

PUBLIC HEARING

before

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE

on

ASSEMBLY BILLS 1527, 1855, and
2105, ASSEMBLY CONCURRENT RESOLUTION
203 AND SENATE CONCURRENT RESOLUTION
145.

(Relating to Utility Rate Regulation)

Held:

September 27, 1974
State Office Building
Newark, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Michael P. Esposito (Chairman)
Assemblyman Joseph Garrubbo
Assemblyman Herbert M. Gladstone
Assemblyman Gordon A. MacInnes
Assemblyman Rocco Neri
Assemblyman Carl A. Orechio
Assemblyman C. Gus Rys

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ASSEMBLYMAN MICHAEL P. ESPOSITO (Chairman):

Ladies and Gentlemen, may I have your attention, please. This public hearing will now come to order. I am Michael P. Esposito, Chairman of the Assembly Transportation and Communications Committee.

Seated with me, on my right - to your left - are Assemblyman Gus Rys, who represents Bergen County; Assemblyman Rocco Neri, representing Essex County and Steve Frakt, our staff man.

On my left are Assemblyman Joseph Garrubbo, representing Union County and Assemblyman Herbert Gladstone, representing Bergen County.

The Assembly Transportation and Communications Committee is conducting this public hearing on utility rate regulation in response to the concern of many citizens regarding the unprecedented requests by utilities for rate relief. The increase in utility rates has been overwhelming in recent months. During the first six months of this year, the rates of the nation's fifty largest utilities have increased by more than 55%. It is painfully apparent that the energy crisis is going to present problems and difficulties for this nation and the State of New Jersey in the foreseeable future.

This Committee desires to focus its attention, in particular, upon the issues arising as a result of the rapid rise in the cost of generating electricity. This will involve consideration of the existing electric rate schedules, the procedures employed by the Board of Public Utility Commissioners in determining rates, the nature of the fuel adjustment clause granted to electric companies, the effect of existing and proposed rate increases upon the State's consumers and the role of the Public Advocate's Office in protecting the public interest.

We desire to use this opportunity to hear the views of our legislative colleagues, State Government

officials, spokesmen for the regulated public utilities, and the public in order to determine the proper role of the Legislature in dealing with these matters. For this purpose we have asked for discussion of relevant pending legislation. The Assembly already has before it a bill sponsored by Assemblyman James Florio to enact a six-month moratorium on utility rate increases. The bills specifically before this Committee today are as follows:

Assembly Bill No. 1527, sponsored by Assemblyman Herbert C. Klein. This prohibits public utilities from giving preferred rates for high volume users and authorizes higher rates to be set for volume users.

Assembly Bill No. 1855, sponsored by Assemblyman Kenneth A. Gewertz. This requires utilities petitioning the Public Utility Commission to adjust its raw materials adjustment clause to certify to the Board that the cost represents the most economical price.

Assembly Bill No. 2105, sponsored by Assemblyperson Betty Wilson. This requires utilities to provide service to residential customers at a rate not to exceed 3¢ per kilowatt hour up to the first 300 kilowatt hours and to provide for recovery of revenue loss through proceedings before the Public Utility Commission which shall determine allocation of revenue recovery among other classes of customers.

Assembly Concurrent Resolution No. 203, sponsored by Assemblywoman Gertrude Berman. This is to create a commission to review powers and policies of the Public Utilities Commission for protection of the public interest in matters of supply, price and demand of electricity and natural gas.

Senate Concurrent Resolution No. 145, sponsored by Senator John F. Russo. This creates a commission to study present and proposed electricity rates of public utilities.

We will follow the usual procedure for legislative hearings in the conduct of this meeting. If a witness has a prepared statement, please make copies available for all members of the Committee. Prepared statements need not be read in full. The witnesses may request that they be made a part of the record for consideration by this Committee.

After each witness has made a statement, the Committee members may ask questions. We trust that each question will be answered in full, to the best ability of the witness. No questions from the audience will be permitted.

The parties who are interested in testifying this morning are: Assemblywoman Gertrude Berman; Howard T. Rosen, representing the New Jersey Utilities Association; Assemblyperson Betty Wilson; Assemblyman Herbert C. Klein; Assemblyman Kenneth A. Gewertz; Joel Jacobson, representing the New Jersey Public Utilities Commissioners; Morris Pesin, City Councilman of Jersey City, representing the Hudson County Transportation Board; William F. Morley, Special Counsel for the City of Jersey City on rate schedules; Bernard J. Gallagher, Director of the Essex County Office on Aging; Ed Lloyd, representing the New Jersey Public Interest Research Group; Richard F. Aronsohn, representing the Multiple Dwelling Electric Users Association and Charles Bounds, representing the Senior Citizens Advocate and Camden Legal Services.

The first witness this morning will be Howard Rosen, representing the New Jersey State Public Utilities Association.

H O W A R D T. R O S E N: Thank you for the opportunity to comment on the proposed legislation, dealing with utility rates and their regulation by the New Jersey Board of Public Utility Commissioners.

My name is Howard T. Rosen; I am a lawyer with the firm of Rosen and Weiss in Newark.

I appear for the New Jersey Utilities Association. The Association consists of leading suppliers of electric, gas, telephone, water, sewerage and transportation services throughout New Jersey. Its members are directly and immediately affected by the bills under consideration.

The reasons for high utility bills lie beyond the borders of this State. Rates - particularly for the electric companies - have risen sharply all across the country in the last year, and for the same reasons:

First, inflation of material and labor costs, most notably for the oil that fuels the electric generating stations.

Second, tight money, which has resulted in a shortage of capital and outrageous interest rates.

Neither you, nor the State's utilities can break the Arab oil cartel, which is responsible for the high oil costs. No state legislature can deal effectively with the causes of inflation or restore order to the securities markets by punishing the utilities. Inflation and tight money are national problems and only the federal government can solve them.

Although you can't cure inflation, there are constructive steps that the legislature can and should take to assure that the regulatory process you have established serves the public interest. We urge that you do not give up and go home.

Let us now consider the merits of each bill before you today.

ASSEMBLY CONCURRENT RESOLUTION NO. 203. This bill, sponsored by Assemblyperson Berman, creates a legislative commission to determine the effectiveness of the policies of the Board of Public Utility Commissioners with

respect to the demand, supply, and price of electricity and natural gas.

It has been twelve years since the legislature took a comprehensive look at the PUC - when the Public Utility Act, Title 48, was revised in 1962. In light of recent events, it would be very much in order for you to review PUC policies and procedures against the standard of the public interest.

If you establish a commission, we suggest that it inquire into whether the PUC has sufficient qualified staff personnel to cope with its greatly expanded workload. The Commissioners were recently placed on full time status but they cannot do the job by themselves. They need top notch engineers, accountants and lawyers for their staff.

The commission should also review whether PUC procedures that met the needs of the past remain appropriate in an economy characterized by double digit inflation. Cost levels change very rapidly these days and it is in the public interest for rates to reflect current costs without delay.

Senate Concurrent Resolution No. 145

This bill, sponsored by Sen. John F. Russo, also creates a legislative study commission. However, ACR No. 203, which I just spoke about, appears preferable because it covers both electricity and gas; and because - in addition to rates - it encompasses the questions of energy demand and supply.

It appears probable at this time that there will be insufficient natural gas available in New Jersey this winter to meet all demands. The availability, demand, and price of gas will become prime concerns of your constituents. It therefore appears advisable to include this subject in the task of the commission.

Assembly Bill No. 2105

This bill, sponsored by Assemblywoman Betty Wilson, fixes a rate of no more than 3¢ per kilowatt hour for residential customers for their first 300 kilowatt hours usage per month. The PUC is required to increase the rates of other classes of customers to make up for the revenue losses that would result.

Although well motivated, this bill unwisely interferes with the responsibilities of the PUC. Ratemaking is a complex process that requires expert and experienced consideration. Prior to 1911, the legislature attempted unsuccessfully to regulate public utilities directly, including the rates charged. Results in New Jersey and elsewhere led to creation of the Public Utility Commissions, where the necessary expertise and experience could be focused.

