

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON COMMERCE AND LABOR

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
JANUARY 28, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at 1:40 p.m. on Wednesday, January 28, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Thomas R. C. Wilson, Chairman
Senator Richard Blakemore, Vice Chairman
Senator Melvin D. Close
Senator Don Ashworth
Senator William Hernstadt
Senator William Raggio
Senator Clifford McCorkle

GUEST LEGISLATORS PRESENT:

Senator Virgil Getto
Assemblyman Peggy Westall

STAFF MEMBERS PRESENT:

Donald A. Rhodes, Chief Deputy Research Director
Samuel H. Hohmann, Senior Research Analyst
Betty Steele, Committee Secretary

Chairman Wilson opened the meeting by stating the Assembly has jurisdiction of three proposals to reorganize the public service commission; specifically with respect to the PSC staff and the office of the consumer advocate. The first proposal is the Initiative Petition, which has been introduced in the Assembly; the second proposal, BDR 58-383*, is sponsored by the administration and has been introduced in the Assembly; the third proposal, BDR 58-121*, is the product of the Legislative Commission's Interim Subcommittee (ACR 22) on the public service commission, and has not yet been introduced. Chairman Wilson indicated the Assembly will have primary jurisdiction over the reorganization bills.

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**AB 85

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However, Chairman Wilson stated, in the interest of time he thought it would make sense if this committee tracked along behind the Assembly and had, for convenience, on the same day, a hearing for orientation and explanation of the three proposals. Although they are not yet in bill form, Chairman Wilson felt that if any of them have merit, the committee needs to be informed about them, to weigh them and to consider them.

The Chairman indicated the format will be as announced on the Agenda. The spokesmen for each of the three proposals will be asked to explain that proposal. There will be no advocacy today nor is there to be criticism of any of the proposals from another source. He said there will be subsequent hearings for those actions at which time they can get into matters of argument, expert testimony and matters of judgment.

Chairman Wilson continued that the purpose of the hearing today is solely to explain the proposals and even though a proposal may be heard subsequently, no one is to take a rebuttal position and talk about any other proposal other than the one they favor and are here to explain and orient the committee on.

The Chairman stated that since Senator Getto has a commitment in Government Affairs also this afternoon, and he chaired the Interim Subcommittee, Senator Getto and Assemblyman Westall will be taken out of order to explain and present the substance of BDR 58-121 (AB 85)

Senator Getto addressed the committee and stated he would like to briefly cover the committee's accomplishment and some of the information brought to the hearings. He said they went over the same material in the Assembly Government Affairs Committee in the morning. The subcommittee held five meetings and four of the five were public hearings. Senator Getto said there are five legislators present in the meeting here today who served on that subcommittee.

Senator Getto said the subcommittee was disappointed at times because there was not as much public input as they should have received. However, the Reno meeting came at the same time as a request for a large rate increase for the utilities, and the public hearing was quite extensive as a result. In fact there was not room enough for all who came, to complain and voice their opinions. It was truly a public hearing.

The areas the committee concerned itself with were: 1) the public service commission itself, and 2) the bidding process

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for the utility companies. Senator Getto stated this bill, BDR 58-121^{*} was a compromise on the reorganization proposal. The last hearing held was supposed to be a workshop but turned into a public hearing. There were two very concerned public groups (about the PSC). One group was the Concerned Citizens and the other the Coalition for Affordable Energy. Senator Getto commented it was his impression at that meeting, and also the consensus of the committee members, that an effective compromise had been reached. They thought they had a confirmation from both groups to agree on this particular bill. However, in just a few days the Initiative Petition was brought out by one of the groups. Later, the governor felt the interim subcommittee's bill did not go far enough so his office brought out another bill.

Senator Getto explained the thrust of BDR 58-121^{*} was to take the staff of the public service commission and place it in a separate entity called the Customer's Representative Division, leaving a skeleton staff with the commissioners. This new division would be empowered to do research, regulation, and also to have the power of appeal; which the present commission does not have, and the industry does. Setting up the mechanism of appointing a director was an important issue in the committee and one where they compromised. The director would serve at the will of the governor plus the sanction of the legislature, which really places the director on a hot seat. Senator Getto said he did not personally support this plan but, as a compromise, was willing to go in that direction.

Senator Wilson interposed that the appointment of a director of the department would be confirmed by the legislature or by the legislative commission, in the event the legislature was not in session.

Senator Getto continued that the weakness of the bill was in the budget process. He felt it did not really provide for a budgetary process. Another aspect strongly mentioned was that there be no connection between the PSC and this new department. This was strongly emphasized by the public; there was a complete lack of confidence in any tie at all between the commissioners and the new department. At the last hearing, discussion covered both avenues; including placing a consumer advocate under the attorney general. Senator Getto commented he felt that would not be economically wise.

Senator Wilson remarked they were not going to hear comments about any other proposals at this time; it would be done in a separate hearing. Only an explanation by each proponent as

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to the affirmative points of each of the three proposals is required at this hearing stated Senator Wilson. He asked if the new division would have legal counsel.

Senator Getto answered they would have their own legal counsel as deputy attorney general in both areas. There is some fiscal impact because the commissioners would have to be left some legal and supportive staff. There are also the positions of director and assistant to the director. The new division should contract out for areas of top expertise as the salary schedule does not allow for hiring permanently in this area.

Assemblyman Westall commented the ACR subcommittee had several items they wished to see in the bill for a consumer's office and, as Senator Getto had already enumerated them, she would not go into them. Assemblyman Westall stated the governor's bill incorporated all of these items and some that had not been considered in the hearings. She stated, with the approval of most of the committee, they are supporting the governor's bill because they feel it does cover all and addresses some of the problems the committee had not considered. She indicated if it was the feeling of the Senate committee to have all of the bill, they could introduce it. Assemblyman Westall stated she felt this was a big, emotional issue and the less the waters are muddied, the better.

Senator Wilson remarked the governor's office is going to present and explain the governor's bill. He said his idea was there might be good ideas in the interim subcommittee's product, as well as in the governor's bill and the Initiative Petition. Senator Wilson and the committee are not pre-judging any of them; they just want to be able to see what is contained in each one. In response to his question if any elements of the interim subcommittee's proposal differed from the governor's, Assemblyman Westall indicated there were.

Senator Wilson explained the present purpose is to take an explanation of each bill by those favoring it, and a member of the committee staff will present a contrast of the various elements of each. He told Assemblyman Westall all she needed to answer was the essential elements of BDR 58-121*, as she saw them.

Assemblyman Westall stated BDR 58-121* was to take most of the powers, privileges, and many of the duties, away from the public service commission and put them into a new agency, as a total separation, with no connection whatsoever between them. They are each to be funded out of the mill tax. (See Exhibit C.)

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Senator Wilson commented that both agencies are mill tax funded; the commission wholly and the staff up to 3/4. To this, Assemblyman Westall agreed, and that was without raising the mill tax. She stated the committee wanted both agencies to have adequate staff to perform the function designated by the committee. The public service commission was to act as a judge; the consumer agency would act only on behalf of the consumer, with the ability to investigate books (the out-of-state books) and go to court. She said it was at her insistence that the head of the agency should serve at the pleasure of the governor. She said people have not been happy with the PSC commissioners who serve a set term because it was not easy to fire them. For this reason, she insisted the director should serve at the pleasure of the governor.

In response to Senator Wilson's questions, Assemblyman Westall stated the PSC commissioners would still be appointed to a set term and would share some of the privileges with the consumer agency, such as investigative privileges.

Senator Wilson then asked if the committee had any questions on BDR 58-121*. Senator Getto indicated there was one item they did not mention which was to remove some of the highway inspectors and place them over into the Department of Motor Vehicles.

Senator Wilson inquired whether the subcommittee's report goes into details of the skeleton staff left with the PSC, and what staff organizations move over. He also asked if there was any proposed budget, PSC operating budget, to remain as opposed to the new department's budget, after the change. Senator Getto replied it was not in the bill but would be determined before the Finance Committee by the legislature.

Assemblyman Westall added the budget was one of the items the committee did not go far enough on; they just did not want it to cost too much more money and feel, in its present form, that it does not.

Senator Wilson remarked the committee could select whatever concept is ultimately selected by the two houses, rough out a budget and take a look at it; and look at the difference in the fiscal impact. He asked if there were any further questions and then proceeded to the Initiative Petition.

Mr. Randolph Townsend and Mr. Andrew Barbano, appeared as proponents of the Initiative Petition, representing the Coalition for Affordable Energy.

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Mr. Townsend read from his handout (see Exhibit D) regarding the proposed consumer advocacy office.

Chairman Wilson directed that the written statement and the cover letter be made a part of the record together with the exhibits that are attached. He asked Mr. Townsend if there was a proposed consumer advocate budget.

Mr. Townsend answered that three budgets had been provided based on examination of nationwide offices and provided three different alternatives, economically. He added that all three were from the attorney general's office.

Chairman Wilson asked if the Initiative Petition made any recommendation as to composition of staff or qualifications; or was that an open question so far as their position was concerned. Mr. Townsend stated the attorney general would make those decisions.

Chairman Wilson then inquired if the petition provides for a director or the administrative head being a deputy attorney general and in effect an administrator/director. Mr. Townsend replied, based on the fact the budget and staff are limited, they would like to see the director actively involved and not just an administrative head.

In reply to Senator Wilson's question if there was more than a limited budget or limited staff, Mr. Townsend answered then there would be room in the budget for more than just an administrative person, if more funds were available.

Senator Hernstadt asked, on the question of technical information and "know-how", assuming a staff of 4 to 7 members and a real "go-getter" as agency head, what access would the agency have to the internal documents of the utility companies and the internal technical staff of the public service commission. Would the examining person have subpoena powers to go into utilities and look at computer tapes and financial records.

Mr. Townsend said, in terms of the first question, the agency would be totally independent of the PSC. They would provide their own input, as per the three comparisons (see Exhibit D). Contract services would be done by the consulting firms; technical examination would be necessary in rate cases and much of the total budget would go for these services. The agency would have subpoena powers.

Mr. Barbano interposed that subpoena powers are not explicitly stated in the Initiative Petition but it is their understanding subpoena powers exist under the office of attorney general.

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Mr. Barbano continued that the commission had broad mandated law to go into the records of public utilities and he would assume the utilities would be cooperative in making their records available to the consumer advocate agency. If they were not, he noted the records could be obtained from the commission; so the subpoena power of the attorney general's office would probably rarely be used.

Senator Wilson commented he thought to the contrary to the extent the commission has the right to investigate, to audit, to examine the books; the staff would have to have the same rights. Whether the consumer advocate's staff is independent or housed in the attorney general's office they would have to have the same powers as the public service commission or they would be meaningless.

In reply to Senator Hernstadt's question regarding the power to examine the engineering studies done by the PSC staff, Mr. Barbano replied they were public records and could be examined by anyone. Senator Hernstadt explained he meant their internal calculations, not their concluding reports; they would have to get down to the base.

