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REPORT
OF THE
UTILITY REVIEW COMMITTEE
TO THE
1979 SESSION
OF THE
GENERAL ASSEMBLY

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INTRODUCTION

The joint resolution establishing and empowering the Utility Review Committee provides, in part, for the Committee:

"To submit evaluations to the General Assembly, from time to time, of the performance of the State Utilities Commission and the various utilities operating in the State. A proposed draft of such evaluation shall be submitted to the Utilities Commission and the affected public utilities prior to submission to the General Assembly and Utilities Commission and affected utilities shall be given an opportunity to be heard before the Utility Review Committee before the evaluation is finally completed and submitted to the General Assembly." (Section 6(5), Senate Joint Resolution 549, Ratified June 23, 1975, full text attached as Appendix "A").

Pursuant to the joint resolution, the Utility Review Committee reported to the Second Session of the 1975 General Assembly. Although the report did not offer any specific legislative proposals, several significant issues were discussed and tentative recommendations were made.

The report of the Utility Review Committee to the 1977 General Assembly evaluated the utilities industry in North Carolina and made seven specific recommendations ranging from changing utility rate-base concepts to the safeguarding of transportation of nuclear fuel. The Committee's activities and recommendations led to amendments to Chapter 62 of the General Statutes which resulted in the most comprehensive changes in the structure and procedures of utility regulation since it originated in the first part of the century. (See Initial Report to the 1977 Session and Chapter 468 of the Session Laws of 1977). Many of the major changes became effective on July 1, 1977. Although insufficient time has elapsed to permit final evaluation, this report will describe many of the changes as they are taking shape.

This is the third report of the Committee pursuant to the joint resolution. This report has been submitted to the public utility companies operating in the State, the Utilities Commission and the Public Staff for their comments.

SUMMARY OF CHANGES IN UTILITY REGULATION SINCE REPORT
TO THE 1977 SESSION

In evaluating the current condition of utility regulation in the State, it is necessary to review briefly the major statutory changes made in the 1977 Session. These principal statutory changes were:

(1) G.S. 62-15 (Authority of Commission to Employ Technically Qualified Personnel)

This section was rewritten to establish in the Utilities Commission a Public Staff headed by an Executive Director. The Public Staff is not subject to the direction and control of the Commission. However, the Public Staff is required to give assistance to the Commission.

It is the duty of the Public Staff to intervene in all utility rate and service matters before the Commission to represent the interest of the using and consuming public. The Public Staff has the same rights, restrictions, and obligations as any other party to Commission proceedings.

The Utilities Commission retained a staff as an arm of the Commission itself. Although the investigative authority of the Commission itself was not diminished, most of the investigative resources formerly reposed in the Utilities Commission Staff were transferred to the Public Staff. This division was created without additional personnel, other than for the Office of

Director. Section 23 of Chapter 468 of the 1977 Session Laws imposes a sunset provision on the Public Staff and the Office of Executive Director. Unless the General Assembly otherwise directs, the separate Public Staff and the Office of Executive Director will terminate on August 31, 1981, and the positions assigned to the Public Staff will revert to the Commission.

(2) G.S. 62-10(i) (Judicial Standards of Conduct and Prohibition of Other Employment); G.S. 52-70(a) (Ex parte Communications); G.S. 62-70(q) (Rate Discussions between Public Staff and Utilities); G.S. 62-327 (Gifts).

By these statutes the 1977 General Assembly (1) made the standard of conduct for judges applicable to members of the Utilities Commission and prohibited Commissioners from any other form of employment while in office; (2) strictly prohibited any communication or contact of any kind in formal docket matters and proceedings with adversary parties without the full knowledge of or notice to all other parties of record; (3) prohibited all but formal written interchanges and discussions on matters affecting rates between the Commission and utilities or the Public Staff; and (4) prohibited the giving of anything of value to any member of the Commission, Commission staff, or Public Staff, by utilities, utility holding companies, and their affiliates.

(3) G.S. 63-133 (Rate Base for Rate-Making)

Chapter 691 of the Session Laws of 1977, which changes the method of determining the rate base, becomes effective with respect to rate applications filed with the Commission on or after July 1, 1979. Traditionally, the Utilities Commission in valuing a utility's plant for rate-making purposes has been

required to consider reasonable original cost, as well as replacement or reproduction costs of the plant (fair value). By case law, the Commission was required to exclude from its valuation process the amount of the utility's construction work in progress, i.e., the value of plant under construction but not yet in public service. Chapter 691 of the 1977 Session Laws will make the original cost of the utility's plant (and not reproduction or replacement costs), the basis of utility plant valuation for rate-making purposes after July 1, 1979. It allows the inclusion of the cost of construction work in progress in the rate base. The exemption of electric utility fuel clause hearings and natural gas wholesale increases from the general rate-making procedure was continued.