A2105 usurps the PUC jurisdiction and would be a bad precedent. Interest groups would besiege you with bills for special utility rates in their favor.

The legislature authorized a Public Advocate this year to vigorously advance the consumer interest in rate cases. The utilities are required to bear the Public Advocate's costs. He has had some notable successes in his first cases. You may be assured that the interests of the small user of utility service is being aggressively protected before the PUC.

Action at this time on the bill would be premature, in any event, before you receive the report of the study commission proposed in other bills pending before you.

Assembly Bill No. 1527

This bill, sponsored by Assemblyman Herbert C. Klein, prohibits utilities from giving preferences regarding rates to high volume users.

This bill also invades the province of the PUC. The PUC recently led the way for regulatory commissions throughout the country in placing a disproportionate share of rate increases upon commercial and industrial customers to the benefit of residential customers.

The present bill goes much further. It would require a far reaching revision of all major utility tariffs. It would enormously and abruptly increase manyfold utility bills for industrial and commercial users. We believe it would discourage industry from locating in New Jersey and seriously aggravate the already grim unemployment picture.

The PUC considered and rejected this proposal on

March 28, 1974 where it said that the proposal could "unacceptably depress the economy of this State and cost jobs. All rate payers must shoulder their fair share so that the promiscuous use of energy is not encouraged for any class of customers."*

The existing statute (R.S. 48:3-1) forbids "unjust" or "unreasonable" preferences and leaves to the expertise of the PUC the determination of the particular case. By prohibiting all preferences to volume users, A1527 would wipe out the use of commuter tickets, and other volume rates that benefit all users.

If you have any reservations about this bill, we strongly recommend that you await the report of the study commission you are considering before taking action upon it.

Assembly Bill No. 1855

This bill, sponsored by Assemblyman Kenneth A. Gewertz, requires that utilities certify to the PUC that changes in the cost of basic raw materials represent the most economical price for which the material was available. No increase in the rate is allowed until the PUC verifies the certification.

The PUC already supervises raw material and other utility costs that enter into the rate making process. It disallows proposed rate increases that are based upon excessive prices.

It is not possible, however, for the PUC to verify

* Docket No. 733-177, "Inquiry to Determine Restrictions of Electrical Supply to New Jersey Customers."

each and every change in the cost of raw material purchased by every utility, as this bill would require. The bill would be counterproductive, since the cost of hiring additional staff necessary to meet its requirements would be so great that rates would be greatly increased.

The most important raw materials purchased cannot be shopped in the market place each time a purchase is arranged. Federal Energy Administration regulations restrict switching oil purchases from one source to another. The price for natural gas purchased is set by the Federal Power Commission, and it is practically impossible to acquire new source of natural gas at the present time.

This bill is not in the public interest.

Assembly Bill No. 2040

This bill, sponsored by Assemblyman Florio, flatly prohibits all utility rate increases for a period of 6 months. It is already before the Assembly, this committee having been bypassed.

I would like to comment briefly since A2040 deals with the general subject matter under consideration. We submit that it is fundamentally unfair to prohibit rate increases unless you prevent increases in utility costs for the materials they purchase, the capital they require, and in the wages they pay.

The editorial response of the great newspapers of this State to this bill has been devastating. The Star Ledger said that "it is not a responsible alternative to sound administrative policies that are protective of the consumer while dealing in an evenhanded manner with the financial difficulties of the utility companies." The Trenton Times denounced its "demagogic appeal" and suggested that the legislature simply check "to see that the PUC has the means and the will to deal effectively with the recent flood of rate requests." The Trentonian called it "a dangerous proposal", the Hackensack Record said it is "unfair and unconstitutional", the New York Daily News described it as a "blatant attempt to buy votes with someone else's money", and the Passaic Herald News said it would scare off investors and prevent the attraction of "new jobs which the state badly needs". The Dover Daily Advance said it would result in "off and on electricity like some banana republics". There are more. I would like to present you with copies of these and other editorials for inclusion in the record. (see page 99.)

In conclusion, we ask that you legislate with the long term interests of the State in mind. Unless New Jersey utilities are financially strong, with good credit ratings, they will lose out in the intense competition to attract investors to their securities. They will be forced to cut back on their vitally needed construction projects. This will mean a further loss of jobs and poor service.

I am available for questions.

ASSEMBLYMAN ESPOSITO: Assemblyman Joseph Garrubbo will ask the first question.

ASSEMBLYMAN JOSEPH GARRUBBO: Mr. Rosen, I tend to share some of your views regarding the attempts to invade the province of the Public Utilities Commission. I do recognize that rate fixing is somewhat - I shouldn't use the word somewhat, it is a highly complex business and requires the attention of an organization such as the Public Utility Commission, which understands the problem.

It seems to me that among the aspects of rate increases there is the element of profit to the utility company. Can you enlighten us as to the - and I know profit is a very evasive term - range, or rate of profit at which utility companies anticipate operations and structure their rates, sir?

MR. ROSEN: Yes, I think I can be helpful in that regard. The rates on which the Public Utility Commission requires they be set take into consideration the costs of the capital to the utility companies when they sell their securities. In times, such as this, when the costs for things like interest rates on bonds or dividend rates on preferred stock or earnings on common stock are historically and, in my view, outrageously high in the market place, it results in the fact that the rates of return allowed by the Public Utility Commission is higher today than it was in the past when the cost of capital was lower. So, they have been, over the last year, allowing rates of return which include all capital costs, such as profits, which you are speaking about, in the area of 8% or 9%.

ASSEMBLYMAN GARRUBBO: Excuse me, are you referring to a profit factor to the utility company of 8% or 9%?

MR. ROSEN: That would be the rate of return which would include all capital costs - that is, profits and interest, yes.

ASSEMBLYMAN GARRUBBO: Well, taking it purely from a very simplistic point of view, namely costs, overhead, and whatever else goes into the establishment of a rate, and, finally, profit, what would the margin of profit be on your total cost of operations, or on your total income, let's put it that way - if it can be worked that way?

MR. ROSEN: Well, I would not be unwilling but I would be unable to respond to that as say a margin in terms of total sales or something like that. I really am unable to respond to that.

I will say this as a reaction, it has been, over the last year or so - whatever it works out to be on the bottom line - a disaster for the holder of utility securities. One only has to look at -- There are almost 100 thousand holders of Public Service stock that reside in this State, not counting the mutual funds. Many of those people hold their securities or stock at a price of 25 or 30 compared to the present price of 12 or 12½ and many other holders of those securities, not only Public Service but the other utilities, are very worried, including aged people who depend upon the dividends for their retirement. They are very worried about this.

ASSEMBLYMAN GARRUBBO: My point is, and I suppose this is the purpose of my question, I recognize that the high cost of fuel to the utility companies and the high cost of capital and, obviously, the high cost of taxation on the federal level, all go to create some serious problems for the utility companies. If, as you say, there is nothing that we can do concerning these costs on a local level - on a state level, - while it may sound like a bit of heresy in what I believe and while I recognize your responsibility to the stockholders, I wonder whether or not there isn't some way that rate control can be dealt with

in terms of profit control?

The reason I say that is because I really consider that the State, as a whole, has such a substantial interest in the financial integrity and continued operations of public utility companies that if by some sacrifice of increase in profit, or some compromise in maintaining profit, a rate can be maintained during such times as we suffer today, that might be the alternative approach.

MR. ROSEN: You make a very interesting point, Assemblyman, and I think it is fair to say that the utility shareholders - security holders - have been making their contributions, and more, to the burden of inflationary costs in keeping rates down because there is a substantial lag between the incurring of a higher cost by a utility and your ability to pass it along in rates because you have to come down before the Public Utility Commission and have a rate case before it is allowed. Now, before they allow the rate increase, the increase in costs are borne by the security holders of the company.