Mr. Barbano agreed and stated the Initiative Petition states the office of consumer advocate would be empowered to intervene in all proceedings which may change rates. From that he would assume they would have pretty free rein to examine just about any records they felt pertinent to the proceeding.

Senator Wilson questioned whether the consumer advocate would be a party automatically statutorily under the Initiative, or would not be made a party by statute.

Mr. Barbano answered the consumer advocate's office has to be able to review every rate case that comes along; but they are not mandated to intervene in every rate case because some are too small to merit intervention.

Senator Hernstadt asked who would make the determination to intervene; would the consumer advocate's office pick and choose which cases they would take.

Mr. Barbano affirmed that they would pick and choose their shots to be most effective. If they felt a rate request by the public utility was justified, they would not intervene. He continued this is how most of the offices are structured and thus can be small and economical to run. The Ohio office is the largest with a staff of 50 because they intervene regionally for power generated in other states.

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Senator Wilson interjected they ought to be served as a matter of statutory requirement, on any application. Otherwise they will have to decide where to exercise their discretion and spend their resources.

Senator Hernstadt commented that was not an answer to his question. He wanted to know if the contract experts would have broad access, prior to the hearing, to all the records.

Mr. Barbano said it was no problem and could be specifically mandated in the bill although it was not presently addressed. He stated the whole area of opening up public utilities had been one of concealment of data. He believes the PSC has the power and assumes the attorney general would have the power of subpoena; but public utilities are not a matter of public record. He said they did not feel that should be part of the mandate of this bill.

Senator Don Ashworth indicated that was not the problem Senator Hernstadt was addressing. He is saying the data in use has already been produced by their (the utilities') side and how would the consumer advocate's office substantiate that data.

Mr. Barbano replied a good consumer advocate knows how to evaluate a rate increase application. He knows what to look for and which areas may have flaws, overcharges or holes; and consequently knows what subsequent data to pursue.

Senator Wilson stated that surely Mr. Barbano would agree that whatever the jurisdiction of the public service commission is today, in putting within the utility an off-site auditor for six or eight months to examine books and run an audit (a verification process), or to send in a rate and tariff engineer to examine tariffs, or other experts of other kinds, he would assume that Mr. Barbano would agree that kind of power would have to be implicit in any kind of office of consumer advocacy. It would have to be implicit and vested in any separation of staff (whether housed in the office of consumer advocate in the attorney general's office or elsewhere). Those are the powers in, and necessary to, utility regulation. He asked if that was the accurate position of the Coalition for Affordable Energy.

Mr. Barbano was equivocal. He answered that approach addresses the area of utility regulation and/or police power which should properly be vested in a strong public utility commission. An office of consumer advocate is not a regulator.

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Senator Wilson commented that neither are litigants in a court of law; yet the rules provide for a discovery process utilizing the subpoena power, taking depositions, looking at the books, or conducting an audit--doing all kinds of things which Mr. Barbano has characterized as police power. Senator Wilson stated it is not really regulatory, it is discovery. What he was asking was whether it was essential to the function of a consumer advocate or staff, just as it is for the public service commission itself, to be able to compel access to information for disclosure. He indicated this was not a police power but disclosure, discovery, revealment, examination, and inspection, upon which an evaluation can be based or a judgment reached.

Mr. Townsend and Mr. Barbano agreed with Senator Wilson's statement as well as his comment that this was jurisdictional with respect to the powers conferred by statute and must be dealt with.

Mr. Barbano commented the point was well taken and stated they do address various problems of discovery, with a side remark to Senator Hernstadt that it was not a specific one. He said one of the considerations they constantly "plugged into" in this initiative, was mandatory beneficial stock ownership disclosure of utilities. There have been rumors and suspicions regarding clandestine ownerships in utilities and other companies, subcontractors, etc., with the public utilities having a vested interest in natural gas suppliers, some domestic and some foreign. Mr. Barbano indicated that data is hard to come by, and they did not put it in the Initiative Petition because it would have made the issue "too hot". However, he said, other legislation needs to be introduced to address some of these disclosure areas.

Senator Wilson agreed with Mr. Barbano's remarks and stated the commission does have the power to get these facts, good ones, on interlocking corporations and subsidiary corporations. He gave the example of a coal company and assumed the commission has the power to get that information, to examine the contracts, to determine whether they are truly at arms' length, or if they are really at the cost of the consumer, for the benefit of the stockholders. Mr. Barbano agreed that was the essence of good utility regulation.

Senator Wilson assumed the same kind of power has to be vested in the office of consumer advocate and in staff, if staff is given autonomy, whether under the Coalition's proposal or the governor's. He asked if they agreed with that premise, and Mr. Townsend affirmed their agreement. Mr. Barbano said they may have more to add to that when their economists and rate experts come before the committee in two weeks.

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Senator Wilson asked if the Coalition agreed with the proposal, as simplistically put, and they indicated they did.

Senator McCorkle indicated he did not think the public service commission had the power now to determine who the stockholders are. Senator Wilson disagreed, and said he thought they did.

Mr. Heber Hardy, chairman, public service commission, concurred with Senator Wilson. He stated the commission did have the power but not as to disclosure of individual stockholders.

Senator Wilson asked Mr. Hardy if the commission had the power to audit and determine who the stockholders were and to see the stockholder list.

Mr. Hardy replied the stockholder list was provided, only if the stockholder owned a certain percentage of stock, and was public information through the Securities Exchange Commission. But, in answer to Senator Wilson's question, he did not think the commission had the power to examine the stockholder list of the utility corporations.

Senator Hernstadt commented most of the public utilities in Nevada are big, publicly-owned companies, with annual meetings. During the annual meeting, it is possible to go through the book and see who the stockholders are. He asked if the Coalition had any kind of research study on the effectiveness of this kind of procedure, as opposed to other types of regulation.

Mr. Townsend stated it was important not to confuse any kind of rollback with the rollback that would normally happen with just the public service commission, as it was easy to "pump up" statistics. He said Missouri has a twelve-member consumer advocate panel, at a cost of \$300 thousand per year. In 1979 they turned back \$6.2 million beyond what their PSC requested to be turned back.

Senator Wilson asked Mr. Townsend if they had made a study of all states having a consumer advocate's office and Mr. Barbano replied they would present all 50 states, in addition to Guam, Puerto Rico, etc. Mr. Townsend added that, in subsequent hearings, they would give a complete balance on that.

Senator McCorkle noted there was no mention in the Initiative proposal of the role of the agency representing the consumer in a question of improperly delivered services, i.e. a water company when the water quality is poor. He asked if that was left out intentionally or should it have been part of the proposal.

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Mr. Barbano quoted the empowering phrase from the bill: "The consumer advocate's office may intervene in any proceeding which may change rates." He said this is as broad as needed to be in empowering this entity to intervene just about anywhere because there is nothing a public utility does which does not affect rates.

Senator Wilson asked what happens when the utility fails to perform as expected.

Mr. Barbano referred to the Lear case where meter validity was concerned and said he would defer to the attorney general's office for an opinion on that. He stated complaint jurisdiction properly falls within the commission's office of consumer affairs, which the Coalition feels does not work properly.

Senator Wilson quoted from Section 1: "Review all applications filed, move to intervene..." which presupposes an existing application or matter pending before the commission; "where warranted, commence or intervene in the action in a court of competent jurisdiction to obtain judicial review. Senator Wilson commented that is after the matter is heard before the commission, in which the advocate has intervened and taken an appeal as an interested party. He said there is no complaint jurisdiction under that situation.

Mr. Barbano agreed with Senator Wilson and stated that complaint jurisdiction would be when someone with a gripe calls the office to have his gripe investigated. He remarked that would definitely fall under the purview of the public service commission's office of consumer affairs.

Senator Don Ashworth wondered if there was still going to be a consumer division under the commission. Mr. Barbano replied there would be because the consumer advocate's office is charged strictly with intervention in rate issues, not handling customer complaints. The consumer advocate will be interested largely in the rate making process, intervening on behalf of the consumer when that process affects rates.

Senator McCorkle said his point was they were not going far enough; they are playing down the importance of a consumer complaint. He used the Virginia Foothills water situation as an example and indicated it was an outrageous situation which went on for 3, 4, and 5 years and is just now being handled by the property owner's association, who received poor response and lack of action from the PSC. He said he felt it was an oversight not to include a definite function to represent the people in a situation like this.

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Mr. Barbano pointed out that Section 5 states the consumer advocate shall 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 all other sections. He said this section seems to be rather broadly construed to cover such situations.

Senator Wilson indicated the reference should have been to subsections 3 and 4; subsection 2 is intervention, subsections 3 and 4 are the appeals section.

Mr. Townsend indicated the Initiative Petitions did not touch the structure of the PSC as it is now because they felt the commission was not receiving all considerations in the matter of utility rate increases or decreases. The Coalition feels the office which presently handles complaints for the PSC should accomplish what they were set up to do, as in the case of the water district problems, but they are not functioning properly. Mr. Townsend feels it is part of the executive role to determine why the consumer affairs office is not functioning properly.

Mr. Barbano added the water company involved is regulated by the PSC and he said they went after revocation or a change in the license of the water company. In a revocation proceeding like this, with the public interest involved, it would seem the consumer advocate office would be empowered to intervene.

Senator Wilson posed the situation of a utility who will not serve its customers or is supplying bad service, not satisfying the mandate of the certificate of public convenience and necessity and the public service commission does nothing. He said he thought the policy question Senator McCorkle was addressing is whether the office of consumer advocacy should be mandated or vested with the jurisdiction on its own motion to file a complaint. They would not wait to intervene in an applicant's application, but could file a complaint under the normal complaint proceeding available to a consumer to call that utility in for an accounting; to compel the public service commission to respond and act. If it does not respond thus and act, the advocate could then take an appeal to the district court. This is what perhaps ought to be part of the power of the office of consumer advocacy.

Mr. Barbano suggested Senator Wilson refer to section 3 because he felt the situation outlined was covered by that section where warranted because the division shall 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 act of the public service commission of Nevada.

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Senator Wilson indicated Mr. Barbano was missing the point of his statement. He said Mr. Barbano was referring to action after the fact. He is referring to getting a utility before the commission with early action before a hearing takes place which may prevent the hearing from having to take place. Senator Wilson said he is seeking a policy question so the committee can make the decisions on this issue as to whether the office of consumer advocacy ought to have complaint jurisdiction in the first instance, and not just be cast in the responsive or reactive role only, with respect to intervention. An advocate should by its very nature act as well as react.

Mr. Barbano agreed and stated it was his understanding this issue was part of their presentation. In response to Senator Wilson's query, Mr. Barbano indicated he understood that these changes would be in variance to the content of the petition, but would be an effective change in the spirit of the original purpose of the Initiative Petition.