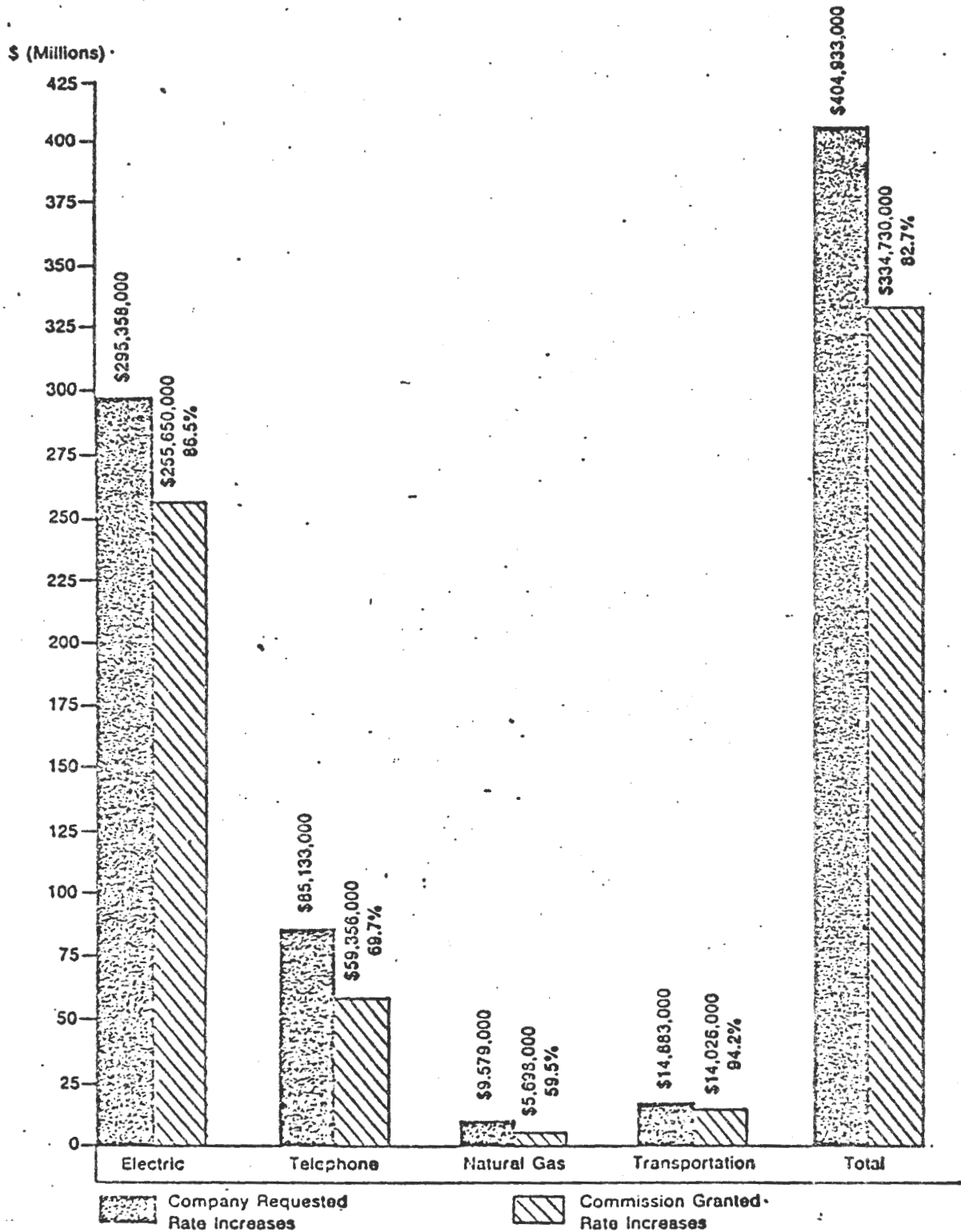
In addition to the principal statutory changes described above, various procedural changes were made in the interests of expediting Commission determinations in rate matters. Resolution 63 of the 1977 Session urged the Utilities Commission to study lifeline rates. The statutory changes described above are the fundamental changes that the Review Committee recommended to the 1977 General Assembly and has evaluated since July 1, 1977.

INTERIM EVALUATION OF 1977 CHANGES

In the view of the Committee, the creation of the separate public staff to represent the "Using and Consuming Public" has been of significant beneficial effect. The unique structure created in 1977 was well-advised. It has been widely acclaimed, and other State jurisdictions have shown considerable interest in copying the structure. It was of exemplary effect in delaying further federal preemption of State regulatory authority over