There is no question, really, of increases in profits. Profits for utilities have been going down, substantially, over the last year or so. One only has to look at the financial papers to know that the utilities are victims of inflation in a very real sense, just as ordinary individuals, such as you and I, are.

ASSEMBLYMAN GARRUBBO: However, I would think that if it came to a point where we could maintain operations of the public utilities without financial loss, as opposed to profit - balancing that value as opposed to the tremendous effect that rate fixing has upon the State, particularly in a time when we have 275 thousand people in New Jersey out of work - it would seem to me if public utilities could operate even at zero profit, at an absolute maintenance cost versus income, and maintain nothing but their internal structures without profit to the stockholders,

that perhaps that is the only area wherein the Utilities Commission or the Legislature can be effective.

MR. ROSEN: Let me respond to that. The need for profits is based upon the need to pay dividends.

ASSEMBLYMAN GARRUBBO: But there is no statutory requirement that a dividend be paid to my knowledge.

MR. ROSEN: No. However, if dividends were not paid, the income of the people who rely upon those dividends would be cut off, and that includes many retired people. But, more fundamentally, from the point of view of the public interest, it would prevent the utility company from selling additional securities. It seems evident that if they cannot pay dividends, nobody would buy their securities.

ASSEMBLYMAN GARRUBBO: Which, in turn, would require they borrow more capital, which in turn would drive their over-all cost up, I imagine.

MR. ROSEN: Absolutely, except that they wouldn't be able to borrow more capital. Let me talk about that for a minute. The borrowing ability of utilities from banks and from long-term bondholders is directly related to the level of profits. They require a cushion of profits under it or else they won't lend money. They require, in short, that the interest be covered at least two times.

The great thing to be feared from the State's total interest in our view is that if the utilities can't get new money coming in, they won't be able to complete the generating stations, the central telephone stations, etc. under construction. You will start to get the kind of telephone service you get in some European countries. You will start to get the brownouts every day at five o'clock you get in some Caribbean countries.

ASSEMBLYMAN GARRUBBO: Like New York.

MR. ROSEN: Right. More frightening is the fact of the layoffs of construction workers. I don't have to tell you that is a serious problem. If you stop construction of the utilities, what is going to be left in the way of

construction jobs in the State of New Jersey?

ASSEMBLYMAN GARRUBBO: Are you familiar, Mr. Rosen, with the fact there has been some discussion in the administration concerning legislation to make available low-cost bonds so that utility companies might go toward the goal of doubling their capacity within the next decade? Are you familiar with those proposals?

MR. ROSEN: I have read of them in the press. And, only recently, I think, it was mentioned briefly in the Governor's Inaugural Message. I regard them as very interesting and important and a subject that should be investigated further.

ASSEMBLYMAN GARRUBBO: One final question because I don't want to invade anyone else's time: But do you envision any area wherein we as a State Legislature can be effective in terms of contributing to the control of rate increases? I recognize that you have told us that this is an international problem to a certain degree. Is there anywhere where this Legislature, in your opinion, can be effective?

MR. ROSEN: To some degree you already have been, I think. This Legislature established the Department of the Public Advocate. It has done an outstanding job in terms of fighting for the other point of view before the Utility Commission, creating a real adversary role, and they have had some notable successes. They defeated the interim application for an increase by New Jersey Bell, and I believe Jersey Central's last interim application was defeated by the Public Advocate. That is number one. That has been done by this Legislature.

Number two, I think you can take a look at whether the PUC staff is adequate. Do they have enough people? Do they have salary levels that would attract quality people?

ASSEMBLYMAN GARRUBBO: Are you in a position to express an opinion on that, by the way?

MR. ROSEN: Let me express a personal opinion rather than an Association opinion, and the answer is, no.

ASSEMBLYMAN GARRUBBO: They have not?

MR. ROSEN: They have not. They have been flooded with work this year. The past recent Legislatures gave them jurisdiction over CATV, solid waste and movers. This year the big utilities are all over them with rate increase applications. And, as their workload increases, they have not had a corresponding increase in staff.

ASSEMBLYMAN GARRUBBO: One more question. You have mentioned earlier there is anticipated a substantial reduction in fuel for the forthcoming winter.

MR. ROSEN: There is a risk of it, depending on how bad the weather is - how cold the weather is.

ASSEMBLYMAN GARRUBBO: Is it possible without being able to anticipate -- Suppose we base it upon the winter of '73-'74. Is there any way that you can predict the practical effect on the consumer that this will have in his home for '74-'75?

MR. ROSEN: Last winter was a very warm winter and, if we have that type of winter, it seems clear that fuel supplies, natural gas supplies, will be more than adequate for residential and even a good deal of the industrial load. If the experience is very cold, the estimates I have seen indicate there will still be more than sufficient gas available for residential and absolutely necessary other loads, but that there will be the possibility of some cutback in gas available for industry. And that is bad because that means jobs.

ASSEMBLYMAN GARRUBBO: Thank you, Mr. Rosen.

ASSEMBLYMAN ESPOSITO: At this time, I would like to introduce Assemblyman Mac Innes, representing Morris

County, and Assemblyman Carl Orechio, representing Essex County.

ASSEMBLYMAN MAC INNES: I apologize for being late. I never had the experience of a legislative hearing starting on time.

ASSEMBLYMAN ESPOSITO: Any other questions?

ASSEMBLYMAN MAC INNES: It doesn't really relate specifically to the bills that have been indicated, but I am wondering what you feel is the general responsibility of the public utilities in the area of conservation. I note the written comments on Assemblyman Klein's bill which is designed to equalize rates for all users, regardless of the volume used. Clearly one benefit of that bill if it were passed would be that industry and commercial users would be much more careful than they are probably being today in undertaking conservation measures, and very substantial and severe conservation measures. The same would be true of the State and maybe State office buildings wouldn't have lights on all night and that kind of thing. Maybe we would design buildings so you could control the lights in each room with a single switch rather than having the whole floor taken care of by two or three switches. What is the responsibility of the public utilities themselves in encouraging at a time of raw material shortages and higher prices conservation of energy?

MR. ROSEN: The utilities have a responsibility to exert leadership and give specific advice to their customers on conservation. That is being done directly, I believe, by the electric and, particularly, the gas utilities.

There is a role also that the rate design can play in encouraging conservation and discouraging wasteful use of gas through underpricing it in relation to competitive sources of energy.

The Public Utility Commission has studied that, has

issued reports on it, has moved in that direction by raising the share of the burden that the large volume users of energy have to bear.

The objection we suggested on the Klein bill was that it went too far, too rapidly, by equalizing unit costs, which is the real thrust of the bill, for all energy. There would be, I think, an unacceptable fallout in terms of jobs. I can't speak and don't speak for the industrial and commercial people, but it is perfectly clear that those engaged in attempting to attract new jobs to New Jersey will have a very, very heavy burden in doing so because the Southern states and some of the Midwestern states have much lower energy costs. So I think there is something to be done there. But I don't think it would be in the public interest to do something which has a consequence of doubling or tripling or quadrupling in one fell swoop all industrial rates.

ASSEMBLYMAN MAC INNES: Do you have any more specific suggestions as to how that should be done? Should it be done on a marginal basis as the PUC seems to be doing now where rate increases might be shared on a more equal basis costwise?

MR. ROSEN: Well, the PUC is already moving in that direction and, to my knowledge, the gas companies, one of which I am presently familiar with, the Elizabethtown Gas Company, has a rate case pending in which it proposes that the high users be brought up and equalized in order to discourage wastefulness.

I think there is more room to do that in gas, which is in very short supply. As long as the cost of gas is below the competitive price of oil, I think there is more room to do that. You can make bigger strides in that direction than you can with electric. If you go too far too fast in the electric field, you are going to lose jobs.

ASSEMBLYMAN GARRUBBO: It seems like a vicious

cycle to me too because if you get on a conservation effort and your dollar volume thereby reduces, you will soon be back before the PUC for a rate increase because of the reduction of consumption.

