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REPORT OF THE UTILITY REVIEW COMMITTEE
TO THE
1985 GENERAL ASSEMBLY

December 1984

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North Carolina General Assembly

Utility Review Committee

State Legislative Building

Raleigh 27611

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COMMITTEE MEMBERS:

SENATOR JOSEPH E. JOHNSON, CO-CHAIRMAN
REPRESENTATIVE J. P. HUSKINS, CO-CHAIRMAN
SENATOR J. J. HARRINGTON
SENATOR W. CRAIG LAWING
REPRESENTATIVE GEORGE W. MILLER, JR.
REPRESENTATIVE MARY P. SEYMOUR


December 28, 1984

TO THE MEMBERS OF THE 1985 SESSION OF THE
GENERAL ASSEMBLY

Pursuant to Resolution 78 of the Session Laws of 1979,
and Section 61, Chapter 1127 of the Session Laws of 1981,
the Utility Review Committee herewith submits its report to
the 1985 General Assembly.



Sen. Joseph E. Johnson
Senate Cochairman



Rep. J. P. Huskins
House Cochairman

MEMBERS OF THE UTILITY REVIEW COMMITTEE

Senator Joseph E. Johnson, Cochairman

Representative J. P. Huskins, Cochairman

Senator J. J. Harrington

Senator W. Craig Lawing

Representative George W. Miller, Jr.

Representative Mary P. Seymour

Steven J. Rose, Legal Counsel to the Committee

Jane Holliday, Clerk to the Committee

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BACKGROUND, AUTHORITY, AND PURPOSE
OF THE UTILITY REVIEW COMMITTEE

The Utility Review Committee (URC) was created in 1975 as a permanent committee of the General Assembly with an initial term of five years expiring June 30, 1980. Resolution 100 (S.R. 549) of the Session Laws of 1975. In 1979 the General Assembly extended the term of the URC until June 30, 1985. Resolution 78 (H.R. 1377) of the Session Laws of 1979. These resolutions were later confirmed and re-enacted by reference in Section 61, Chapter 1127 of the Session Laws of 1981, with all acts done under their authority being ratified.

The URC is a joint committee of the General Assembly with three members each from the Senate and the House. Its general purpose is to evaluate the actions of the State Utilities Commission and the Public Staff, analyze the operations of the utility companies operating in North Carolina, and make periodic reports and recommendations to the General Assembly. Sections 1 and 6, Resolution 78 (H.R. 1377) of the Session Laws of 1979. Pursuant to that resolution and Section 61, Chapter 1127 of the Session Laws of 1981, the URC may exercise the following powers:

- (1) Review the interim and final orders of the State Utilities Commission to the end that members of the General Assembly may better judge whether they serve the best interest of the citizens of North Carolina, individual and corporate;
- (2) Review the programs, projects, sources and amounts of income, performance, and accomplishments of the 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) Inquire into the role of the State Utilities Commission, the Public Staff, and the utility companies in the development of alternate sources of energy;
- (4) Inquire into the individual and collective effort of the utility companies to encourage the conservation of energy thereby reducing requirements for additional generating facilities;
- (5) Submit evaluations to the General Assembly, from time to time, of the performance of the State Utilities Commission, the Public Staff, and the various utilities operating in the state.

In addition to those broad continuing assignments, the General Assembly from time to time requests the URC to undertake specific assignments. The purpose of this report is to fulfill a specific request of the Legislative

Research Commission (see Appendix A, page 13 of this report), as well as to fulfill the Committee's general and ongoing obligation to provide information to the General Assembly relating to public utilities operating in the state.

REPORT OF THE GOVERNOR'S TASK FORCE ON SOLAR LAW

Recommendation of the URC

The URC has formally accepted the report of the Governor's Task Force on Solar Law, but, with one exception, makes no recommendations concerning any of the legislation or administrative actions suggested in the report. The exception is the portion of the report dealing with the drafting and recording of voluntary agreements for solar access easements between private parties. The committee did recommend legislation in this area, which is found in Appendix C of the Report of the Utility Review Committee to the 1983 General Assembly, Second Regular Session.