**COMPARISON OF REQUESTED RATE INCREASES
TO RATE INCREASES GRANTED
By the North Carolina Utilities Commission**

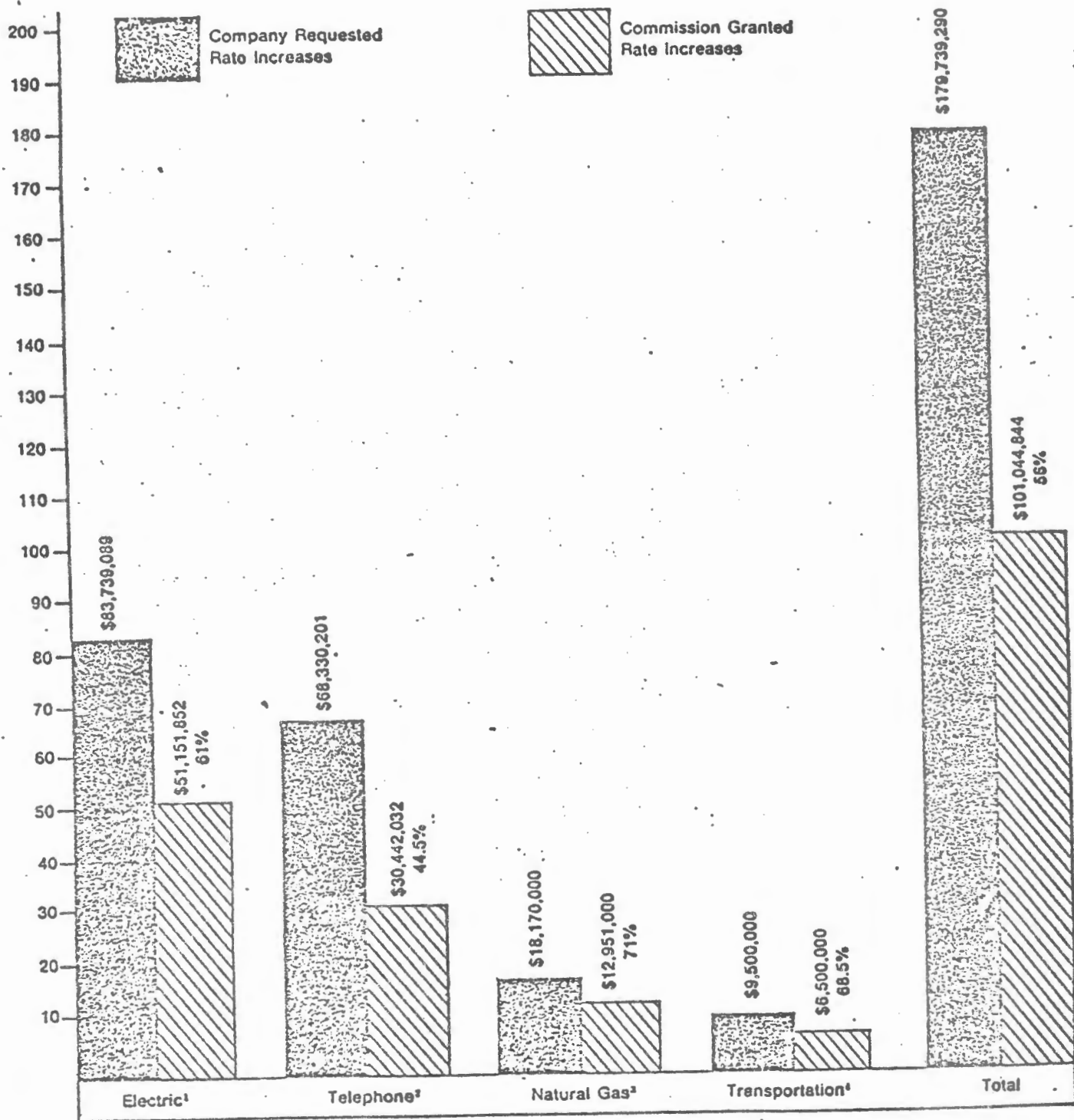
July 1, 1975 to June 30, 1977





COMPARISON OF UTILITY RATE INCREASE
REQUEST WITH RATE INCREASES GRANTED
BY THE NORTH CAROLINA UTILITIES COMMISSION

July 1, 1977 to September 15, 1978



¹ Includes Duke Power Company, Virginia Electric & Power Company, and Western Carolina University.

² Includes Southern Bell Telephone & Telegraph Co., Central Telephone Company, and United Telephone Company.

³ Includes Piedmont Natural Gas, Public Service Company, N. C. Natural Gas, and Pennsylvania & Southern Gas Company.

⁴ Includes 25 transportation cases.

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utilities. If the Public Staff had not been already in existence, it would have been needed under the federal Public Utility Regulatory Policies Act of 1978, which requires a program for the independent representation of consumer interests either through direct compensation of intervenors or through an office of public counsel. The Committee concludes that the new structure has promoted the development of innovative approaches to rate-making with a depth, breadth and freedom which would not have been likely under the old structure. No major structural flaws have appeared thus far. In the view of the Utility Review Committee, the Public Staff has been an effective advocate of the consuming public. As the tables that follow indicate, utility rates have not increased nearly as fast since the creation of the Public Staff as they did in the two-year period prior to its creation. From July 1, 1975, to June 30, 1977, the public utilities in North Carolina received an average of 83 percent of the amount of rate increases requested by them. From the time the Public Staff came into existence on July 1, 1977, until September 15, 1978, the utilities received an average of 56 percent of the amount of the rate increases they requested. The difference between the amount requested by the utility companies and the amount of the rate increases granted totals over \$78 million for the period between July 1, 1977, and September 15, 1978.



Together, the Commission and the Public Staff have kept rate increases in the period since the creation of the Public Staff to about the same level as the overall inflation rate. For instance, Duke Power Company requested a \$70 million rate increase and the Commission granted slightly more than half of the amount requested. Thus, the rate increased only 5.3 percent. The Utilities Commission granted approximately \$3.4 million of the \$6 million increase requested by Public Service Gas Company and the typical customer's rates increased approximately 5.2 percent. Virginia Power and Electric Company received \$10 million of the \$13 million increase it requested. But the Commission has ordered an investigation of Vepco's management and operations over the last 15 years in an effort to find ways to alleviate the burden of Vepco's high cost and rates.