MR. ROSEN: I think utilities are very conscious of that and it does seem unfair if a person conserves, to then be hit with a rate increase because revenues went down.

ASSEMBLYMAN GARRUBBA: That is the experience though.

MR. ROSEN: That was the experience with Con-Ed in New York. I think we have learned something from that and in designing rates in the more recent cases, there are very conscious efforts being taken to eliminate or soften or obviate that. That is a terrible thing. One way that is being done, frankly, is to place a greater burden of the new rate increases on commerce and industry, and, thereby, as Assemblyman MacInnes has suggested, encourage a cutback on their use, and keep it available for the others. So that is a possibility.

But it is a tough problem; it really is. A lot of these commercial and industrial costs are passed along. One of the biggest users of electricity are the food stores, the supermarkets. They have all of these refrigeration units and they use huge quantities of electric power. I have no doubt at all that when you increase their share, then you are increasing the food costs of small people, you see.

So, really, the message I have for you today is that there are a lot of interests to be taken into account. What seems apparent on the surface, when you dig deeper into it, is not quite so apparent. There are many interests to be weighed and we think the process can best be left to the Public Utility Commission, which is frankly a consumer-oriented commission these days.

ASSEMBLYMAN MAC INNES: Again, if this has been asked, Mr. Chairman, let me know and I will be quiet. One

of the reasons for giving, I guess, what we call a volume discount in any other business to large users is that they tend to use power in off-peak hours and, thereby, you cover your overhead and spread it out a bit more.

MR. ROSEN: That is true.

ASSEMBLYMAN MAC INNES: Is there any technical problem with adjusting rates on the basis of when the power is used so that you could continue to offer the advantages for users that are using it in the down-time, and at the same time use your price structure to discourage use and increase conservation measures during the peak hours, thereby attaining a number of objectives, conservation being one, but also avoiding the brown-out or black-out danger? Is that technically possible?

MR. ROSEN: It certainly is, and it is being done now. Many of the electric company rate designs do afford lower rates for high-volume users at night in order to increase the load factor. It is technically possible and it is being done and I suspect it will be done more in the future.

ASSEMBLYMAN MAC INNES: Should it be required by the PUC?

MR. ROSEN: I hesitate to say it should be required in all cases, but it certainly should be considered by the PUC. The PUC is to my direct personal knowledge very sensitive to the need to design rate structures to encourage in a very practical way conservation. It is doing it now.

ASSEMBLYMAN ESPOSITO: Any further questions? I will recognize Assemblyman Rys from Bergen County.

ASSEMBLYMAN RYS: Mr. Rosen, possibly you can give me an answer to this. What would be the total gallonage of the imports coming in with respect to oil and gas to your companies?

MR. ROSEN: I can't say. I'm sorry.

ASSEMBLYMAN RYS: The other question I have is: What effect do the atomic plants in the State of New Jersey have in reducing your tax rate?

MR. ROSEN: In reducing the tax rate on the utilities?

ASSEMBLYMAN RYS: I am talking about the electric rates.

MR. ROSEN: In reducing the electric rates - yes. In this way, they don't depend upon oil and they don't depend upon coal. They are fueled by nuclear energy, which is substantially less expensive, per kilowatt hour, produced than oil and coal, so that the production from these plants is lower-cost production than the production from the fossil-fuel plants.

ASSEMBLYMAN ESPOSITO: Assemblyman Gladstone from Bergen County.

ASSEMBLYMAN GLADSTONE: Mr. Rosen, you mentioned that you didn't like Assemblyman Klein's bill. I would like to come back to that.

Do you think it would be possible to work out some sort of an adjustment with it to set, for purposes of conversation, a ten-year period to bring the rates closer together, since there is obsolescence in industry and industry can possibly in that period of time attempt to improve their usage of energy?

MR. ROSEN: It is happening now. I would suggest to you that every rate order issued by this Commission in the electric and gas field since you have full-time commissioners in January has done exactly that. They have been bringing the rates closer together for social reasons and for conservation reasons. They are going in that direction now.

I would recommend to you that you not establish any fixed standard. Perhaps it should be done. Perhaps it should be done sooner. Perhaps it should be done longer. Perhaps it shouldn't go all the way. Perhaps it should go further. There is a lot to be taken into account and you need a lot of flexibility. The problem with the statute is

that it is not flexible enough. But the commissioners are trending in that direction now.

ASSEMBLYMAN GLADSTONE: With regard to the particular reference you made before to supermarkets, I recently attended a Food Council seminar where they showed automated checkouts. And they are using much more energy now in their new procedures than they did before. Why couldn't our regulations be so designed as to encourage them to turn the other way? They are not attempting to conserve energy. They are attempting to introduce new methods which are using more energy. So giving the PUC some leeway, apparently is not sufficient.

MR. ROSEN: I can assure you that the rates the commercial establishment, especially the supermarkets, have been getting over the last year give them a very heavy incentive to conserve energy. And if they are going in any other direction, they are damn fools. Their rate increases have been phenomenal. To my knowledge, they have engaged in very extensive conservation efforts and I don't have the answer as to why they are increasing their energy uses in these automated checkouts, other than perhaps there are other offsetting cost advantages to them, such as personnel.

ASSEMBLYMAN GLADSTONE: I am sure that is their aim right now.

Thank you. That's all I have.

ASSEMBLYMAN ESPOSITO: Mr. Rosen, I would like to ask a question. I come from an area or a district where there are predominately large families. They still live in cold-water flats. They are dependent on gas for heat. They burn gas in the kitchen range. Last year, some of their bills had almost doubled and the reason given was the fuel adjustment clause. I think this is what this Committee is concerned about, these poor users.

MR. ROSEN: Let me respond to that. The operation of

the fuel adjustment clause does not bring one penny of profit to the utilities. Those are clauses which build into the rates the price of gas charged by the pipelines from Louisiana and Texas to New Jersey gas companies. If they weren't there -- in other words, if the rate didn't go up to reflect this horrible increase in the cost of gas sent up from the southwest - if it didn't go up - then the gas companies couldn't pay their bills.

What can you do about it in a practical sense? The answer is, I think, that everybody has to pay their bills and I think it is a problem that we should all speak to our people in Washington, our Representatives in Washington, about. None of us can go out and find more gas. But basically the answer is - it is not going to be the answer for next week - but the answer has to be to encourage the finding of new natural gas supplies.

One of the important questions they have in Washington these days is whether the Federal government should offer an incentive for people to go out and look for gas by permitting them to raise the price of gas even more. I don't give an opinion on that. I don't think I have given you a good answer, by the way.

ASSEMBLYMAN ESPOSITO: Take the small fellow who gets that big gas bill. In the summer months he was paying maybe \$20 a month. Then he gets hit with a gas bill of \$50 for a month. He doesn't anticipate this. What recourse does he have? Can he question the integrity of the utilities? He doesn't know how it was figured. It hasn't been explained to the public.

MR. ROSEN: The only recourse in a practical sense is, I think, that the gas companies will be required to go to a tariff structure that does equalize the costs of the large users of gas. I think that is true and I think it is happening. I mentioned the Elizabethtown Gas Company

which does propose to do exactly that in a case. That, of course, has the effect of keeping the rate for the small man down. That won't have the kind of effect on employment that it would have if you did it in the electric bills because the industrial users don't have much of an alternative. They can't go out and buy oil which costs even more than gas.

ASSEMBLYMAN ESPOSITO: Do you see in the foreseeable future that the fuel adjustment cost will be raised, say, in the next few months?

MR. ROSEN: I am not sure, but I have heard it said that there has been a levelling off in the increases in gas prices, but I am not sure whether the effect will be in the next few months.

ASSEMBLYMAN ESPOSITO: For the utilities, could you say it would reach its peak and is going to stop?

MR. ROSEN: No, because it is not under the utilities' control. I would be glad to say it if the utilities could control it, but it is under the control of the people who sell them the natural gas.