Senator Wilson continued that the committee had an obligation to come up with the best possible legislation and asked if Mr. Barbano and Mr. Townsend understood the constitutional implications.

Mr. Townsend agreed and stated the constituents who backed the petition realize the intent was to get the best possible piece of legislation from the committee that is best going to represent them.

Senator Don Ashworth commented they had gone to some length before the subcommittee, to make them realize the petition had to be passed in the identical form in which it was presented. Now the Coalition was saying that, basically, what they want is to come up with the best result whether the Initiative Petition is passed as is or not.

Senator Wilson explained that this committee has an obligation to develop the best bill they can. Obviously they are going to vary freely and willfully from the governor's bill and by the same token they will vary willfully and freely from the petition if they feel there are necessary provisions to be added.

Mr. Townsend said he, and Mr. Barbano, and all the people involved, were interested in one thing only and that is whatever is the most effective measure for the rate payers. Mr. Barbano added these points are very valid and he was in agreement with them; if the desired provision was not included, the committee should write their own bill and put it in.

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Senator Hernstadt brought up the question of abuse of the position by the consumer advocate, in tying up rate increases in the court for awhile to make the advocate look better politically. In the meantime the utilities are not getting a fair rate of return and may have to cut their dividends which means the investors in that particular utility are not getting the rate of return the PSC says they are entitled to. He wanted to know how the Coalition would answer that situation.

Mr. Townsend replied the key is what the advocate's office does. If their design is just to tie things up all the time, then every one at this hearing is just wasting their time. He stated the important intent of this office is to present their perception of a case after the utilities have presented their case before the commission. In the case of a particular case being tied up in court, he could not speak to that because if the advocate felt it was justified then he would probably tie it up as long as he could.

Senator Hernstadt restated his question, asking if the shareholders of the utility would have a cause of action against the State of Nevada for abuse of process by tying up an application for 2 or 3 years when such action was not merited.

Mr. Townsend returned to Senator Hernstadt's original question whether someone could use the office of consumer advocacy as a political stepping stone by tying things up. He suggested that Mr. Hardy might be a better person to ask that question.

Senator McCorkle asked, along those same lines, if an appeal were found to be without merit, would it not be reasonable to put some sort of bonding requirement on the advocate to prevent misuse of the intervention process.

Senator Wilson commented that he might be mistaken but it was his understanding such is the purpose of a stay order as entered by the public service commission. He stated Mr. Hardy was nodding in agreement, so he must be on the right track. He said if the commission's order is not stayed then it would go into effect pending taking of an appeal; getting a stay order is not like enjoining somebody, and he would think the same rules would apply whether to an individual consumer or a customer. Senator Wilson suggested ending the Initiative Petition presentation on that note.

Chairman Wilson stated BDR 58-383, the governor's proposal, has been introduced as Assembly Bill No. 58, and would be explained by Mr. John Capone, employee relations officer from the governor's office and Mr. Norman Herring, state public defender.

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Chairman Wilson suggested that Mr. Capone outline the high points, structurally and jurisdictionally, of the governor's proposal and to respond to questions by the committee members as the best use of the allotted time.

Mr. Capone indicated he would prepare a formal, written synopsis of his comments and description of the proposal for the convenience of the committee members. (See Exhibit E.) He stated the committee had already been given two graphic charts for a visual perspective of the structure of the public service commission and the new utility customer representative agency under the governor's proposal. Mr. Capone said the PSC staff at the present time numbers 71 persons, with 2 deputy attorney generals assigned. The governor's proposal would add 7 new positions to be spread between the two entities--the PSC and the utility customer representative agency. In response to Senator Wilson's question, Mr. Capone said 3 or 4 of the new positions would be physically with the PSC and the remaining 2 or 3 (including the executive director of the new agency) would be in the public staff of the representative agency. He continued that the highlights so far have focused on rate increases and that aspect of regulation, but the governor's proposal goes beyond that to truly establish a representative voice for the utility-consuming public.

Chairman Wilson asked Mr. Capone to outline the salient elements of the proposal and to discuss briefly and definitively precisely what the governor's proposal would do.

Mr. Capone answered that the bill creates an autonomous representative agency which would act as, and intervene in behalf of, the utility customers and citizens of the State of Nevada. The agency would have the direct appeal and the authority to intervene which has been discussed in earlier testimony. He said in essence it would be the voice of the consuming public before the public service commission.

Chairman Wilson then asked about the jurisdictional terms. He wanted to know where the agency would be housed; whether it is in an existing department, is an independent department, or dependent upon some other department for administrative support.

Mr. Capone indicated it was envisioned as a totally autonomous, independent agency, physically separate and apart from the PSC; with an executive director who would be an appointee of and serve at the pleasure of the governor. He stated the mill tax would be the source of funding for the new agency and also for the remaining PSC staff. There would be a distribution of the mill tax proceeds provided for in the bill and the agency would have access

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to its proportion of the tax separately, would do its own book-keeping, would have its own accounting authority and would act autonomously of the public service commission in administrative matters pertaining to funding and staffing.

Chairman Wilson asked whether the governor's bill, by statute, makes the proposed consumer agency a party to any matter filed before the commission. When Mr. Capone affirmed that it did, Chairman Wilson commented that Mr. Capone had been talking in terms of the language of intervention, which is not the same thing.

Mr. Capone said it does talk in both those terms and does provide the statute and does provide for intervention. Senator Wilson remarked as a standing party they would not need to intervene, they would be served as a matter of course.

Mr. Herring stated the legislation would provide the agency would be a party served within a specified period of time after an application has been filed with the commission. They would be almost simultaneously served.

In response to Senator Wilson's question about the agency having complaint jurisdiction, Mr. Capone answered that it has a consumer services division which is solely responsible, for taking in the initial complaints and representing those complaints to the commission. Senator Wilson explained he was talking about complaint jurisdiction providing the public service commission rules of practice and procedure.

Mr. Herring commented the current complaint division would be transferred from the PSC to the new agency and would continue with its present duties of receiving complaints, reporting to the agency director the complaints received, and acting on the complaints as specified by the statutes. If no unofficial solution is reached concerning the complaint allegation, the agency director would have the authority to bring the complaint to the attention of the PSC by filing a complaint with the commission.

Senator McCorkle remarked that he did not see the current complaint division being given that responsibility on the chart Mr. Capone had presented. Mr. Herring answered that the consumer services division is included under the utility customer representation agency. The consumer services division is currently responsible for receiving consumer complaints, providing action upon them and, if necessary, filing a complaint with the PSC.

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Mr. Herring answered Senator Wilson's query about the agency right of appeal by stating the agency would have that right automatically. He said one of the most important aspects of their proposed legislation is the right to appeal, without any authority from the PSC.

Senator Hernstadt commented he was unclear about what staff would be left with the PSC, beside a couple of secretaries, to come to a decision if the technical "know-how", the auditors, engineers, actuaries, and accountants are all taken away and given to the new agency.

Mr. Capone directed Senator Hernstadt's attention to the chart and indicated that more than just a couple of secretaries were retained. He said it was still necessary for the commission to retain certain technical expertise to be able to review, offer an interpretation, or answer questions on the part of the commissioners. Mr. Herring added that, as in any quasi-judicial agency, the commission would still have the power during the course of a hearing or any matter presented to the commission, to require the parties to present additional information or evidence on a specific point.

Responding to Senator Hernstadt's question, Mr. Herring stated the bill spells out the fact the agency will have the power to examine the books of any utility company which is regulated by the PSC. That is an ongoing power. The PSC in turn has the subpoena power, which could in fact be used by those parties before the PSC.

Senator Don Ashworth stated that when they took testimony on this matter in the subcommittee, the whole idea was the one Senator Hernstadt was addressing--that the commission basically becomes more of a judicial body than a fact-finding body. They do not have parties going and finding information; instead they rely on the parties coming before them to bring that information.

Mr. Herring replied that most of those who practice in front of courts know that a judge has no reservations about asking them to present more information on a particular point and they all do it. Senator Wilson added they do if they want to win their case.

Senator Blakemore asked who holds the jurisdiction and answered his own question by saying the commission, obviously. Mr. Herring agreed, saying all the matters would continue to be filed with the secretary of the commission as indicated by statute; and they would still have the clerical personnel for purposes of maintaining the documentation on file with the commission.

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In response to Senator Blakemore's question about bringing an action to reduce or alter action after an application has been approved, Mr. Herring replied by asking Senator Blakemore if he referred to someone later on finding a rate was unjust, or the tariff assessed, or the services were poor. Receiving an affirmative answer, Mr. Herring stated that was the purpose of this independent agency. They would have the authority to investigate such complaints (i.e. "my water is bad"), determine that quality of the water is of concern to the PSC, determine the quality of services rendered to the consuming public, and to take the complaint to the PSC, on behalf of the customer, if the complaint is justified.

Mr. Hardy, of the public service commission, commented that most certificates do not have a time limit.

Mr. Herring continued that, first of all, the new agency would have access to technical documents used in preparation of presentations before the PSC, through the powers already in existence. The public service representative would be a party and would be served. Mr. Herring added this bill is also included in the executive budget, with funding for this bill a part of the executive budget package presently in the hands of the legislative money committees. He stated the department of transportation was also included by the bill in the utility customer representative area.

Chairman Wilson asked a policy question, after commenting that the new agency was totally autonomous. He wanted to know if the agency would be an independent satellite agency, attached to some other department or attached to the attorney general's office.

Mr. Herring replied that the governor's committee, in their initial study, viewed the possibilities of placing the agency under the attorney general, the department of commerce, or any place they wanted to. He said the committee consisted of himself, John Capone, Jim Wadhams, Michael Delatorre, Bruce Greenhalgh, Walt McKenzie, Myrna McDonald and Linda Ryan. He said they were a cabinet level committee, assigned by the governor, to study the proposals for reorganization of the PSC. He said in a sense the state public defender is a satellite of the governor's office. He is appointed for a term of years and submits his own budget. He is not supervised by any other personnel and is really independent.

Responding to Senator Wilson's question on whether the committee or the administration reached a judgment on alternative possibilities of siting the new agency, Mr. Herring answered "Not really."

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Mr. Herring continued their judgment was, after reviewing the systems in a number of other states, that the proposals in North Carolina, Delaware and Minnesota were relatively new and different and believed their plans provided for greater autonomy.

Chairman Wilson commented since the governor has the power of appointment and the director serves at the governor's pleasure, he did not think it could really be characterized as autonomous. He asked for a substantive judgment from Mr. Herring as to why they sited the agency in one place as opposed to another. Mr. Herring found that a tough question to answer. Senator Wilson then asked if Mr. Herring had a view or recommendation as to where the agency should be placed, the attorney general's office, or someplace else.