The Committee wishes to make clear that the lack of specific recommendations concerning other portions of the Task Force report should not be seen as having negative implications. Rather, the proposed legislation covers a wide variety of subject areas, each requiring intense study, and the administration has not yet decided which portions of the Task Force report it wishes to pursue. The Committee does recommend that if legislation similar to that proposed in the Task Force report is introduced during the 1985 Legislative Session, the URC should consider the proposals. In addition, the URC would encourage the administration to

submit to it any additional information the administration feels would be helpful to the General Assembly.

History

In 1982, Governor Hunt appointed a Governor's Task Force on Solar Law and asked it to identify institutional barriers to the development of solar energy and to suggest ways the state could encourage the development of solar and other alternative energy sources in North Carolina. The Task Force issued its report in January 1984. The report contains both administrative and legislative recommendations. The recommendations cover a variety of areas including solar access and land use, public finance, activities of utility companies, and warranties, as well as the activities of the Governor, the Department of Administration, the Utilities Commission, the State Board of Examiners of Plumbing and Heating Contractors, and the North Carolina Real Estate Licensing Board.

Senate Joint Resolution 670, 1983 Regular Session, called for the Legislative Research Commission to examine the report and "seek to identify administrative, regulatory and legislative actions to build a foundation for solar and other economical sources of energy in North Carolina's energy future." Further, Chapter 905 of the 1983 Session Laws provided, in section 41, that solar law could be studied by the Legislative Research Commission under the guidelines of Senate Joint Resolution 670. However, when

the Legislative Research Commission determined there were insufficient funds to make all of the studies it was authorized to make, it requested the URC to undertake the study. (See Appendix A of this report, page 13.)

Proceedings Before the URC

The URC first took up the contents of the Task Force report at its meetings of February 10, March 9, and May 22, 1984. By agreement with the administration, these meetings were limited to consideration of legislation involving solar access easements and land use regulations. These meetings resulted in recommended legislation concerning the drafting and recording of voluntary agreements for solar access easements between private parties. (See the Report of the Utility Review Committee to the 1983 General Assembly, Second Regular Session, pages 10-16 and Appendices C, E-H.)

At its meeting on December 14, 1984, the URC again discussed the Task Force report and concluded, due to the complex nature of the proposals and the fact that the administration had not yet determined which portions of the report it desired to have the 1985 General Assembly consider, that further consideration should await the introduction of specific legislation which should then be sent back to the URC for further study. The URC also encouraged the administration to submit further information to the Committee as the administration deemed appropriate.

The Committee specifically expressed its thanks to the Energy Division of the Department of Commerce for bringing the Task Force report to the Legislature and for the extensive work it had done in this area.

CONTINUATION OF THE NORTH CAROLINA ALTERNATIVE ENERGY
CORPORATION

Recommendation of the URC

The URC does not, at this time, have a specific recommendation on whether or not the North Carolina Alternative Energy Corporation should continue beyond December 31, 1985. The matter is currently before the North Carolina Utilities Commission, which is expected to reach a decision in early calendar 1985. The URC has specifically requested the Utilities Commission to report its decision directly to the URC, at which time the Committee may wish to pursue the question further.

History

The North Carolina Alternative Energy Corporation was authorized by the Utilities Commission in an order issued April 11, 1980. (See Docket No. E-100, Sub 37.) In that order, the Utilities Commission "encouraged and authorized" Duke Power Company, Carolina Power and Light Company, Virginia Electric and Power Company, and Nantahala Power and Light Company to support and participate in the formation of the North Carolina Alternative Energy Corporation, a nonprofit corporation. It also requested the participation of

ElectriCities of North Carolina and the North Carolina Electric Membership Corporation.