ASSEMBLYMAN ESPOSITO: Thank you. Are there any further questions?

ASSEMBLYMAN RYS: Mr. Rosen, do you think possibly we are going to get gas rationing this winter?

MR. ROSEN: For home heating and that sort of thing?

ASSEMBLYMAN RYS: Yes.

MR. ROSEN: Yes, for industrial use in some sections of the State. I believe there will be the possibility of some restrictions on industrial use, depending upon the weather.

ASSEMBLYMAN ESPOSITO: Assemblyman MacInnes?

ASSEMBLYMAN MAC INNES: Mr. Chairman, I didn't realize that the major utilities were not going to testify individually. Again, if this is a question which has been covered, let me know.

I appreciate the problem of having to maintain a credit rating so that you are able to generate capital funds through the bond market or maybe some day through the stock market. Again I don't know if that will ever happen. What is the present bond rating for Public Service, for Jersey Central, for Atlantic City? How are those bonds now rated by Standard and Poor's?

MR. ROSEN: I am not sure of all of them. But Public Service, I believe, is double A. I am sure Jersey Central is not and I don't know the answer on Atlantic City.

ASSEMBLYMAN MAC INNES: Single A?

MR. ROSEN: Single A for Atlantic City. Jersey Central Power and Light has had its problems recently. I have just been advised that it is BAA.

I know you are conscious of the fact that the BAA rating, even the A rating, involves higher interest costs and that those involve higher rates to the consumers in those territories.

ASSEMBLYMAN MAC INNES: I understand that. I know that that rating system involves a lot of factors, but one factor which is crucial to that, as you pointed out, is the coverage, as they call it, on Wall Street. I am wondering if the BAA rating is primarily a product of PUC regulation in terms of approved rates. Is that the primary contributor?

MR. ROSEN: I can't speak for Jersey Central Power and Light. But it is perfectly clear from reading the newspapers that their ratings went down as a direct result of delays in obtaining rate increases that passed along their increased costs over the last few years, yes. It is serious because it does result in higher rates. Even more important, we now have a situation in this country that I don't ever remember happening before. There isn't enough capital to go around. It is not a question of how much you are willing to pay; there isn't enough. So it only goes to the higher-rated issuers. That is the direct

reason why there have been substantial cutbacks in the construction programs of some utilities. Now it is not only construction jobs we are talking about, but what that means is that down the road a piece, there are going to be service problems.

So we really ask that when you legislate, you respond not only to the mail you get this week, but to where you expect and hope and want this State to be five years or ten years from today.

ASSEMBLYMAN ESPOSITO: Any further questions?

(No response.)

Thank you, Mr. Rosen, for your testimony.

The next witness is Assemblywoman Gertrude Berman, sponsor of ACR 203.

A S S E M B L Y W O M A N G E R T R U D E B E R M A N:
My name is Assemblywoman Gertrude Berman and I am the sponsor of ACR 203.

I have here in my hand several sample electric bills representative of those forwarded to me by my constituents and many others throughout the State. These bills reflect the kind of escalation of consumer costs that we have not seen anywhere, even in these inflationary times. They illustrate graphically the critical problem faced by the electric consumer today. To state the problem very simply, electric bills this past summer almost doubled month to month. We are talking about one hundred percent increase in one month. Nowhere in all the inflationary spiral that has engulfed us have we been asked to cope with that kind of increase. In fact, 14 percent yearly increase is considered severely inflationary and dangerous. Yet here we are expecting consumers of electricity to absorb a hundred percent month-to-month increase in a lopsided business transaction in which they are literally at the mercy of the providers of service.

Can they take their electric business elsewhere if the price isn't right, if it threatens to bankrupt them? Can they shop around carefully like prudent consumers to get the best buy? Can they count on a competitive market to insure efficiency of operation with monetary benefits accruing to them? Can they decide the product is too costly and refuse to purchase the item? The dress, the car, the new house, the steak or even the hamburger can be passed up, but where does the consumer go if the budget will not stretch to cover electric costs? To the oil lamp, the pot-bellied stove, the wood-burning range, the iceman at the back door?

We are talking quite simply about a monopoly, a single supplier of a product from whom every individual in a given geographical area must purchase service. Whether it is the homeowner whose bill skyrockets from \$35 to \$70 or from \$75 to \$150 per month or the small businessowner whose increase from \$2,000 to \$4,000 in a month threatens to bankrupt, there are no alternatives.

Is there no protection at all for the consumer? Of course. This is a regulated industry that comes under the jurisdiction of the Public Utilities Commission, the PUC. Herein lies the whole key to protection and it is my contention that at this critical point in time, we have an obligation as a legislative body to insure that that regulatory agency is in a position to do the kind of job that the present situation demands.

We in the Legislature and in the State had the chilling experience recently of learning of the demise of an insurance company licensed to do business in the State. This company went bankrupt leaving 50,000 stranded automobile insurance policyholders. There was no coverage for those 50,000 drivers who could not even be notified because of the chaotic condition of records and no protection for the

victims of accidents in which they were involved - a serious situation that the State had to step in to remedy. But the most interesting part of all this is that last December a balance sheet forwarded, as per State requirements, reflected a solid company, according to the Commissioner. Were these figures audited by the Department of Insurance? No, because they only have the staff to audit individual companies every two or three years. So through complex juggling of figures, certain items appeared as assets on that balance sheet which were indeed not, and the record stood.

What I wish to point up here is that figures can be made to say anything you wish them to say. Someone like myself whose profession is in the sociological area knows this only too well. But I am quite certain the businessman, the accountant, the auditor, is even more keenly aware of this. Therefore, we cannot merely state that reports are filed periodically and feel that protection exists.

Much concern in the current critical situation has focussed on the fuel adjustment clause. This mechanism allows electric companies to pass along fuel costs to consumers monthly without any prior review by the PUC. Actually the fuel adjustment clause is a misnomer, since we are talking about a complex formula that has to do with the supplying of energy, not merely what a company paid for oil, but maybe what they paid for the finished product when they were forced to close down, say, a nuclear generating plant, for whatever reason, and obtain electricity from a neighboring power company. Therefore, the consumer picks up the cost of producing the electricity plus the profit to the neighboring company or companies.

PUC regulations require electric utilities to file monthly statements on this fuel adjustment clause. In describing these monthly statements at a meeting in my

office recently, Dr. Shepard Bartnoff, President of Jersey Central - and I quote not from memory, but from a newspaper account from the Daily Register, 9-5-74 - stated, "If we were to run the organization (referring to Jersey Central) with less than possible efficiency in the purchase of oil, the only mechanism for restraining us would be monthly reviews by the PUC. This does put responsibility on us to operate efficiently." The role semantics plays here is interesting. Dr. Bartnoff refers to monthly reviews by the PUC. In fact, monthly statements are filed by the utility. Whether they are merely placed in a drawer somewhere or what scrutiny, if any, is given to them, we do not know. We do know, however, that up to the time of this recent crisis, there was no attempt to audit the sources of figures in the fuel adjustment clause monthly statements. Only this summer for the first time, after considerable public pressure, did the PUC actually begin to audit electric utilities' books to verify figures.

Additional examples of this blind-faith kind of utility regulation can be found frequently. In two stories which recently hit the newspaper, we had graphic examples. One concerned the finding that oil companies continue to escalate prices, while reports that would have shown these increases not to be valid piled up in a drawer of the Federal Power Commission. Another example involved a situation where a repealed regulation continued in use by several utilities, resulting in the shortchanging of consumers by hundreds of millions of dollars.

In light of the facts that have been presented, I believe that it is essential that the capacity of the PUC to cope with the present situation be examined. This is meant in no way to impugn the present Commissioners, but it is essential that a complete examination be made of

their capacity to carry out their statutory function.

This is why I proposed legislation to create a ten-member commission, containing legislators and members of the public-at-large to examine the legal framework in which the PUC operates, the rules and regulations they have promulgated, and the physical capacity of the agency to carry out its critical functions.