Mr. Herring said the executive branch has traditionally controlled the PSC and is most responsive to the utility rate payers. Senator Wilson commented the attorney general is part of the executive branch, constitutionally elected separately, as separate lines of jurisdiction, responsible independently to the electorate. Mr. Herring remarked that since all the members of the study group were from the governor's cabinet, perhaps they were unconsciously influenced by that fact.

Chairman Wilson said he drew the inference they did not have a substantive reason for not placing the agency in the attorney general's office or any place else. Mr. Herring said he might not be the best one to answer that. Mr. Capone said when the committee thrashed out the various options, they tried to look at the other service providers in the state, such as human resources, who have a broad base of responsibility to serve the public.

In answer to Senator Wilson's question as to the other options, Mr. Capone said to consider what the Coalition had proposed about the attorney general's office. Senator Wilson said if they considered some options and discarded others, the committee would like to hear what they were. Mr. Capone said the committee's feeling was it would be more appropriately placed under the governor's office. Responding to Senator Wilson's query as to why that placement was chosen, Mr. Capone answered that anywhere it was put was linked to some political office and they tried to go from the position that it was a public representative, overseeing public services and public concerns. He said there are a lot of agencies in state government which are headed by appointees of the governor, and he is willing to take the responsibility of seeing that this operation runs autonomously, effectively, and without politics. Mr. Herring added the consideration of conflict with the attorney general's office representing the agency and the commission was also considered as a built-in conflict.

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Chairman Wilson commented the bill provides that deputy attorney generals shall represent the commission and also that deputy attorney generals shall serve as legal counsel to the consumer agency, so where was the conflict?

Mr. Herring agreed but said the bill also provides that the commission will be a party on appeal on matters going beyond the scope of the commission's decision. So the attorney general's representation of the commission should not impact in any way on subsequent appeals at court.

Senator Hernstadt said he did not want the Coalition thinking he was picking on them particularly so he would ask the governor's proposal proponents the same question. He wanted to know what liability the state would have if this office were to be abused for political purposes, i.e. restraining a granted rate increase from going into effect, and penalizing the stockholders thereby.

There was a general discussion of individual liability, judicial overview, intervention by judicial authorities which Mr. Capone and Mr. Herring insisted would give a different tone to the problem. Assemblyman Westall indicated that was one reason for being able to fire the executive director on the spot if he indulged in any "political shenanigans". Chairman Wilson remarked it ought not to be political. Senator Hernstadt said he was only referring to potential abuses. There was also further discussion about the definition of the director's independence, whether the agency was regulatory, and the advantages of a specific term over serving at the pleasure of the governor. Senator McCorkle wanted to know how it differed from the office of consumer affairs and Assemblyman Westall agreed it was an identical situation.

Chairman Wilson stated he was troubled because of the assumption that a truly adversary system was wanted; and he was concerned whether the governor's proposal was compromising or limiting in some way the desired adversary relationship they were supposedly creating by this reorganization. He said that was the issue he wanted to hear addressed. He was asking whether they should have the same employer and worse, should they serve at his pleasure. He guessed they would have to battle it out. Mr. Herring indicated the governor's committee had also thoroughly debated the point. Senator Wilson noted again his concern for the adversary relationship and whether it might be enhanced by a term appointment.

Senator McCorkle said he was fascinated by the difference in staffing between the governor's proposal and the Initiative Petition. He said there is a large discrepancy between 60 and 5.

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Senator Don Ashworth stated the Initiative Petition had nothing to do with the present structure of the public service commission, which already has 71 people. The governor's proposal is adding 7 to the 71 to come up with 78.

Senator McCorkle noted Senator Ashworth was missing the point. According to the Initiative Petition, it only takes 5 people to represent the consumers properly and adequately, based on national experience.

Chairman Wilson responded that the Initiative Petition leaves the PSC staff intact. It does not address that point at all. It pre-supposes the same staff stays where it is. The governor's proposal is taking staff away from the commission and putting it someplace else.

Mr. Herring stated the initiative calls for a selective enforcement and the governor's proposal calls for all filings to be served simultaneously.

Senator Hernstadt addressed Senator McCorkle and told him that in numbers of people the petition has 80 on their proposal; the existing PSC has 71, and the governor's proposal is for 78. There is a difference of 2 persons between the two different proposals.

Senator McCorkle asked Mr. Capone whether their 60 people would only represent consumers or would there be another function beyond that. Mr. Capone stated they would represent the consumers but in a much more comprehensive way, covering all matters presently within the purview of PSC regulation, not just utility rates.

Mr. Herring added there is a declaration of purpose in the governor's bill on what these people will be doing. It is the purpose of the governor's proposal that, in a separate entity, they shall in fact be an autonomous agency for purposes of representing all utility customers.

There was a fifteen minute recess and the meeting reconvened at 3:50 p.m. with all committee members present.

Chairman Wilson reopened the meeting with an affirmative answer to Mr. Barbano's statement that being granted the right to intervene before the PSC grants discovery rights on PSC orders, rules and procedures.

Assemblyman Westall handed out some material to clear up an error in the budget with regard to the governor's bill. Chairman Wilson requested the material be submitted for the record. (See Exhibit C.)

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Mr. Samuel Hohmann, senior research analyst, research division, legislative counsel bureau, made the staff presentation. Mr. Hohmann stated he assisted the interim study committee and had in part worked on the issue of consumer advocacy through their activities. He said the handout (See Exhibit F) he presented to the committee would list the provisions of the Initiative Petition, BDR 58-383*, BDR 58-121**, and another item to be touched on later. It concerns suggested legislation put together by the council of state governments. Mr. Hohmann qualified the provisions of the governor's proposal as some changes were made in it before introduction which differed somewhat from his presentation. He indicated the legislative subcommittee proposal and the governor's proposal were very much alike in general except the governor's proposal is more extensive in its treatment of the statute and the revisions to provide for the new agency. As stated in the testimony, the difference between the Initiative Petition and the other two proposals is that it does not address PSC staff and organization and looks only at the function of consumer advocacy, therefore setting up a smaller agency. The list of provisions, many of them current PSC functions, are transferred to the new agency which becomes a regulatory body as well as consumer advocate. Responding to Senator Wilson's question, Mr. Hohmann said the agency was indeed a regulatory body under this bill (the governor's proposal). This was important to Senator Wilson but Assemblyman Westall said the word should be "enforce" rather than "regulate".

Mr. Hohmann continued to point out the similarities and outstanding differences between the three proposals including number of staff, agency functions, appointment process, and the funding mechanisms. Additionally, the Initiative Petition specifies the PSC can retain independent counsel in matters commenced by the consumer advocate. (See Exhibit F.) Mr. Hohmann then went on to list some other options for placement of the agency such as the attorney general's office, the department of commerce, etc. He also mentioned different ways of funding including a subscription advocate's office, still in the experimental stages in the state of Wisconsin. He said that in Florida the consumer advocate is considered a legislative function and is staffed and compensated from the joint legislative auditing committee.

Chairman Wilson said the committee would examine all the exhibits, have their subsequent hearings on actual legislation and take a look at the Assembly recommendations as well as others.

Senator Hernstadt asked Mr. Hohmann if, in studying all the different proposals, he had investigated the practicality and workability of the proposals. He said on the surface they all sound good, but was any in-depth research done on how they work.

*AB 58

x* AB 85

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Chairman Wilson commented that Mr. Hohmann was not requested to study how the proposals worked. Mr. Hohmann indicated he had not seen any comparisons of the advantages of one type of proposal over another in the type of background research he had done. He suspected the institutional arrangements are set up in the states geared to them for what was expedient.

Mr. Donald A. Rhodes, chief deputy research director, research division, legislative counsel bureau, stated there is a chart available regarding functional relationships or lines of authority between the governor and the various state agencies as to whether or not they are covered by a constitutional board, or a board where the directors are appointed by the governor.

Chairman Wilson asked for a xerox copy, (see Exhibit G).

Chairman Wilson stated the hearing was rather limited and had been conducted for the purpose of orienting the committee on the essential elements of each of the three proposals. Since he felt these had been covered, he closed the hearing at that point and stated the committee would remain to conduct an administrative session.

The hearing closed at 4:01 p.m. Administrative session followed immediately, with all committee members present.

Chairman Wilson presented the following bill draft requests for committee discussion; after which the committee unanimously agreed to committee introduction of the bill draft requests listed below:

BDR 58-276--Allows the public service commission to enter into
(SB 130) agreement with the Secretary of Transportation relating to enforcement of certain statutes and regulations concerning pipelines.

BDR 58-275--Requires community antenna television companies to
(SB 131) pay interest on deposits made by customers.

BDR 58-274--Provides civil penalties, for public utilities, for
(SB 132) violations of provisions of NRS chapters 703 and 712.

BDR 58-272--Eliminates regulation of air carriers by public
(SB 133) service commission.

BDR 58-270--Allows regulation by public service commission of
(SB 134) certain pipelines used for transport of natural gas.

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BDR 58-269--Changes procedure of division of consumer relations,
(SB 135) public service commission, in dealing with complaints
made against public utilities.

BDR 51-273--Gives public service commission exclusive authority
(SB 138) to regulate certain facilities dealing with liquefied
petroleum gas.

BDR 54-271--Relates to licensing of contractors and providing a
(SB 136) special classification for contractors engaged in
certain activities.

BDR 54-277--Relates to enforcement of safety regulations for cer-
(SB 137) tain pipelines; providing penalties for violation of
certain regulations.

BDR 53-44---Removes conflicting statutory references to certain
(SB 122) former powers of Nevada industrial commission.

BDR 54-45---Conforms time for registration of hospital pharmaceu-
(SB 121) tical technicians; renewal of certain permits to pro-
vision in NRS 639.170 for biennial registration and
renewal fees.

BDR 57-46---Relates to casualty insurance policies; removes an
(SB 126) obsolete statutory reference to repealed chapter 698
of NRS.

BDR 58-302--Requires authorization by public service commission of
(SB 125) Nevada before foreign public utility companies may issue
securities or assume obligations in State of Nevada.

(SB 127) BDR 56-125--Changes form of chapter regulating installment loans.

BDR 54-599--authorizes issuance of subpoenas by board of veteri-
(SB 128) nary medical examiners; authorizes issuance of injunc-
tions; changes membership of board; changes legal
office of board; increases fee for license renewal.

BDR 22-453--Relates to land divisions; makes certain revisions
(SB 129) concerning certificates required on maps.

Senator Hernstadt brought up the need of a corrected bill, needed
to cover deleting of certain language from a model drug control
act by Russ McDonald last session, which inadvertently created
a loophole allowing qualude drug mills in southern Nevada. Senator
Hernstadt indicated a corrected bill had been requested from Mr.
Daykin, legislative counsel. He thought that Chairman Wilson

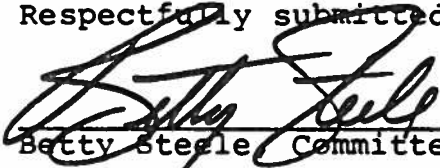
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might be able to expedite the drawing up of this corrective legis-
lation.

