actually became jurisdictional under this law and the time they get a certificate. Then we have to hassel as to whether they have the right to raise the rates before they get an application. That would remove that problem if you would simply leave it at 25 or more customers with the additional provision that any subdivision or development which in its plan calls for serving 25 or more customers is jurisdictional for all purposes from the day one.

Mr. Peek said it probably would work and now we are in to more of a public utility rather than a co-op and it probably would work from what I hear.

Mr. Hardy said it was inevitable that they would get 25 customers or more. If you get 25 customers or more you are going to have at least a \$15.00 rate at some time. And that puts you at \$5000.00.

Mr. Redelsperger said my only problem with that is just getting away with these simplified procedures that you come up with to where they don't have too much regulatory reason to get up to that 25.

Mr. Hardy said that if you go on customers alone maybe a higher number ought to be considered.

Mr. Redelsperger said you are eventually to go over.

Mr. Hardy said when I think of the cooperative mode and the general order we are working under now, I don't think it is going to be that much of a hassel. What happens is that they raise their own rates and that makes the people madder than if they did it with our approval.

Mr. Redelsperger said with the problem of the pump going out needs to be addressed, they need to put a new pump in there.

Mr. Hardy said we do have a procedure where we do allow for pumping costs for instance. All they have to do is make a finding that the rates have increased and we make an administrative decision on power costs. As far as a single pump going out or a problem like that, I don't know if we have a mechanism to adjust to a single problem like that. I think some areas we have to work at, and I don't know if legislation would be required or not. It is generally paid for by the developer or by whoever puts the system in and they include it in the price of the lots. They also then have no fund accumulating to take care of repairs and maintenance and improvement of the system. I think that it may be best to allow depreciation on a contributive plan. The problem is most water rates are much too low to start with. They keep rates low to sell lots.

Mr. Peek said what he is talking about has merit because he is aware that most of the water companies in our financial structure are really hurting because there is so much contributed capital. You don't have that over-and-above-expenses and when some little thing comes in or inflation occurs, before you can get a rate relief, you are under the eight ball.

Mr. Redelsperger said that what he is trying to find out is if they do come under the jurisdiction at the very beginning of over 25, under the simplified procedures, is it going to be too much of a burden on the small developer to get off the ground and moving.

Mr. Hardy said they ought to have a true cost of providing water service from day one so the people know what it is going to cost them to get that water. People have the idea that water is free.

Mr. Craddock asked what about the 318 districts. Have they worked better in the last couple of years.

Mr. Hardy said they haven't been aware of any problems. He said it isn't a cooperative, it is a governmental entity.

Mr. Craddock asked if the 318 district elects their own board.

Mr. Hardy answered yes.

Mr. Joe Cathcart, representing City of North Las Vegas, was going over AB 38. He said he was looking at Section I, Line 2, "public utility does not include," and then I turned over to the second page, Line 6. It kind of gives you a double negative that says "corporations or other persons not normally engaged," now we are normally engaged and I moved on down to Line 10 where we are engaged, in other words, what I am saying, is that it puts us in, takes us out,

1392

puts us back in and so forth. We are all right there, it is just very difficult wording until I moved down to Line 16, Section 2, Line 17, "except as provided in Subsection 2," if I read that right and move down to Subsection 2, Line 27, it says "every cooperative association or nonprofit corporation or association and every other supplier of water or sewerage is subject to the unlimited jurisdiction, control and regulation of the commission". It really bothers us the way that turns out. We think we know what the intent is but the language is rather difficult. A suggestion might be on Subsection 2 if it started out except as provided in 703.030, Subsection 4 or something to that effect. I still think Subsection 4 up above in Section 1 is difficult language. It finally comes out and says it but it is very hard the way it does. I don't know if that is the answer. It might clarify that last Subsection 2 a little bit, because that Subsection 2 really undoes everything that has been done. Our only problem with it is the language.

There being no further business to come before the subcommittee, the meeting adjourned at 9:50 A.M.

Respectfully submitted,



Robbie Alldis
Assembly Attache