The PUC was created in 1911. Few of us here today were even around on that date. Certainly we were talking about a different world in terms of utilities, particularly electric utilities, which hardly existed. Today that body created in 1911 has jurisdiction over 1,130 public utilities, 1,130 public utilities in the area of gas, electric, water, sewers, telephone, telegraph, pipelines, busses, household movers and railroads - 1,130, plus 2100 companies in the solid waste collection and disposal industry - certainly a vast domain of regulatory responsibility.

We do know that the Legislature in the past session saw fit to change the part-time role of the Commissioners to a full-time obligation. This action would appear to be wise and perhaps long overdue. With the full-time duties Commissioners have just assumed, I am interested to know whether there were the necessary corollary changes in the department to make them effective. I know of no such legislative changes during my tenure. What of budgeted staff? Is it adequate? Is it being used effectively? Can it do the job?

Like the long-standing habit of executives, both Federal and State, to appoint to regulatory bodies people straight out of the industry to be regulated or with ties to it, it seems important to check exactly what protection in the law the consumer has against Commissioners with a bias. Not merely do I wish to question whether the PUC has the capacity to protect the public interest, but does it have the inclination and the commitment?

From an in-depth study of the PUC, we can learn what legislative measures may be necessary to strengthen the protective capacity of this agency and to insure the consumer adequate service at a fair price. The Legislature must learn whether legislative action to prohibit pass-through clauses, such as the fuel adjustment clause, and to insist that all increases be the subject of adequate hearing, is indicated.

The fuel adjustment clause has increased over 2000 per cent since its introduction three years ago, most of that increase coming in the last six months. Is this equitable? Is the pass-through mechanism legal or wise? A citizens' suit in Connecticut is currently challenging this very procedure.

These are just some of the important questions to be answered in a study of this kind. Although this legislation was introduced in very large part as a response to the recent public outcry about spiralling electric prices, these are questions that needed answering even before this emergency. In the past few years, the PUC has had to deal with increasingly sophisticated problems. It is time to ascertain whether they have the capacity to deal with complex issues and protect the public interest.

ASSEMBLYMAN ESPOSITO: Assemblywoman Berman, you have made a statement that consumer costs have increased 100 percent from month to month. Do you have bills to document that?

ASSEMBLYWOMAN BERMAN: I have some here.

ASSEMBLYMAN ESPOSITO: Another question I would like to ask: Your bill calls for the creation of another commission. Isn't the Public Advocate's Office doing that?

ASSEMBLYWOMAN BERMAN: Well, I think the Public Advocate is doing a different kind of job and I don't know how familiar you are with the fact that very recently the Public Advocate's Office has entered a suit to ask Jersey

Central - to force Jersey Central - to sue its suppliers of oil, in terms of a price collusion. In other words, this is an action that has been taken successfully in another state and the Public Advocate's Office saw this as an avenue to force some break in price to the consumer.

ASSEMBLYMAN ESPOSITO: Like you, I have been concerned about the rising rates and I have asked the PUC about it and their argument is that they don't have adequate staff to do that type of work. Is the Legislature ready to give them money to increase their staff and do the work you want them to?

ASSEMBLYWOMAN BERMAN: I think it is being represented that they are doing certain things. If, in fact, they cannot do them, I would like the record to show that. And if the Legislature is presented with a bill, I don't know that it has to go in terms of increased staff; it may or it may not. At least we will have the opportunity to say, no, and know exactly what the score is.

ASSEMBLYMAN ESPOSITO: Would you like to see something done in that direction?

ASSEMBLYWOMAN BERMAN: Yes, I would think so.

ASSEMBLYMAN ESPOSITO: Any further questions?

ASSEMBLYMAN RYS: Assemblywoman Berman, wouldn't there possibly be a conflict between the PUC - and I am not trying to get into the jurisdiction of the PUC or your commission -- a conflict between the PUC and your commission?

ASSEMBLYWOMAN BERMAN: No, I think that is a direct obligation of the Legislature. We make the laws that govern this body and we would want to know whether these laws are working well or if there is any need for new legislation in this area that would assist them in their function. I see no conflict there.

ASSEMBLYMAN RYS: In other words, it would be a cooperative commission.

ASSEMBLYWOMAN BERMAN: Well, not too cooperative, I would hope; I would want to know the truth.

ASSEMBLYMAN RYS: Thank you very much.

ASSEMBLYWOMAN BERMAN: I get uneasy when people are too comfortable together.

ASSEMBLYMAN ESPOSITO: Any further questions?

ASSEMBLYMAN MAC INNES: Assemblywoman, you mentioned in your testimony - maybe I didn't hear it correctly - that there was a regulation by the PUC that took effect that was observed in the breach by several utilities, with the result that additional costs were passed on to the consumer. Is that the correct reading of what you said?

ASSEMBLYWOMAN BERMAN: I said it was in relationship to the fuel adjustment clause?

ASSEMBLYMAN MAC INNES: I am not certain. I was going to ask you what the specific regulation was.

ASSEMBLYWOMAN BERMAN: The pass-through of fuel costs. Was I talking about Jersey Central?

ASSEMBLYMAN GARRUBBO: You were talking about dollar-to-dollar matching of oil increase.

ASSEMBLYMAN MAC INNES: I thought it was something else. I'd like to find out what it was.

ASSEMBLYWOMAN BERMAN: If you could be a little bit more explicit.

ASSEMBLYMAN MAC INNES: It was your testimony; I'm trying to make you be a little more explicit. It was about a regulation of the PUC, unspecified in your testimony, which was observed in the breach for several months after it was to take effect.

ASSEMBLYWOMAN BERMAN: That was not the PUC; that was the Federal Power Commission.

ASSEMBLYMAN MAC INNES: I see.

ASSEMBLYMAN ORECHIO: I think Mrs. Berman made an excellent presentation. It is a good bill. It isn't



costing the State any money. The only question I have is I can't understand why it is a matter for this public hearing. I think we ought to accept her testimony and proceed with the other bills that have a more direct bearing on those that are here to be heard.

ASSEMBLYWOMAN BERMAN: I believe this was one of the bills that was listed for the hearing today.

ASSEMBLYMAN ORECHIO: It was. I was wondering why it was on the agenda. I don't think it should have been on the agenda today for a public hearing.

ASSEMBLYMAN ESPOSITO: It was put on the agenda by the staff.

Thank you, Assemblywoman Berman.

The next witness will be Assemblyman Kenneth A. Gewertz.

K E N N E T H A. G E W E R T Z: Good morning, Mr. Chairman, members of the Committee and members of the public: It is probably the only nice thing I am going to say this morning.

ASSEMBLYMAN ESPOSITO: Do you have a prepared statement?

ASSEMBLYMAN GEWERTZ: No, I don't. I don't believe in prepared statements.

Mr. Chairman and members of the Committee, I am here on behalf of Assembly Bill 1855, which provides that prior to the granting of any fuel adjustment cost, that there be a certification by the utility to the Public Utilities Commission verifying that they have attempted to obtain the best possible price. Now that is covered under existing PUC Administrative Order 14:11-1.13, and I will read this into the record, Mr. Chairman: "Unless otherwise ordered or permitted by the Board, in every instance where a utility, subject to the jurisdiction of the Board, has filed or may hereafter file, with the

approval of the Board, a clause in its tariff providing for an adjustment to its rates for a utility service or product based upon changes in the cost of a basic raw material . . . , it shall conform to the following requirements whenever an adjustment would become effective thereunder which would result in charges being imposed for the utility service or product that would differ from the basic rates:

"1. Not less than seven days prior to the date upon which the initial or any subsequent adjustment is to become effective, a supplemental tariff sheet shall be filed setting forth the amount of the adjustment for each classification of service and the proposed effective date thereof.

"2. The filing of the supplemental tariff sheet as provided in paragraph 1 of this subsection shall be accompanied by a detailed calculation showing for each class of service the calculation by which the proposed adjustment was derived, the amount by which the said adjustment will increase or decrease utility operating revenues on an annual basis, and the amount by which the change in the basic raw material cost will increase or decrease operating revenue deductions on an annual basis.