Telephone rate increase proposals have been substantially reduced or eliminated. For instance, Central Telephone Company's request was reduced from \$3,000,000 to \$308,000. Southern Bell's request was reduced from \$40,000,000 to \$7,000,000.

Public Staff

Comparison of General Rate Increases Requested, Recommended
By Public Staff, and Granted by the Commission

July 1, 1977 to September 8, 1978

<u>Company and Docket Number</u>	<u>Company Requested</u>	<u>Public Staff Recommended</u>	<u>Commission Granted</u>
Telephone: Central Telephone Company, Docket P-10, Sub 369	\$ 3,000,000	\$ (495,000)	\$ 308,000
United Telephone of the Carolinas, Docket P-9, Sub 138	1,441,000	1,441,000	1,441,000
Southern Bell Telephone and Telegraph Company (Local Rates), Docket P-100, Sub 768	40,125,000	1,579,000	6,710,000
Southern Bell Telephone and Telegraph Company (Toll Rates), Docket P-100, Sub 45	23,764,201 ^{1/}	23,764,201	21,983,032 ^{2/}
Independent Telephone Companies, Toll Increase, Docket P-100, Sub 45	19,895,915 ^{3/}	7,581 ^{4/}	Refunds Ordered
Carolina Telephone and Telegraph Company, Docket P-7, Sub 624	5,518,000	(10,000,000)	Pending
Western Union, Docket WU-102	47,386	Pending	Pending

Electric:

Western Carolina

University, Docket

E-35, Sub 9	53,089	19,415	19,852
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Virginia Electric and

Power Company, Docket

E-22, Sub 224	13,224,000	9,730,000	10,805,000
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Duke Power Company,

Docket E-7, Sub 237	70,462,000	(1,967,000)	40,327,000
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1/ This is amount which the Public Staff states that Southern Bell's requested rates would produce. Southern Bell claimed that the rates would approximate \$13,500,000.

2/ Difference between Public Staff recommendation and Commission approved results from the Commission approving a one-hour discount period which the Public Staff did not recommend.

3/ This is amount which the Public Staff states that the requested rates would produce. Southern Bell claims the rates would produce approximately \$11,800,000.

4/ Amounts accruing to Barnardsville Telephone Company, Service Telephone Company, and Saluda Mountain Telephone Company.

Public Staff

Comparison of General Rate Increases Requested, Recommended

By Public Staff, and Granted by the Commission

July 1, 1977 to September 8, 1978

<u>Company and Docket Number</u>	<u>Company Requested</u>	<u>Public Staff Recommended</u>	<u>Commission Granted</u>
Gas:			
Pennsylvania & Southern, Docket G-3, Sub 76	\$ 673,000	\$ 519,000	\$ 642,000
Piedmont Natural Gas, Docket G-9, Sub 176	7,020,000	5,305,000	5,528,000
Public Service Company, Docket G-5, Sub 136	5,869,000	3,163,000	3,428,000
N.C. Natural Gas Corp., Docket G-21, Sub 177	4,608,000	2,402,000	2,757,000
Transportation and Water:			
25 Transportation Cases	9,500,000	6,500,000	6,500,000
17 Water Company Cases (Estimated) //	328,000	297,000	305,000

1/ The differences between Company and Public Staff amounts are contained in one rail case for \$1,500,000 which was denied and \$1,500,000 in four transportation requests which were withdrawn after the conclusion of Public Staff investigations.

While the statistics in the above tables do not, of course, conclusively quantify the impact of the Public Staff on utility rates, the facts strongly suggest that the Public Staff has aggressively and effectively represented the ratepayers.

In the view of the Committee, consumer complaints have been handled more effectively by the Public Staff than under the prior structure. The Utilities Commission has held hearings throughout the State to consider consumer viewpoints. The result of these efforts has been increased public confidence in utility regulation.

The Commission and the Public Staff have instituted power plant performance review. If the power companies cannot prove that failures to operate above minimum capacity levels were unavoidable, then the companies must bear the costs of such failures, rather than consumers. The Public Staff has done one of the most extensive electric load forecasting studies in the country and continues to improve forecasting techniques.

In the view of the Committee, the Public Staff has been a strong, effective advocate of the interests of the consuming public. The establishment of the Public Staff as separate from the Utilities Commission has proved to be beneficial in many respects. The Review Committee will continue to monitor the activities of the Public Staff and the Commission in an effort to ensure that any necessary refinements in the structure are not overlooked. The Committee supported legislation to extend the Public Staff beyond the August 31, 1981 expiration date contained in the legislation that created a separate Public Staff. Senate Bill 493, which was ratified April 10, 1979, allows the Public

Staff to continue as a separate entity. (Chapter 332, 1979 Session.)

Governor Hunt nominated and the General Assembly after open hearings confirmed appointments of six Commissioners and the Executive Director of the Public Staff. The Committee finds that these appointments have provided the State's regulatory agency with great expertise, balance, representativeness, and independence. Both the Commission and the Executive Director are to be commended for their good spirit and devotion to the public interest in making the very difficult structural, procedural, and physical transition and realignments. The Committee finds that general public acceptance and satisfaction with the North Carolina regulatory process has markedly improved since July 1, 1977. Although the amount of rate increases allowed has declined significantly since that time, the Committee finds that, generally, officials of utilities companies are of the view that they have been thoroughly heard and fairly treated.