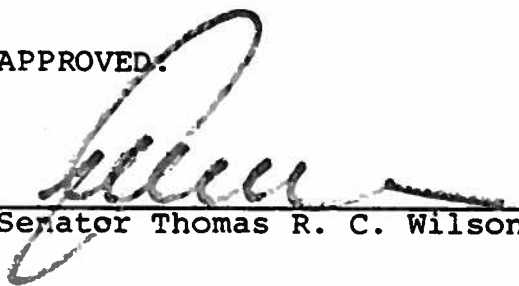
Chairman Wilson asked if a bill draft request number had been
given to the proposed legislation and Senator Hernstadt said it
had not and hoped that Chairman Wilson might be able to accele-
rate the process somewhat in hopes of getting the bill in for
passage and approval.

There was no further business so the meeting adjourned at
4:15 p.m.

Respectfully submitted,


Betty Steele, Committee Secretary

APPROVED.


Senator Thomas R. C. Wilson, Chairman

DATE: _____

EXHIBITS - MEETING - JANUARY 28, 1981

Exhibit A is the Meeting Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the PSC handout, by Assemblyman Westall.

Exhibit D is the Coalition for Affordable Energy presentation
by Mr. Townsend.

Exhibit E is the presentation of the governor's proposal by
Mr. Capone.

Exhibit F is the LCB staff presentation of all three proposals
by Mr. Hohmann.

Exhibit G is the State of Nevada organizational chart, presented
by Mr. Rhodes.

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Commerce and Labor , Room 213, with 131
reserved if needed
Day Wednesday , Date Jan. 28 , Time 1:30 p.m.

Review of various proposals relating to public utility consumer advocacy including:

The Initiative Petition.

BDR 58-383--Creates Department of Representation to represent customers and enforce safety of public utilities.

BDR 58-121--Creates Office of Representation to represent customers of public utilities in matters before the Public Service Commission of Nevada. (The Recommendation of the Legislative Commission's Subcommittee to study the Public Service Commission of Nevada.)

Explanation:

This hearing will be limited to an explanation and description of each proposal by its author or sponsor, followed by a presentation by committee staff--comparing and contrasting the elements of the three proposals.

Later hearings will be held to take public testimony and hear argument--pro and con--on the various elements of all three proposals.

EXHIBIT C

The Public Service Commission of Nevada has the responsibility for supervision and regulation of rates, charges, services and facilities for public utilities and motor carriers operating within the State of Nevada. Legislation is being introduced in this Session to separate the Commissioners from the traditional staff. The Commission will continue to conduct hearings and to render decisions on information presented by the regulated industry and the public. The investigative staff will become a new consumer-oriented agency, the Department of Utility/Transportation Customer Representation, whose mission is to represent the public at these hearings.

Funding - Funds to support the functions and activities of the Commission are obtained from the following sources:

1. Motor Carrier Regulation - Highway appropriation (presently \$3.00 per power unit registered in Nevada). 25% of the revenue will be available to the Public Service Commission; the remaining 75% of the revenue will be available to the new Department of Utility/Transportation Customer Representation (DUTCR).
2. Utility Regulation
 - a. One mill assessment on Nevada gross intrastate revenues.
 - b. Application fees.
 - c. Copy service fees (reduces publication costs).
 - d. Public Utility Regulatory Policy Act (PURPA) - Federal grant monies to assist Nevada in considering rate and service standards designed to provide for increased conservation of energy and capital, improve efficiency of electric and gas distribution facilities and resources, and ensure equitable rates for electric and gas utility customers.

Sub-Account Explanations

Salaries - There will be 19 employees retained by the Public Service Commission after transferring 46 employees to the new Consumers Department (224-3921). Four positions will be deleted, six motor carrier inspectors will be transferred

to the Department of Motor Vehicles and four new positions will be added to complete the final reorganization of the Public Service Commission. Division managers and professional employees are recommended to be placed in the unclassified service.

Out-of-State Travel - Travel out-of-state is necessary to keep Commissioners and staff informed on energy resources, utility rate design trends, energy load management, and to attend specialized training courses.

In-State Travel - In-state travel will be required for hearings, meetings and research throughout the State.

Legal and Court Expense - The recommended amount includes services of one Deputy Attorney General plus the costs of hearings and court reporters.

Contract Services - The reorganized Public Service Commission will have a limited staff for technical assistance. Consultant expense for specialized and critical assistance is estimated at \$25,000 for each fiscal year.

Other Contract Services - This item will provide for the purchase of copier and word processing equipment and for maintenance agreements.

Building Rent - Budget provisions are for quarters completely separate from the Department of Utility/Transportation Customer Representation. The amount assumes use of office space other than in a State-owned building. The Public Service Commission will retain only hearing room space in the Bradley Building in Las Vegas.

Employee Transfers - The Public Service Commission must compete for professional accounting and engineering personnel on a nationwide basis due to the specialized nature of utility regulatory requirements. Experience has shown that many excellent candidates have declined appointment because of no interview and moving cost reimbursement. This amount provides for limited reimbursement.

Date of Hearing _____
Who Testified _____

Date Budget Closed _____

	1979-80 ACTUAL	1980-81 WORK PROGRAM	1981-82			1982-83						
			AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG AP.				
AIR TRANSPORTATION DIV		1.00										
INSPECTOR PSC		2.00										
AK SAFETY INSPECTOR		1.00										
UTILITY RATE/TARIFF SP		1.00										
DIR OF ENGINEERING		1.00										
ELEC ENGINEER III		2.00										
MECH ENGINEER III		1.00										
GAS UTILITIES ENGINEER		1.00										
CONSUMER SVCS REP		2.00										
CONSUMER SVCS REP TR		1.00										
CONSUMER SVCS REP		1.00										
CHIEF AUDITOR-PSC		1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
AUDITOR-PSC	U	1.00										
SENIOR AUDITOR-PSC	U	1.00										
SENIOR AUDITOR-PSC	U	1.00										
SENIOR LEGAL STENO		1.00										
MANAGEMENT ASSISTANT I		3.00										
PRINCIPAL CLK STENO		1.00										
MANAGEMENT ASSISTANT I		1.00										
ADMINV AID II RANGE B		1.00										
MANAGEMENT ASSISTANT I		1.00										
ADMINV AID II RANGE A		2.00										
TRANS RATE/TARIFF SPEC		1.00										
SENIOR AUDITOR-PSC	U	1.00										
SENIOR AUDITOR-PSC	U	1.00										
ECONOMIST-PSC		1.00										
TR TO 4/17 DMV		6.00										
INSPECTOR PSC		71.00										
TOTAL EXISTING	\$	1,287,350	\$	1,575,858	\$	423,876	\$	404,058	\$	459,203	\$	407,076
NEW POSITIONS												
NEW POSITIONS												
FINANCIAL ANALYST	U		1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638		
PUBLIC EDUC/STAT ANAL	U		1.00	28,600	1.00	28,351	1.00	31,460	1.00	28,351		
MANAGEMENT ASSISTANT I			1.00	10,338	1.00	10,338	1.00	10,797	1.00	10,797		
PRINCIPAL ACCOUNT CLK			1.00	11,764	1.00	11,764	1.00	12,284	1.00	12,284		
TOTAL NEW			4.00	85,644	4.00	85,091	4.00	92,977	4.00	86,070		
INDUSTRIAL INSURANCE	\$	10,207	\$	24,269	\$	10,191	\$	9,784	\$	12,423	\$	11,094

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	1979-80 ACTUAL	1980-81 WORK PROGRAM	1981-82		1982-83			
			AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.
RETIREMENT	\$ 101,437	\$ 126,068	\$ 40,762	\$ 39,132		\$ 44,174	\$ 39,452	
PENSIONNEL ASSESSMENT	\$ 11,101	\$ 13,397	\$ 4,331	\$ 1,020		\$ 4,644	\$ 1,053	
GROUP INSURANCE	\$ 34,471	\$ 54,672	\$ 16,873	\$ 16,873		\$ 18,468	\$ 18,468	
PAYROLL ASSESSMENT CLA	\$ 4,475	\$ 5,515	\$ 1,763	\$ 1,123		\$ 1,933	\$ 1,134	
RETIREMENT GROUP INS.				\$ 587			\$ 592	
UNEMPLOYMENT COMP.	\$ 3,202	\$ 3,940	\$ 1,274	\$ 2,054		\$ 1,380	\$ 2,071	
OVERTIME PAY (NON-MULTI)	\$ 193							
SALARY ADJ RES NON-GF				\$ 44,494		\$ 31,594	\$ 69,304	
UNALLOCATED SALARY		\$ 1,948						
SALARY ADJUST. NEED		\$ 30,614						
LONGEVITY PAY	\$ 6,650	\$ 7,964	\$ 1,581	\$ 1,581		\$ 1,704	\$ 1,704	
TERMINAL SICK LEAVE PA	\$ 3,000							
TERMINAL ANNUAL LEAVE	\$ 14,567							
COMMUNICATIONS EXPENSE	\$ 219							
TOTAL SALARY-PAYROLL	\$ 1,476,872	\$ 1,783,017	\$ 603,964	\$ 605,798		\$ 668,550	\$ 638,018	
TOTAL OUT-OF-STATE TRAVEL	\$ 11,863	\$ 13,500	\$ 8,250	\$ 8,250		\$ 9,075	\$ 9,075	
TOTAL IN-STATE TRAVEL	\$ 77,568	\$ 90,000	\$ 13,664	\$ 13,664		\$ 15,030	\$ 15,030	
OFF SUPPLIES & EXPENSE	\$ 7,357	\$ 8,926	\$ 2,457	\$ 2,457		\$ 2,703	\$ 2,703	
OPERATING SUPPLIES	\$ 8,177	\$ 8,492	\$ 2,735	\$ 2,735		\$ 3,009	\$ 3,009	
COMMUNICATIONS EXPENSE	\$ 34,280	\$ 29,897	\$ 17,003	\$ 17,003		\$ 17,769	\$ 17,769	
PRINT DUPLICATING COPY	\$ 13,238	\$ 15,685	\$ 8,557	\$ 8,557		\$ 9,412	\$ 9,412	
INSURANCE EXPENSE	\$ 1,316	\$ 1,352	\$ 363	\$ 363		\$ 399	\$ 399	
CONTRACTUAL SERVICES	\$ 115,942	\$ 178,278	\$ 25,000	\$ 25,000		\$ 25,000	\$ 25,000	
OTHER CONTRACT SERVICE	\$ 15,074	\$ 11,855	\$ 31,852	\$ 31,852		\$ 32,736	\$ 32,736	
LEGAL & COURT EXPENSE	\$ 96,942	\$ 81,951	\$ 76,148	\$ 76,148		\$ 82,395	\$ 82,395	
STATE OWNED BLDG RENT	\$ 47,484	\$ 65,258	\$ 5,904	\$ 5,904		\$ 6,790	\$ 6,790	
OTHER BUILDING RENT	\$ 1,219	\$ 143	\$ 72,000	\$ 72,000		\$ 82,800	\$ 82,800	
MAIN. OF BLDGS & GRDS	\$ 1,408	\$ 500	\$ 431	\$ 431		\$ 474	\$ 474	
EDP SYS PROG FAC CHRG	\$ 6,153	\$ 25,600						
OTHER GOV'T SERVICES	\$ 1,714							
DUES AND REGISTRATIONS	\$ 8,089	\$ 3,894	\$ 4,406	\$ 2,406		\$ 2,647	\$ 2,647	
EMPLOYEE TRANSFERS			\$ 12,175	\$ 12,175		\$ 4,000	\$ 4,000	
TOTAL OPERATING EXP	\$ 382,383	\$ 434,831	\$ 257,031	\$ 257,031		\$ 270,134	\$ 270,134	
OFF FURNITURE & EQUIP	\$ 30,158	\$ 3,791	\$ 8,375	\$ 8,375				
OTHER FURNITURE & EQUIP	\$ 29							
SPECIALIZED EQUIPMENT	\$ 2,502							
TOT. CAPITAL OUTLAY EQ.	\$ 32,679	\$ 3,791	\$ 8,375	\$ 8,375				
O/S AUDITS PLM ITEM OUT-OF-STATE	\$ 2,162	\$ 10,000						