"3. The filing of the supplemental tariff sheet referred to in paragraph 1 of this subsection shall also be accompanied by any additional information which the Board may have required in any order or other authorization by which the adjustment clause was permitted to be filed, or which the Board may hereafter require with respect to such a filing."

What has happened over a period of time - and you want to remember that the costs to New Jersey consumers has risen almost 73 percent in the last year - hasn't been as a result of a full rate increase; it has been a result of these monthly fuel adjustment costs. Now I fail to see

how the Legislature or the PUC can in all good conscience grant people increases where you are only requiring them to file a form that is a computation of how much fuel costs are to generate each kilowatt of electricity. Assuming that the addition and the multiplication are correct, you grant them then an increase.

A bus company whose fuel costs go up does not get an automatic fare increase because of fuel adjustments, because of their increased costs. In order to increase a fare, they must have full public hearings as to the cost. This is not true with the utilities.

The PUC is now requiring somewhat of a certification, but again it is by their own administrative order and not as a matter of law. So they could very well tomorrow decide that they are not going to do it any longer.

I think we have to take into consideration that the consumers are captive consumers. You have no choice as to from whom you get electric power or from whom you get your gas. If you live in a franchised area, you get it from that company and there is no choice.

Many of our citizens are in a state of economic depression for sure because of these increases. I am merely asking them to furnish a certification that they are getting this fuel at the lowest possible cost, that there is no collusion, there is no conspiracy, and it is not a case of doing business with companies where there may be interlocking directorships or that are wholly or partially-owned subsidiaries of a parent company, because these are things that the public should know.

The arguments against this bill were about the most ridiculous things that I have ever read in my life. According to the statement filed by Mr. Rosen, the Federal Energy Administration regulations restrict switching oil purchases from one source to another. Now are we to believe that

the Federal government is telling the utility companies, "You buy from one source and that's all"? Because if they are, then it has to be obviously a conflict or at the very least an anti-trust type of situation. We are not dealing with a company that buys oil in wheelbarrels; we are dealing with companies that buy millions and millions of gallons of fuel every year. They are not buying it on a daily basis. They are contracting it by some method. They are buying some, undoubtedly, in the free market, according to the gentleman that I spoke to in the hall that does their purchasing. They get it where they can. All that we are asking them is to certify this as a matter of true fact.

We get into the area - and there has been some mention of stockholders - of why they need a new rate increase. And one of the reasons is because of bad management, because of misjudgment. There was some discussion of nuclear power. I had the pleasure just this past week to accompany Acting Governor Woodson to the nuclear generating station in Salem County, the cost of which when they started construction was estimated at \$300 million, and it was to be in operation by 1971. Well, I have the sorry duty to inform you that the first unit will not be in operation until 1976 and the cost will be almost a billion dollars - \$975,000,000 - if their estimates are correct. They have thus far pumped \$660 million into this project.

Now if they underestimate their costs or through some management procedure they have made a mistake, then their stockholders should throw out their directors, their president, their executive officers, and not have their mistakes, in the interest of their stockholders, passed on to New Jersey consumers, because of some poor policy decision. They awarded a contract to a company, United Engineers. They awarded that contract on a cost-plus basis. So United Engineers could care less how much the cost goes

up. What do they care if it costs three trillion dollars. They are paid on a percentage of the cost. They concede absolutely that one of the reasons they need this rate increase is because of this bollix, this mistake. Whether nuclear power is cheaper or not will depend on the construction cost. If they can underestimate by three times what it will actually cost, then maybe it is not cheaper at all.

In what condition are their generating units that are using oil? Are they economically sound? Do they have all of the latest devices to try to save fuel or are they just running at random? Where is the incentive for a company to make sure that their equipment is operating properly when all that they have to do is pass on this cost of the number of gallons that they use to the public directly? Are they concerned how economically they operate? They are like hell.

I contend that we have a responsibility that shouldn't be sloughed off by saying, "Let the Federal government do it," because they have failed. They are incapable of doing it. We are not to do away with our legislative responsibilities to the citizens of this State. Irrespective of what happens in Washington, what happens in Michigan, what happens in Pennsylvania, we have a responsibility to New Jersey residents.

Where were the complaints from the utility companies when all of this oil crisis started? Do any of you recall any releases from any of the utility companies either to members of the Legislature or members of the public? My God, my friends, we have a problem here. Look what they are doing to us because they don't care. They don't have to care because you are paying for it, whatever it may be. If it reached \$80 a barrel, what's the difference? It is passed on in a monthly adjustment cost.

I think if we do nothing else, this bill should be released and voted upon immediately. At least, if it doesn't

do anything else, it will restore public confidence, that the Legislature is concerned enough not to allow administrative procedures to take over what should be a matter of law, that being, if you are going to ask us for more money, show us that you need it. You certify it.

One other comment with respect to the additional cost of the PUC verifying these forms. They are providing somewhat of a semi-certification now. Who is it that pays for the staff that looks at the various aspects of the utilities? The utilities themselves are assessed for the staff. They pay the wages of the Commissioners to a degree. They pay a portion thereof. And if it requires two or three more people, then, fine, let's have two or three more people because if the end result will be that it will protect the public's interest, then the 20 or 30 or 40 thousand dollars it may cost won't amount to a hill of beans. You are not talking about some penny-ante, minor business venture; you are talking about multi-million-dollar corporations. And there is a need to keep an eye on what they are doing and it is our responsibility and no one else's.

Not being critical of the Committee - you do one fine job - but I think we have sort of been asleep at the switch for a period of time. We always have to react to these disasters once they are upon us. It would be nice, for a change, to do something ahead of the disasters, just once, and let the public know we are concerned and we are going to do something about it, whether the utility companies like it or the PUC likes it. That is not our problem. We are the Legislative Branch of government, responsible to the public directly and have no other allegiance.

So I would strongly urge, gentlemen, at your earliest possible convenience, that you release A 1855.

ASSEMBLYMAN ESPOSITO: Thank you, Assemblyman Gewertz,

for your testimony. Your bill will be given every consideration.

ASSEMBLYMAN GEWERTZ: Thank you.

ASSEMBLYMAN ESPOSITO: Assemblyman Herbert C. Klein.

H E R B E R T C. K L E I N: My statement is longer than the bill, but I do intend to vary somewhat from it, by impromptu remarks that have been brought about by some of the testimony of other witnesses.

Mr. Chairman and members of the Committee: I am Assemblyman Herbert Klein.

The present rate structure of public utilities in this State, and indeed of most public utilities throughout the nation, provides significantly lower rates for high volume customers. This rate structure did not come about by accident. It was conceived by the early public utility pioneers and has been preserved and maintained by regulatory bodies.

The policy had its origin out of a desire on the part of the early public utility promoters to promote increased sales and consumption of power. Very likely such a policy was sound in an era when the utility industry was in its infancy and there was an abundance of undeveloped land and resources. It then served to encourage and enhance the development of our nation's land and natural resources, and of the utility industry as well. Significantly, however, that policy seems to be unrelated to actual costs of operations and today the present rate-making structure does not make sense in light of contemporary economic realities.

Energy in all forms is at a premium. As we all know, petroleum and gasoline prices have skyrocketed, propelled not only by the monopolistic practices of the producers, but by increased demands for the product. The power companies, as major users of fuel oil, have contributed mightily to that increased demand and have in turn thrust their own

rates into a seemingly endless upward spiral.

The burgeoning demand for the utility companies' products have had other adverse effects as well. Service breakdowns have become commonplace, particularly in periods of peak demand. Environmental damage has often resulted. Plainly the time has come to reexamine the wisdom of the present policy against the background of contemporary society.

Assembly Bill 1527 seeks to accomplish this result. It would preclude a public utility from giving a preferential rate to high-volume users. By this means, it would produce two very significant benefits to the people of this State.