The purpose of this undertaking was to explore alternative sources of energy to the end that the rate of growth in electric power demand supplied by traditional generating facilities could be reduced, thereby reducing the need for construction of additional power plants. To accomplish this, the Alternative Energy Corporation would promote the research, development and use of alternatives to traditionally generated electric power which are specific to North Carolina; promote research and development of methods by which electric power can be produced more economically; promote load management and conservation; and carry out the task of educating and informing consumers in the uses and benefits of alternative energy sources, conservation, and load management.

The Alternative Energy Corporation began its actual operation in 1981, with an initial life which is scheduled to terminate December 31, 1985. The question of continuation of the corporation is left in the hands of the members, which are the members of the Utilities Commission.

The Board of Directors of the corporation, which has sole responsibility for directing its activities, consists of thirteen members, with six being appointed by the regulated and nonregulated electricity suppliers and the remaining seven members being public members appointed by the Governor. The activities of the corporation are funded by

the participating utility companies and by Electricities and the North Carolina Electric Membership Corporation. The actual funds are ultimately paid by the electric utility consumers in that the power companies are authorized to include their contributions to the corporation as part of the cost of doing business for the purpose of setting rates, and Electricities and the North Carolina Electric Membership Corporation provide funding which comes from their respective members who, presumably, pass the cost on to their customers.

Proceedings Before the URC

The question of the continuation of the life of the Alternative Energy Corporation came before the URC at its meeting on December 14, 1984. At that meeting, the URC heard from Dr. Frank Hart, chairman of the Board of Directors of the corporation, Dr. J. M. Veigel, its president, Robert B. Koger, chairman of the North Carolina Utilities Commission, and Utilities Commissioner Ruth E. Cook. It also heard from Jane Sharpe, president of the North Carolina Consumers Council, Inc.

These speakers explained the history and workings of the Alternative Energy Corporation to the URC, and were supportive of the corporation's continuation after December 31, 1985.

The discussion by the members of the URC centered on the question of whether or not the Alternative Energy

Corporation should operate under the authority of the Utilities Commission with funding by the electric utility suppliers, or whether, if it is to exist, it should be authorized and funded by the Legislature.

The URC did not reach any conclusion, but did request that it be specifically informed of the decision of the Utilities Commission concerning continuation of the corporation which, according to Chairman Koger, is expected in early calendar 1985.

OTHER MATTERS DISCUSSED BY THE UTILITY REVIEW COMMITTEE

At its meeting of December 14, 1984, the URC held limited discussions on the questions of whether or not the Public Staff of the Utilities Commission should be transferred to the Attorney General, and whether additional standards should be established for service on the Utilities Commission. The URC intended to take these two matters up in more formal and expanded proceedings at a meeting on December 20, 1984, but, due to scheduling conflicts, the meeting was not held. If continued interest is shown in these matters, the URC will take them up at a later date.

APPENDIX A
STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



September 28, 1983

Senator Joseph E. Johnson, Cochairman
Utility Review Committee
Box 750
Raleigh, North Carolina 27602

Representative J. P. Huskins, Cochairman
Utility Review Committee
P.O. Box 1071
Statesville, North Carolina 28677

Dear Cochairmen:

By Chapter 905 (House Bill 1142) the General Assembly authorized the Legislative Research Commission to study solar law employing in its discretion the guidelines contained in Senate Bill 670. The Commission has determined that because of insufficient funds it is unable to make all of the studies which it is authorized to make.

The Commission has noted the role of the Utility Review Committee in reviewing the work of the Utilities Commission and regulation of the utilities companies doing business in this State. Because of the Commission's insufficient funds, your Committee's permanent role of review of utility law and the proximity and mutually dependent natures of solar law and utility law and regulation, the Legislative Research Commission would respectfully request that the Utility Review

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Committee undertake the review, insofar as possible and feasible, of solar law contemplated in Senate Bill 670.

Respectfully,

W. Craig Lawing
Cochairman

Liston B. Ramsey
Cochairman

Copy to: Senator Russell Walker
Mr. Steve Rose