In order to have sound public utility regulation, good personnel as well as good laws are required. The General Assembly of 1975 and 1977 took giant strides in an attempt to assure both. With respect to the former, it provided for confirmation by the General Assembly of appointments of members of the Commission and the Executive Director of the Public Staff. With respect to the latter, it made a complete overhaul of the statutory structure, powers, and procedures of utility regulation. The early signs are that both efforts have been successful.

The statutory changes concerning standards of conduct have had

a beneficial effect, not only in assuring greater independence of the Commission, but in protecting the rights of all parties before the Commission, including the Public Staff.

G.S. 62-70(g) prohibits all but formal communications by a public utility or by the Utilities Commission "with regard to matters affecting the rates charged or proposed to be charged" by a public utility. Senate Bill 493, which was ratified April 10, 1979, limits the prohibition to communications "regarding the level of rates specifically proposed to be charged". (Chapter 332, 1979 Session.)

ELECTRIC UTILITY FUEL CLAUSES AND NATURAL GAS UTILITY SURCHARGES

Electric utilities fuel clauses and natural gas utility surcharges continued to be the least understood and accepted of the utility pricing methodologies. The Committee has carefully studied both issues since its report to the 1977 session, in order to determine whether legislation may be needed.

The Committee finds that the wide, unpredictable fluctuations in the levels of the electric fuel adjustment riders is due as much to the percent of nuclear, coal, and oil-fired generation of the electric utilities as to changes in price levels of the fuels. The lower the percent nuclear generation the higher the fuel adjustment rider without regard to whether the price of the fuels fluctuate. Thus, when large nuclear-fired generating units are off-line for any reason, the level of the fuel rider increases.

The Public Staff and the Utilities Commission attacked this problem by providing (after investigation and hearings) that, when nuclear-fired generators are operated at a capacity factor

of less than sixty percent, the electric utilities are required to show cause why the amount of such difference required to be assumed by fossil generation should not be excluded in determining the level of the rider. The Committee is not aware of any instances where the capacity factors of the electric utilities have been less than sixty percent since the Commission's order.

In addition, the Utilities Commission, the Public Staff, and the major electric utilities through cooperative efforts reached a voluntary arrangement which established a \$.00 per 1000 KWH "dead band" above and below the unit fuel cost included in the base rates. The rider level must swing more than \$.00 per 1000 KWH above or below the per KWH fuel cost included in the base rates before a change in the fuel rider itself occurs. Historical statistics tend to show that such costs have not varied greater than this amount monthly. Hence, this arrangement is expected to eliminate many of the upward fluctuations which have occurred in the rider.

Further, the fuel clause hearings were changed from monthly to a six months interval. At each six months interval, the Commission plans to "zero" the fuel rider by including its level within the base rates of the utility. The first such "zeroing" took effect January 1, 1979.

Barring unforeseen emergency events, such as oil embargoes and emergency break-downs, the combination of these measures is expected to eliminate the fuel adjustment rider as a separately stated, highly fluctuating, item in the bills of regulated electric utility customers in North Carolina. Although these

measures do not reduce the electricity user's total bill, they tend to stabilize it. This stabilization contributes to effective customer budgeting. It is also beneficial to the electric utilities in that their cash flow is stabilized and planning is simplified.

The Committee believes the arrangements described above obviate the need for legislation in this area at this time. However, the Committee intends to continue its surveillance of the operation of the electric utility fuel clause arrangements in order to evaluate them further after additional data on actual experience is accumulated.

During the last several years, North Carolina has experienced a significant shortage of natural gas. North Carolina is served by only one major gas transmission pipe line - Transcontinental Gas Pipeline Corporation - and during the past several years, Transco has been the most heavily curtailed pipeline in the country. As Transco's inability to meet its system demands became critical in the early 1970s, the Federal Energy Regulatory Commission (formerly the Federal Power Commission) imposed a curtailment scheme on the Transco system, in which priorities for Transco's available gas were based principally on the type of "end use" to be made of the gas, and those distribution companies having the highest percentage of residential and small commercial customers were highly favored. In that North Carolina's gas distribution companies were serving a very substantial industrial load, this meant that most of Transco's gas was going north to those systems handling a high concentration of residential and small commercial load, and that North Carolina became very heavily curtailed.

During the period of curtailment, the General Assembly enacted amendments to the public utility statutes to allow natural gas distribution companies to apply for rate relief geared to their increasing costs of gas without going through a general rate case proceeding. These rate adjustments became known as "flow-through" proceedings. During recent years they have been frequent and have been the vehicle for very significant upward rate adjustments. Also, the North Carolina Utilities Commission has allowed the North Carolina distribution companies to impose a surcharge on their customers to help finance their own efforts for exploration and development of natural gas supplies, independent of the Transco system supplies. All of these circumstances have combined to cause the price of natural gas to go up very sharply in North Carolina in recent years.

The worst of the natural gas supply situation now seems to be behind us. As a result of litigation initiated by the State of North Carolina before the FERC (formerly the FPC) and carried into the federal courts system, the courts ordered the FERC to review its curtailment scheme on the Transco system, with the result that Transco and its distribution customers have been able to agree upon a curtailment settlement that has greatly benefited Transco's North Carolina customers. For the first time in over five years, the North Carolina natural gas distributors are now able to add new customers in the residential, commercial and industrial classes without restriction.