	1979-80 ACTUAL	1980-81 WORK PROGRAM	1981-82 AGENCY REQUEST	1981-82 GOVERNOR RECOMMENDS	LEG. AP.	1982-83 AGENCY REQUEST	1982-83 GOVERNOR RECOMMENDS	LEG AP.
MOTOR POOL OUT-OF-STATE	\$ 25							
PUBLIC TRANS OUT-OF-ST	\$ 406							
PERSONAL VEHICLE OUT-O	\$ 219							
AIR TRANS OUT-OF-STATE	\$ 1,934							
TOTAL FOR SUB ACCT 10	\$ 4,746	\$ 10,000						
PURPA		\$ 200,000						
PER DIEM OUT-OF-STATE	\$ 1,406		\$ 45,675	\$ 45,675		\$ 45,675	\$ 45,675	
MOTOR POOL OUT-OF-STATE	\$ 2							
PUBLIC TRANS OUT-OF-ST	\$ 83							
PERSONAL VEHICLE OUT-O	\$ 495							
AIR TRANS OUT-OF-STATE	\$ 1,906							
PER DIEM IN-STATE	\$ 589							
MOTOR POOL IN-STATE	\$ 15							
PUBLIC TRANSPORTATION	\$ 16							
AIR TRANSPORTATION IN-	\$ 1,663							
COMMUNICATIONS EXPENSE	\$ 142							
COMMUNICATIONS EXPENSE	\$ 23							
CONTRACTUAL SERVICES	\$ 20,000							
LEGAL AND COURT EXPENS	\$ 768							
LEGAL AND COURT EXPENS	\$ 323							
OTHER BUILDING RENT	\$ 50							
DUES AND REGISTRATIONS	\$ 925							
TOTAL FOR SUB ACCT 12	\$ 28,406	\$ 200,000	\$ 45,675	\$ 45,675		\$ 45,675	\$ 45,675	
RECLASSIFICATIONS		\$ 87,111						
RESERVE		\$ 665,631	\$ 206,454	\$ 204,620		\$ 173,567	\$ 202,265	
TOTAL AGENCY EXPENDITURES	\$ 2,014,517	\$ 3,287,881	\$ 1,143,413	\$ 1,143,413		\$ 1,182,031	\$ 1,180,197	

AGENCY BALANCE

DEPARTMENT OF UTILITY/TRANSPORTATION CUSTOMER REPRESENTATION

Program Statement

The Department of Utility/Transportation Customer Representation will be an automatic party in all cases before the Public Service Commission. The purpose and policy of this new department will be to provide independent representation and promotion of interests of the consuming and using public in all regulatory matters before the Commission. The Department employees will investigate, audit, review, test and make recommendations to the Commission on all applications that come before the Commission. The Department will receive complaints, inquiries, statements of consumers of utility and transportation services, as well as information from utility and transportation companies to completely investigate problems encountered with Commission orders, statutes and operating tariffs with respect to customer service and rates.

Funding - Funds to support the activities of the Department are obtained from the following sources:

1. Motor Carrier Regulation

- a. Highway appropriation (presently \$3 per power unit registered in Nevada). 75% of the revenue will be available to the Department of Utility/Transportation Customer Representation and the remaining 25% will be available to the Public Service Commission.
- b. Tow truck license fees - (presently \$36 per vehicle per year).
- c. Taxicab license fees - (presently \$36 per vehicle per year).

2. Utility Regulation

- a. Two and one-half mills assessment on Nevada gross intrastate revenues.
- b. Copy service fees (reduces publication costs).
- c. Federal funds for natural gas pipeline safety and railroad safety inspections. The Department is reimbursed on the basis of 50% of total safety program costs.
- d. Public Utility Regulatory Policy Act (PURPA) - Federal grant monies to assist Nevada in considering rate and service standards designed to

provide for increased conservation of energy and capital, improve efficiency of electric and gas distribution facilities and resources, and ensure equitable rates for electric and gas utility customers.

e. Warehouse permit fees.

Sub-Account Explanations

Salaries - The staff will include 58 employees transferred from the Public Service Commission and 12 new positions. Division managers and professional employees are recommended to be placed in the unclassified service.

Out-of-State Travel - Provides funds for specialized training in new energy resources, utility rate design, energy load management and related subjects.

In-State Travel - The recommended funds are necessary for monitoring energy load management, new construction, conducting audits and attending hearings.

Legal and Court Expense - The recommended amount includes the services of one Deputy Attorney General and one Legal Researcher. No court reporter expenses are expected for the Department.

Contract Services - Consulting assistance will continue to be required for areas where in-house expertise is not available especially in the time frame allowed for the case.

Building Rent - Budget provisions are for quarters completely separate from the Public Service Commission. The amount requested assumes use of office space other than in a State-owned building. The Department will maintain a consumer office in Las Vegas; the main Department office will be in Carson City.

Employee Transfers - The Department must compete for professional auditors and engineers on a nationwide basis due to the specialized nature of utility and transportation regulatory processes. Experience has shown that many excellent candidates have declined appointment because of no interview and moving cost reimbursement. This amount provides for limited reimbursement.

Out-of-State Audit - Utilities operating within the State and having offices

elsewhere are audited and billed by the Department. The amount requested will serve as a revolving account against which the costs of these audits will be charged.

Date of Hearing _____
 Who Testified _____
 Date Budget Closed _____

Public Utility Regulatory Policy Act - All costs of this federally-funded study of proposed regulatory policy are charged to this category.

	1979-80	1980-81	1981-82			1982-83		
	ACTUAL	WORK PROGRAM	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG AP.
HIGHWAY APPROPRIATION	\$ 253,216		\$ 253,216			\$ 275,436	\$ 275,436	
DEL FWD FROM OLD YR	\$ 849,347		\$ 849,347			\$ 434,062	\$ 385,708	
OUTCR REG ASSESSMENTS	\$ 1,764,543		\$ 1,764,543			\$ 2,029,225	\$ 2,029,225	
OUTCR TARIFFS FEES	\$ 11,500		\$ 11,500			\$ 13,000	\$ 13,000	
FED GAS PIPEL SFTY	\$ 15,800		\$ 15,800			\$ 17,000	\$ 17,000	
RECUR SERVICE FEES	\$ 1,200		\$ 1,200			\$ 1,200	\$ 1,200	
TOW TRUCK LICENSE FEES	\$ 12,000		\$ 12,000			\$ 12,000	\$ 12,000	
WAREHOUSE PERMIT FEES	\$ 500		\$ 500			\$ 500	\$ 500	
FEDERAL RAILROAD SAFETY	\$ 14,670		\$ 14,670			\$ 15,118	\$ 15,118	
PUMPA PROGRAM	\$ 137,025		\$ 137,025			\$ 137,025	\$ 137,025	
TOTAL FUNDS AVAILABLE			\$ 3,059,801	\$ 3,059,801		\$ 2,934,566	\$ 2,886,212	

EXISTING POSITIONS

ECONOMIST	U	1.00	37,500	1.00	37,174	1.00	41,250	1.00	37,174
STAFF COUNSEL OUTCR	U	1.00	40,280	1.00	39,930	1.00	44,308	1.00	39,930
MGR AUDIT & FIN SVCS	U	1.00	40,280	1.00	39,930	1.00	44,308	1.00	39,930
MGR ENGINEERING SVCS	U	1.00	40,280	1.00	39,930	1.00	44,308	1.00	39,930
MGR CONSUMER SERVICES	U	1.00	30,800	1.00	30,532	1.00	33,880	1.00	30,532
MGR TRANSPORTATION REG	U	1.00	30,800	1.00	30,532	1.00	33,880	1.00	30,532
ASST STAFF COUNSEL	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
SENIOR AUDITOR-OUTCR	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
SENIOR AUDITOR-OUTCR	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
SENIOR AUDITOR-OUTCR	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
AUDITOR-OUTCR	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00	31,511
ENGINEER-COMMUNICATION	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
ENGINEER-WATER	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
ENGINEER-ELECTRICAL	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
ENGINEER-GAS PL SAFETY	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00	34,638
CONSUMER SVCS REP	U	1.00	25,000	1.00	24,783	1.00	27,500	1.00	24,783
CONSUMER SVCS REP	U	1.00	25,000	1.00	24,783	1.00	27,500	1.00	24,783
CONSUMER SVCS REP	U	1.00	25,000	1.00	24,783	1.00	27,500	1.00	24,783
UTILITY RATE SPEC	U	1.00	27,670	1.00	27,670	1.00	30,703	1.00	27,670
TRANSPORT RATE SPEC	U	1.00	18,396	1.00	18,396	1.00	19,251	1.00	19,251
UTILITY RATE SPEC	U	1.00	9,719	1.00	9,719	1.00	10,127	1.00	10,127
UTILITY RATE SPEC	U	1.00	11,199	1.00	11,199	1.00	11,693	1.00	11,693