It is hoped that the enhancement of the supply of natural gas will help to abate the upward pressure on rates. The Review Committee recognizes that much of the pricing of natural gas to

North Carolina customers is beyond the control of the Utilities Commission, due to substantial deregulation of natural gas producer prices pursuant to federal legislation. The Review Committee expects that the Public Staff and the Utilities Commission would be diligent, however, to use the available mechanisms of the public utility laws of North Carolina to accomplish the most equitable pricing of natural gas to the citizens of the State possible under present day circumstances.

LOAD GROWTH AND CONSTRUCTION REQUIREMENTS OF ELECTRIC UTILITIES

Since the Committee's report to the 1977 Session, the Public Staff has made extensive statistical analyses and summarized them in electric utility load forecast studies. The Utilities Commission has conducted hearings on load forecasts and issued orders and declarations of policy based thereon. Various committee members have observed these hearings, and reports by the Commission and the Public Staff have been made to the full Committee.

Most of the electric utility generating plants in North Carolina at this time, whether recently operational or in various stages of construction, were planned and committed at times when the growth of electric utility load was exponential and the utilities were declining cost companies. At approximately the time of the oil embargo in 1974, the growth rate became linear and the utilities became increasing cost companies. There were no load forecasts above the most elementary level. Since the inauguration of comprehensive load forecasts, estimates of load growth have been reduced from approximately twelve percent compounded, to about five percent, simple. The effect of

doubling electric utility rates in the years 1974 to 1976 on the rate of growth has never been quantified; nor has the effect of load management and the general emphasis on conservation. However, the combined effect of these factors is believed to account for the large decline.

The decline in load growth resulted in very high generating reserves. For a time, these reserves were regarded as temporary, just as the decline in load growth was believed temporary. As the methodology of the load forecasts was refined and short-term experience confirmed their accuracy, plant construction had to be postponed, and rescheduled. Meanwhile, high generating reserves have persisted.

Before beginning the construction of a new plant, a public utility is required to obtain from the Commission a certificate that public convenience and necessity requires, or will require, such construction. The Commission is required to consider its load forecast in acting on petitions for construction. Nevertheless, it is a very difficult and expensive decision to postpone or eliminate construction of a particular plant. The Committee believes such decisions must be made initially by those charged with providing the public with an adequate power supply at all times, electric utility management. If reserves, or margins, become excessive, the regulatory agencies should make the decision as to whether the stockholder or the ratepayer must bear the expense of the excess. To this point, the Commission, the Public Staff and the electric utilities have mutually resolved these problems without major disagreement.

The Committee has been especially interested in the potential

for conservation of depletable natural resources and the control of rate increases in the electric power industry. It is convinced that conventional nuclear-fired generation of electric power is the most economical and cleanest, currently available source of power. The Committee is convinced that the present ban on reprocessing of nuclear fuel should be reconsidered. Reprocessing of spent fuel elements from our present reactors would reduce by one-third the cost of future uranium requirements for conventional nuclear-fired generators already in operation. Reprocessing will reduce the volume of radioactive waste required to be stored by approximately ninety-nine percent.

Whether our State and nation proceed to grow and develop is dependent upon whether we can continue to obtain the required energy. This continuation of energy supply must be as free as possible from outside coercion, extortion, and exploitation. In any such equation, nuclear power plays an important role. Nuclear power as an energy option must be implemented as a matter of survival.

TRANSPORTATION AND STORAGE OF NUCLEAR WASTES
AND OTHER HAZARDOUS WASTES AND MATERIALS

Members of the Utilities Review Committee have attended conferences, studied literature, and received presentations from agencies and persons with respect to the transportation and storage of hazardous wastes and materials.

In North Carolina, rail and motor modes of transportation are utilities. The Utilities Commission is responsible for safety with respect to the handling and packing of hazardous materials and is also responsible for the safety of the equipment and facilities associated with the transportation of such materials.

The U.S. Department of Transportation has jurisdiction under the Transportation Safety Act of 1974 with respect to the transportation of "hazardous materials", including radioactive materials. Under the legislation, any State requirement that is inconsistent with the federal requirements is preempted unless the U.S. Secretary of Transportation determines that the State regulation affords protection to the public that is equal to or greater than the protection afforded by the federal requirement and that the State requirement does not unreasonably burden commerce.

The Utilities Commission has adopted the Federal Motor Carrier Safety Regulations and is providing the primary regulation of the transportation of hazardous materials within North Carolina. However, the safety jurisdiction of the Utilities Commission does not extend beyond "for-hire" carriers. The Utilities Commission does not have the authority to promulgate highway safety rules with respect to material moving by private carriage.

Although the State Highway Patrol does have jurisdiction over certain aspects of notification, routing, and marking of hazardous materials, important detection and prevention aspects are lacking. The Utility Review Committee recommends that the safety jurisdiction of the Utilities Commission be extended to include all load-bearing vehicles with a capacity greater than 10,000 pounds.

Under the Resource Conservation and Recovery Act of 1976, the U.S. Environmental Protection Agency has jurisdiction over the transportation and storage of "hazardous wastes". However, the jurisdiction does not extend to nuclear materials regulated by the Nuclear Regulatory Commission. The Administrator of EPA is required to promulgate regulations establishing such standards, applicable to transporters of "hazardous wastes", as may be necessary to protect human health and the environment. Such standards must include recordkeeping, labeling, and a manifest system. The EPA regulations are required to be consistent with the regulations promulgated by DOT under the Transportation Safety Act of 1974. The Environmental Protection Agency will not complete and adopt its regulations before 1980.

Under the North Carolina Solid Waste Management Act, the Department of Human Resources is required to promulgate rules concerning the management, including transportation and disposal, of "hazardous waste". (Radioactive material is excluded from the definition of hazardous waste.) The North Carolina legislation provides that the regulations promulgated by the Department of Human Resources may be no more stringent than the regulations under the federal Resource Conservation and Recovery Act of 1976

and shall not become effective prior to the effective date of the federal regulations. House Bill 290, which was supported by the Review Committee, permits the promulgation of regulations and the issuance of hazardous waste facility permits, notwithstanding the absence of federal regulations.

In the view of the Committee, the administrative penalties prescribed by the Solid Waste Management Act were inadequate. House Bill 290 increased administrative penalties with respect to hazardous wastes from \$1,000 to \$50,000 per day of a continuing violation.

Under the Toxic Substances Control Act, the U.S. Environmental Protection Agency is authorized to regulate the manufacture, processing, distribution in commerce, use, and disposal of hazardous chemical substances and mixtures. Nuclear material is exempted from the Act. Any person who fails to comply with any requirement made under the Act may be fined up to \$25,000 for each day of violation. In addition to the civil penalties, knowing or willful violations may result in fines up to \$25,000 for each day of violation, and imprisonment up to a year, or both.

Under the Atomic Energy Act of 1954, as amended, nuclear materials are regulated by the Nuclear Regulatory Commission. The NRC is authorized to enter into agreements with the Governor of any State providing for the discontinuance of the regulatory authority of the Commission in specified areas.

Under the authority of the North Carolina Radiation Protection Act, the Governor has entered into such an agreement with NRC. The Radiation Protection Commission of the Department of Human

Resources is charged with administration of the program. The Commission is authorized to promulgate rules governing the transportation of radioactive materials in North Carolina and such rules may be enforced by the Department of Human Resources and the Department of Transportation, according to mutual understandings.

But for the curtailment of development of the breeder reactor and the cancellation of development of nuclear reprocessing, there would be less of a problem with the permanent storage of spent nuclear fuel in North Carolina. As the matter now stands, the federal government is attempting to select a site or sites somewhere in the United States for the permanent storage of its own high level nuclear wastes. Upon selection, design, and construction of this federal site, or sites, the federal government will permit "permanent" storage therein of the residue of nuclear fuel by North Carolina utilities at prices currently estimated to range from \$112 to \$319 per kilogram, plus transportation costs estimated at \$15 per kilogram. The Utility Review Committee recommends that the General Assembly by resolution express its position that North Carolina should accept for permanent storage only those wastes generated by electric utilities doing business in this State. House Joint Resolution 1139 would accomplish this result.

The federal government has not yet selected a site and such selection does not appear likely for several years. In the meantime, the North Carolina utilities (CP&L and Duke), having designed their on-site storage facilities in North and South Carolina on the assumption of reprocessing, now find these

storage facilities inadequate. Since federal storage sites have not been selected and construction time after selection is made will be of substantial duration, North Carolina Utilities are forced to consider enlarging current facilities and redesigning facilities, some of which have been begun but postponed for various reasons. The inadequacy of storage facilities is causing large volumes of shipments of high level nuclear waste over the highways of the State as both utilities are compelled to shift nuclear residue from older plants to newer plants as a temporary expedient pending availability of federally-owned "permanent" storage plants.

Apparently, the NRC does not have any enforcement personnel assigned to North Carolina. The Radiation Control Commission's present equipment and personnel are not sufficient to provide effective regulation and prevention with respect to spent nuclear fuel as well as other lethal and widespread radioactive substances emanating from industrial installations, hospitals, and other sources.

The Radiation Control Commission is currently cooperating with the Utilities Commission with respect to the transportation of radioactive materials. As noted above, the Review Committee recommends that the safety jurisdiction of the Utilities Commission be extended to cover other than "for-hire" vehicles. In any event, in the view of the Review Committee, the number, training, and authority of the field enforcement personnel of the Utilities Commission is not adequate for effective regulation of the transportation of hazardous materials, including nuclear materials, over the highways of North Carolina. The Utility

Review Committee recommends that the number of transportation safety inspectors on the staff of the Utilities Commission be adequately increased.

NATURAL GAS PIPELINE SAFETY

The Utilities Commission, local governments, and the natural gas utilities have urged that G.S. 62-50, Safety Standards for Interstate and Intrastate Natural Gas Pipelines, be amended to extend the present authority of the Commission to include gas distribution lines to and including master meters on customers' premises. The Committee has investigated this matter and finds that such an extension of authority will tend to eliminate potentially dangerous conditions where there now seems to be a gap between State and local enforcement authority. Accordingly, the Committee supported legislation to extend the pipeline safety jurisdiction of the Utilities Commission to include municipally owned gas distribution systems, public housing authorities, and any person operating apartment complexes or mobile home parks that distribute or submeter natural gas to their tenants. House Bill 508, which was ratified April 3, 1979, accomplished this result. (Chapter 269, 1979 Session.)