DEPT. OF UTIL/TRANS CONSUMER REPRESENTATION - Continued

U.S. OF UTILITIES CUSTOMER REPRESENTATION - Continued
2-29-72

	1979-80		1980-81		1981-82		1982-83	
	ACTUAL	WORK PROGRAM	AGENCY REQUEST	GOVERNOR RECOMMENDS	AGENCY REQUEST	GOVERNOR RECOMMENDS	LFG AP.	LFG AP.
ACCOUNT CLERK			1.00	10,142	1.00	10,142	1.00	10,573
SENIOR LEGAL STENO			1.00	14,583	1.00	14,583	1.00	15,251
SENIOR ACCOUNTANT			1.00	23,168	1.00	23,168	1.00	23,168
MANAGEMENT ASST II			1.00	15,346	1.00	15,346	1.00	15,346
ADMINV AID II RANGE A			1.00	9,904	1.00	9,904	1.00	10,338
MANAGEMENT ASSISTANT I			1.00	14,032	1.00	14,032	1.00	14,032
ADMINV AID II RANGE A			1.00	9,813	1.00	9,813	1.00	10,243
MANAGEMENT ASSISTANT I			1.00	11,268	1.00	11,268	1.00	11,764
MOTOR CARRIER INSP			2.00	42,220	2.00	42,220	2.00	42,220
RW SAFETY INSPECTOR			1.00	17,134	1.00	17,134	1.00	17,935
MANAGEMENT ASSISTANT I			1.00	11,482	1.00	11,482	1.00	11,991
SUPV ADMINV AID			1.00	14,032	1.00	14,032	1.00	14,032
MANAGEMENT ASSISTANT I			1.00	12,483	1.00	12,483	1.00	13,052
TOTAL EXISTING			46.00	1,193,169	46.00	1,184,929	46.00	1,294,090
								46.00
								1,191,024
NEW POSITIONS								
NEW POSITIONS								
DIRECTOR	U							
UP SYSTEMS ANALYST	U	1.00	45,100	1.00	41,610	1.00	49,610	1.00
MANAGER ADMIN SVCS	U	1.00	37,500	1.00	37,174	1.00	41,250	1.00
MANAGER RATES & TARIFF	U	1.00	33,657	1.00	33,365	1.00	37,023	1.00
ASST STAFF COUNSEL	U	1.00	36,689	1.00	36,370	1.00	40,358	1.00
SENIOR ANALYST	U	1.00	34,942	1.00	34,638	1.00	38,436	1.00
CONSUMER REP	U	1.00	31,787	1.00	31,511	1.00	34,966	1.00
OFFICE MGR - CONS REP	U	1.00	25,000	1.00	24,783	1.00	27,500	1.00
MANAGEMENT ASSIST III		1.00	26,250	1.00	26,022	1.00	28,875	1.00
ENGINEERING TECH V		1.00	12,284	1.00	12,284	1.00	12,842	1.00
ENGINEERING TECH IV		1.00	16,053	1.00	16,053	1.00	16,797	1.00
MANAGEMENT ASSIST III		1.00	14,677	1.00	14,677	1.00	15,346	1.00
TOTAL NEW		12.00	326,223	12.00	320,771	12.00	355,845	12.00
INDUSTRIAL INSURANCE								
RETIREMENT								
PERSONNEL ASSESSMENT			\$ 30,399	\$ 30,120			\$ 37,124	\$ 34,079
GROUP INSURANCE			\$ 121,551	\$ 123,456			\$ 131,955	\$ 121,146
PAYROLL ASSESSMENT CLA			\$ 12,915	\$ 2,492			\$ 14,024	\$ 2,563
RETIREMENT GROUP INS.			\$ 51,504	\$ 51,504			\$ 56,376	\$ 56,376
UNEMPLOYMENT LUMP			\$ 3,463	\$ 1,807			\$ 5,775	\$ 3,483
SALARY ADJ RES NON-UF			\$ 3,799	\$ 6,324			\$ 4,125	\$ 1,817
LONGEVITY PAY			\$ 53,154	\$ 124,550			\$ 61,966	\$ 204,254
			\$ 6,358	\$ 6,358			\$ 7,248	\$ 7,248
TOTAL SALARY-PAYROLL			\$ 1,804,390	\$ 1,852,744			\$ 1,948,568	\$ 1,951,650
TOTAL OUT-OF-STATE TRAVEL			\$ 19,200	\$ 19,200			\$ 21,120	\$ 21,120
TOTAL IN-STATE TRAVEL			\$ 68,916	\$ 68,916			\$ 75,808	\$ 75,808

	1979-80 ACTUAL	1980-81 WORK PROGRAM	1981-82			1982-83		
			AGENCY REQUEST	GOVERNOR RECOMMENDS	LFG. AP.	AGENCY REQUEST	GOVERNOR RECOMMENDS	LFG. AP.
OFF SUPPLIES & EXPENSE	\$ 7,372	\$ 7,372	\$ 7,372	\$ 7,372	\$ 7,372	\$ 8,109	\$ 8,109	\$ 8,109
OPERATING SUPPLIES	\$ 8,204	\$ 8,204	\$ 8,204	\$ 8,204	\$ 8,204	\$ 9,024	\$ 9,024	\$ 9,024
COMMUNICATIONS EXPENSE	\$ 33,161	\$ 33,161	\$ 33,161	\$ 33,161	\$ 33,161	\$ 33,675	\$ 33,675	\$ 33,675
PRINT DUPLICATING COPY	\$ 13,395	\$ 13,395	\$ 13,395	\$ 13,395	\$ 13,395	\$ 14,734	\$ 14,734	\$ 14,734
INSURANCE EXPENSE	\$ 1,288	\$ 1,288	\$ 1,288	\$ 1,288	\$ 1,288	\$ 1,397	\$ 1,397	\$ 1,397
CONTRACTUAL SERVICES	\$ 175,000	\$ 175,000	\$ 175,000	\$ 175,000	\$ 175,000	\$ 175,000	\$ 175,000	\$ 175,000
OTHER CONTRACT SERVICE	\$ 45,742	\$ 45,742	\$ 45,742	\$ 45,742	\$ 45,742	\$ 36,785	\$ 36,785	\$ 36,785
LEGAL & COURT EXPENSE	\$ 56,925	\$ 56,925	\$ 56,925	\$ 56,925	\$ 56,925	\$ 62,618	\$ 62,618	\$ 62,618
STATE OWNED BLDG RENT	\$ 5,573	\$ 5,573	\$ 5,573	\$ 5,573	\$ 5,573	\$ 6,409	\$ 6,409	\$ 6,409
OTHER BUILDING RENT	\$ 144,000	\$ 144,000	\$ 144,000	\$ 144,000	\$ 144,000	\$ 165,600	\$ 165,600	\$ 165,600
MAINT. OF BLDGS & GRDS	\$ 1,293	\$ 1,293	\$ 1,293	\$ 1,293	\$ 1,293	\$ 1,422	\$ 1,422	\$ 1,422
EOP SYS PROGR FAC CHRG	\$ 50,820	\$ 50,820	\$ 50,820	\$ 50,820	\$ 50,820	\$ 68,790	\$ 68,790	\$ 68,790
DUES AND REGISTRATIONS	\$ 8,330	\$ 8,330	\$ 8,330	\$ 8,330	\$ 8,330	\$ 9,163	\$ 9,163	\$ 9,163
EMPLOYEE TRANSFERS	\$ 19,525	\$ 19,525	\$ 19,525	\$ 19,525	\$ 19,525	\$ 7,500	\$ 7,500	\$ 7,500
TOTAL OPERATING EXP	\$ 570,628	\$ 570,628	\$ 570,628	\$ 570,628	\$ 570,628	\$ 600,226	\$ 600,226	\$ 600,226
OFF FURNITURE & EQUIP	\$ 10,580	\$ 10,580	\$ 10,580	\$ 10,580	\$ 10,580	\$ 2,752	\$ 2,752	\$ 2,752
O/S AUDITS	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000
PURPA-REG POLICY ACT	\$ 137,025	\$ 137,025	\$ 137,025	\$ 137,025	\$ 137,025	\$ 137,025	\$ 137,025	\$ 137,025
RESERVE	\$ 434,062	\$ 385,708	\$ 385,708	\$ 385,708	\$ 385,708	\$ 134,067	\$ 82,631	\$ 82,631
TOTAL AGENCY EXPENDITURES	\$ 3,059,801	\$ 3,059,801	\$ 3,059,801	\$ 3,059,801	\$ 3,059,801	\$ 2,934,566	\$ 2,886,212	\$ 2,886,212
AGENCY BALANCE								

02

FISCAL NOTE

A.B. 364
S.B.

STATE AGENCY ESTIMATES Date Prepared March 14, 1979

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
aries		78,954		
nge benefits at 15%		11,843		
vel		6,500		
ipment		3,626		
opies		4,200		
tractual				
onsulting services)		52,800		
er		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 *Randy D. Stowe*
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

<u>Personnel</u>		
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
<u>Travel</u>		
Long-distance Trips (out of state)	\$ 5,000	
Instate travel	<u>1,500</u>	
Total		6,500
<u>Equipment</u>		
3 stations in Attorney General's Office		3,626
<u>Supplies</u>		
Consumables	\$ 900	
Telephone	2,160	
Postage	<u>1,140</u>	
Total		4,200
Contractual consulting services of Expert witnesses		52,800
Other copying, research materials and publications, internship program and rent		<u>13,200</u>
GRAND TOTAL		<u>\$171,123</u>

Ed Schorr, Deputy Fiscal Analyst
Legislative Counsel Bureau
Fiscal Analysis Division

3/14/79

Attorney General's Office

Fiscal Note for BDR #12-1017; A.B. 354

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. 354 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: Edward Barrett

Coalition for Affordable Energy

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

EXHIBIT D

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.



The State of Nebraska
Executive Chamber
February 3, 1981

EXHIBIT E

Robert List
Governor

Capitol Complex
Carson City, Nebraska 89710

M E M O R A N D U M

TO: The Honorable Thomas R. C. Wilson
Chairman, Senate Committee on Commerce and Labor

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

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

Cocket Number	Company	Date Filed	Date Decided	Amount Requested	Staff Adjustments	Amount Recommended By Staff	Percent Recommended	Amount Granted	Percent Received
2056	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
2057	Sierra Pacific Gas	4/30/80	10/29/80	1,844,000	1,404,000	440,000	23.9	954,000	51.7
2058	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
2067	Southwest Gas North	4/30/80	10/27/80	7,968,251	1,818,211	6,150,040	77.2	6,170,972	76.3
2068	Southwest Gas South	5/06/80	10/27/80	17,418,788	4,661,135	12,757,653	73.2	14,168,874	81.9
2055	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

Initiative Petition
A division in the office of Attorney General

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 upon the consuming public.

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

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

EXHIBIT B

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

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

Appointment by the Attorney General with confirmation by the legislature.

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

SRB
Research Division
1/17/61

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

SDR 50-303 (Governor's Proposal)
An independent agency

SDR 50-121 (Legislative Commission Subcommittee)
An independent agency

I. POWERS AND DUTIES

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 702, 704, 705, 706, 709, 711 and 712.

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

Maintain public files.

Enforce NRS chapters 702, 704, 705, 706, 709, 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.

II. FUNDING

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.