SERVICE AREAS OF UTILITIES

The Review Committee held hearings concerning whether current law should be amended to permit the Utilities Commission to change the service areas of utilities where the Commission finds that such a change is in the public interest. The practical and legal ramifications were addressed and comments in opposition to such a change were received from several public utilities. The advice of the Utilities Commission and the Public Staff

concerning whether such legislation is needed has been requested. The Review Committee plans to postpone further consideration of this matter until such time as it is advised by either the Utilities Commission or the Public Staff that such legislation is needed.

UTILITY REVIEW COMMITTEE

The 1975 session of the General Assembly passed Senate Joint Resolution 549 to establish the Utility Review Committee. The Review Committee acts as an arm of the General Assembly in evaluating the actions of the Utilities Commission and analyzing the operations of the utility companies doing business in North Carolina. The Review Committee is also given authority to inquire into the role of the Utilities Commission and the utilities companies in the development of alternate sources of energy and the conservation of energy.

The authorization contained in the resolution establishing the Utility Review Committee expires on June 30, 1980. The need for legislative oversight of utility regulation continues. Accordingly, the Committee recommends to the General Assembly that legislative action be taken to extend the authorization of the Utility Review Committee.

S. R. 549

RESOLUTION 100

A JOINT RESOLUTION TO ESTABLISH A UTILITY REVIEW COMMITTEE.

Whereas, the ultimate authority to regulate business and industry in North Carolina is vested in the General Assembly; and

Whereas, the people of North Carolina look to the General Assembly to exercise that authority wisely and for the greatest good of the greatest number; and

Whereas, in this period of rapid change in the economic climate, it is difficult for the members of the General Assembly to exercise responsible judgment unless adequately informed in such complex areas as the regulation of public utilities; and

Whereas, the establishment of utility rates and the maintenance of an equitable balance between the legitimate interest of the companies and the necessary protection of the consumers are ongoing problems which will face successive sessions of the General Assembly:

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. Notwithstanding the provisions of the Executive Budget Act, there is hereby established a permanent Utility Review Committee to evaluate the actions of the State Utilities Commission and analyze the operations of the several utility companies doing business in North Carolina and make periodic reports and recommendations to the General Assembly.

Sec. 2. The Utility Review Committee shall consist of six sitting members of the General Assembly, three to be named by the Speaker of the House and three by the Lieutenant Governor. The chairman or co-chairman shall be elected by the committee from among its members.

Sec. 3. The Utility Review Committee shall continue in existence for five years, beginning July 1, 1975; and any vacancy occurring during that period shall be filled through appointment by the presiding officer of the appropriate house.

Sec. 4. The Utility Review Committee shall have authority to employ a professional staff, giving first consideration to employees of the Legislative Services Commission who may be able to serve on an interim basis without additional pay except as is necessary to cover travel, subsistence and such other expenses as may be incurred.

Sec. 5. The Utility Review Committee shall be independent of all offices, agencies, boards, commissions, divisions and other instrumentalities of State government except the General Assembly. It shall not be subject to the Executive Budget Act or the State Personnel Act.

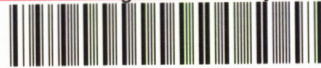
Sec. 6. The Utility Review Committee shall have no regulatory authority, but may exercise the following powers and duties:

(1) To review the interim and final orders of the State Utility Commission to the end that members of the General Assembly may better judge whether these actions serve the best interest of the citizens of North Carolina, individual and corporate.

(2) To review the programs, projects, sources and amounts of income, performance and accomplishments of utility companies doing business in North Carolina to determine whether expenditures plowed back into the rate structure were in all cases appropriate and necessary.

(3) To inquire into the role of the State Utilities Commission and the several utility companies in the development of alternate sources of energy.

(4) To inquire into the individual and collective effort of the utility companies to encourage the conservation of energy and thus reduce requirements for additional generating facilities.



(5) To submit evaluations to the General Assembly, from time to time, of the performance of the State Utilities Commission and the various utilities operating in the State. A proposed draft of such evaluation shall be submitted to the utilities commission and the affected public utilities prior to submission to the General Assembly and utilities commission and affected utilities shall be given an opportunity to be heard before the Utility Review Committee before the evaluation is finally completed and submitted to the General Assembly.

Sec. 7. The Utility Review Committee, or its designated agents, shall at all times with proper notice, have access to such books, records or other documents relating to expenditures, revenues, operations and organizations, public and private, as may be necessary to the performance of its mission.

Sec. 8. In the discharge of any duty imposed by law, the Utility Review Committee, acting through its chairman or co-chairman, may subpoena witnesses, administer oaths and take testimony or cause depositions of witnesses to be taken where appropriate.

Sec. 9. The Utility Review Committee shall be a continuing committee of the General Assembly and shall be assigned suitable office space and equipment. To support its operations during the next biennium, twenty-five thousand dollars (\$25,000) is hereby appropriated from the General Fund.

Sec. 10. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

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