III. SELECTION OF THE DIRECTOR

Appointment by the governor for a four year term.

IV. OTHER PROVISIONS

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.

Suggested State Legislation 1961, V. 48
Independent or under department of Justice

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 appeals are ultimate recipients of a product or service supplied by a person, corporation, or publicly owned corporation subject to regulation by the commission.

Inform the public to the specific interests of consumers to be protected in a given instance.

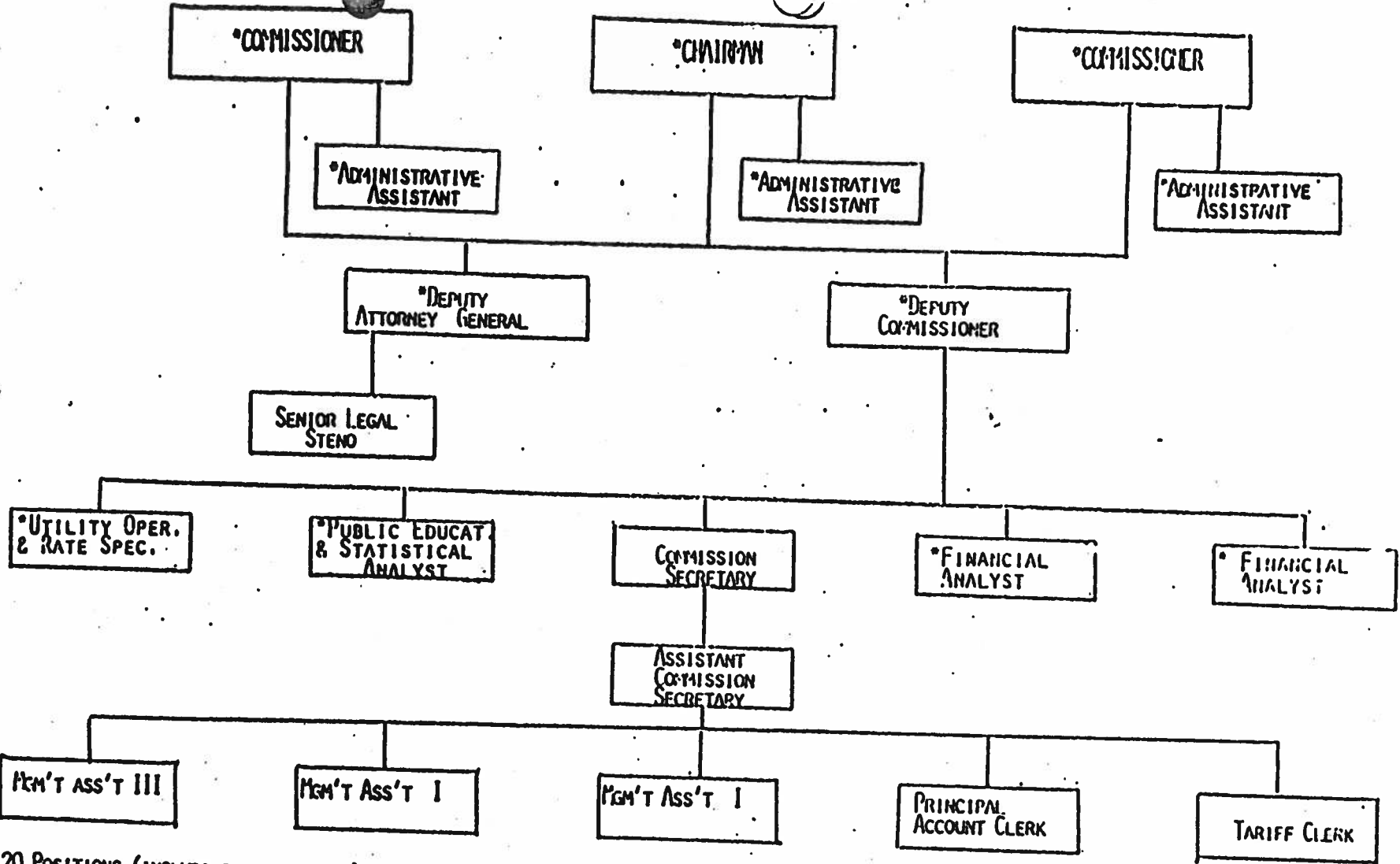
Total annual expenditures for the Office of Consumer Advocate are not to exceed 0.85 percent of the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission.

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

Appointment by the governor with approval of the state senate.

The commission is to notify the Office of Consumer Advocate of any proposed action which has a substantial effect upon the interests of consumers.

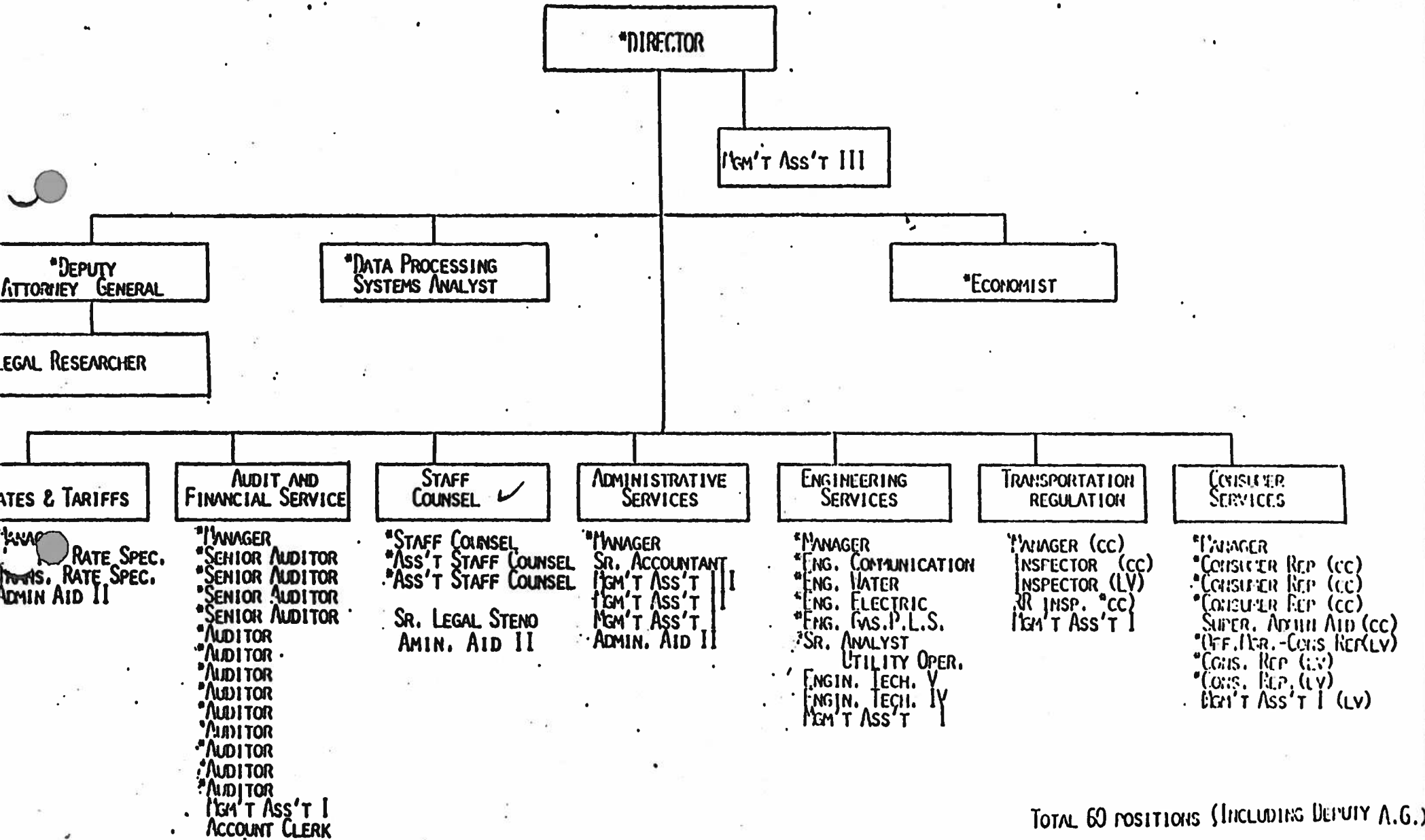
PUBLIC SERVICE COMMISSION - NEVADA



TOTAL 20 POSITIONS (INCLUDING DEPUTY A.G.)

* INDICATES UNCLASSIFIED POSITIONS
 TOTAL UNCLASSIFIED POSITIONS - 12

UTILITY CUSTOMER REPRESENTATION AGENCY

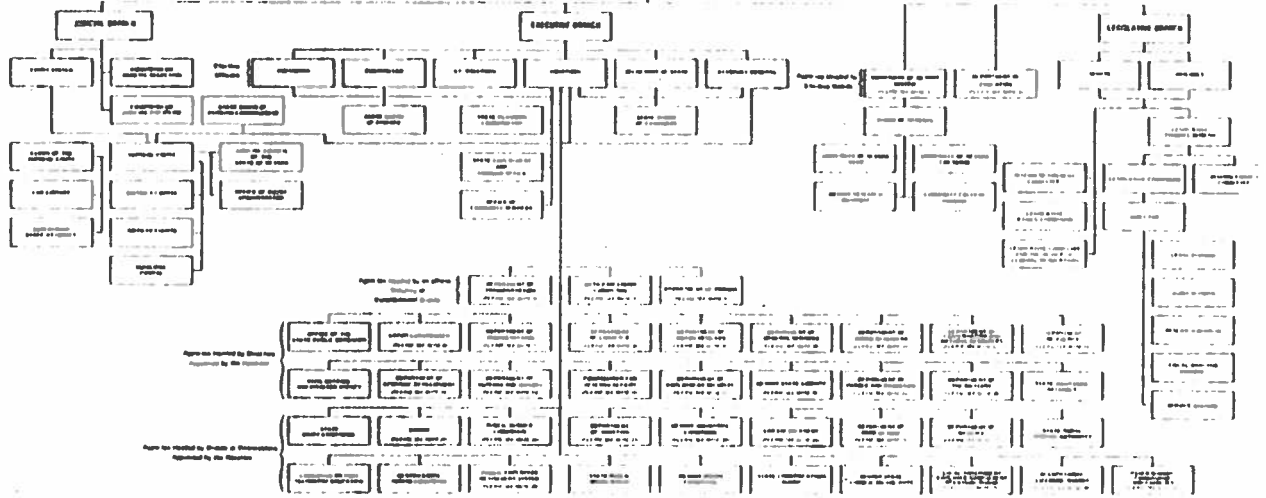


TOTAL 60 POSITIONS (INCLUDING DEPUTY A.G.)

NEVADA STATE GOVERNMENT

BOARDS OF NEVADA

EXHIBIT C



INDEX

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