First, it would reduce present public utility rates for low volume users, particularly the small residential consumer. By eliminating discounts now being given to high volume users, the utilities would gain revenues which could be passed along as savings to the small residential consumer. At the same time, it would protect the small consumer from the burden of any possible future rate increases.

Secondly, by eliminating preferential rate structures, the utilities would eliminate the incentive for increased consumption now built into the present rate structure. The big users would be encouraged to eliminate waste and all non-essential consumption of natural gas and other power.

Assemblyman MacInnes in his questioning of Mr. Rosen, I think, has pointed out a number of significant areas where that could be done.

Thus the already strained capacity of our public utilities would be considerably eased. This in turn might be expected to reduce demand for critically needed fuel oil, natural gas and other energy products. That reduced demand could also be expected to help bring down the present highly-inflated prices of fuel oil and other petroleum related products and fossil fuel, such as coal.

At the same time, the legislation would still give the Public Utilities Commission a free hand in permitting lower rates for consumption during non-peak periods. I see nothing inconsistent with this. Nor would it preclude the establishment of other incentives for achieving means to reduce over-all utility costs, reduce consumption and to enhance the vitality of our State.

I do not agree and cannot agree with Mr. Rosen when he says that this would have a depressing effect on the economy. I think the members of the Committee know that I have been the staunchest advocate in the Legislature of encouraging industry to develop and expand in this State. Our studies have shown that utility bills have not been a significant factor in an industry's decision as to whether to relocate within this State or elsewhere. But if, as Mr. Rosen points out - and I think he is right - that utility costs are lower in the South, power costs are lower, I think they are the product of a bygone era when it was necessary to encourage power production in the South, and the Federal government provided subsidies to southern utilities.

If it is necessary to subsidize power for utilities in the East - and I don't know that it is and I am not saying that it is -- but if it is necessary, the subsidies should come from the Federal government and not from eastern consumers. And that is exactly what is happening right now. It is the eastern consumers, the consumers in the State of New Jersey, who are providing a subsidy to industry in their use of power.

Assembly Bill 1527 will provide the means to bring down power and other utility rates for the consumer now. I heard Assemblywoman Berman and Assemblyman Gewertz. I think their presentations have been excellent and I think their ideas are excellent. But neither proposal will give immediate relief to the consumer and that is what is

needed and it is needed very desperately and it is needed very urgently. This legislation will provide immediate relief to the consumer that can be translated into his electric bill and gas bill tomorrow.

I would, therefore, urge that you give this bill the earliest favorable consideration.

I thank you for giving me this opportunity to appear and I shall be pleased to attempt to answer any questions you may have.

ASSEMBLYMAN ESPOSITO: I would like to ask a question. You know in our area, the Hudson County area, we have the highest rate of unemployment in the country. I think in your area it is pretty high too.

ASSEMBLYMAN KLEIN: It certainly is.

ASSEMBLYMAN ESPOSITO: You know industry is looking for the first excuse to move out of the State of New Jersey and the Department of Labor and Industry is concerned about industry moving out of the State. The other day in a letter I got was a figure of 800 industries in the last four or five years that have moved from the State of New Jersey.

Ultimately, if you take that incentive away from the big users of electricity, the cost is going to be passed on to the small man again, the consumer. You take people that make soft goods like sweaters. That industry uses a lot of electricity. The poor man is going to pay more for his sweater. What you are doing is robbing Peter to pay Paul.

ASSEMBLYMAN KLEIN: In a sense, I suppose one could say that any cost saving to industry or cost addition to industry is going to have an effect on the consumer. In the long run, it does. But we are talking about immediate dollars in the pockets of New Jersey homeowners as against whatever minor - and I stress the word "minor" -- minor effect it might have on the cost of manufacturers that for

the most part are shipping their products all over the nation and all over the world indeed.

So in terms of the New Jersey consumer, this kind of approach is going to mean dollars in his pockets far more significant than any effect - and I question whether it will have any effect - on the corresponding cost factor that goes to industry.

I spent a lot of time, Assemblyman Esposito, considering what was causing industry to move out of this State - what were the factors that industry considers in making a decision whether to build a new plant in New Jersey or go someplace in the South or the West. And the biggest factor was not for the most part cost of operation. It certainly wasn't power, which I found was never mentioned in any of the studies. The biggest factor was: What is it going to cost me to rebuild my plant here? We feel that the Economic Development Authority legislation, which has been adopted and now is law - as a matter of fact, the Authority is now commencing its operations - with the kind of savings they get in lower interest costs to rebuild plants, is really what the key factor is. It has been the big factor in making a decision in every state in which it has been done.

We have found, for example, -- and this is a sidelight, but I think it is an answer to your question. I know that Commissioner Hoffman, as have I, has received many, many inquiries. I personally have received several dozen inquiries from people who want to build new plants in this State. And Commissioner Hoffman's Office has received far more inquiries. They are processing applications. The Authority is having its desired effect.

This factor of the cost of power is an insignificant one and I see no reason why the New Jersey consumer should be subsidizing any industrial use, and that is what he is doing today.

ASSEMBLYMAN ESPOSITO: There is another question I would like to ask you, and that is what the cost of power is in other states as compared to New Jersey.

ASSEMBLYMAN KLEIN: I am certainly am not in a position to give facts and figures.

ASSEMBLYMAN ESPOSITO: If you could give the Committee those figures, I think it would help us a lot in considering your bill.

ASSEMBLYMAN KLEIN: I certainly will attempt to obtain those figures if I can. I don't have those figures at my fingertips.

ASSEMBLYMAN ESPOSITO: Because you know electricity is a factor, a big factor, in operating a manufacturing plant.

Any further questions?

ASSEMBLYMAN GARRUBBO: Herb, I think what you are trying to do is commendable. I have one fear in addition to some of the comments that Assemblyman Esposito had concerning shifting of costs from one pocket to another, which I think you have answered to an extent. But I have a concern that goes, I think, to the heart of what you are trying to do and perhaps you can address yourself to this. I am a great advocate for delegating to the experts the authority that is necessary to deal with problems that require that category of expertise. And it seems to me, as we discussed with Mr. Rosen earlier, that the establishment of a rate structure contemplates so many considerations and it is such a complex issue that to meddle with the Public Utility Commission's power to use this particular approach as a matter of leverage in dealing with another problem somewhat curtails and ties their hands a bit too much. How do you feel about that?

ASSEMBLYMAN KLEIN: Joe, I am really glad you asked that question because I think it points up a very significant question, both in terms of the operation of this bill and

the function of the Commission itself.

It is my conception that the original function of the Commission as it was originally conceived and designed was that of a regulatory body and, that is, to determine that the consumer would not be hurt by its dealings with a monopolistic producer, in that case, the utilities. In performing that function, the PUC, I think, should look into the question of costs, should make sure that the utility does not get an excessive return on its investment, and at the same time I think the utility is entitled to a fair return on its investment; but I don't think that it is the function of the Commission to make determinations, for example, as to incentives or subsidies that should be given to one class of users vis-a-vis another.

Now if volume rates are attributable to cost savings or if volume rates are attributable -- for example, special rates I think could be utilized in the area of down-time -- I see nothing wrong with that. I think that makes sense. But to say as a matter of policy that we are going to favor one class of users as opposed to another class of users without relationship to cost and without relationship to the reasonable operation of the utilities to equalize the load, as it were, it does not seem to me is a proper function of the Commission. I think that is a policy decision that should be made by the policy-makers of the State, and that is the Legislature.

ASSEMBLYMAN GARRUBBO: Don't you think the determination as to whether or not volume incentive should be utilized is a determination that can only be made after a consideration of numerous facets of the problem, that are really not known and not understood fully by members of the Legislature as well as by members of the Utility Commission who deal with the problem daily?

ASSEMBLYMAN KLEIN: What I am saying is that that policy determination has already been made. It was made 50 years ago. It was made by the utility companies and fostered and maintained by the regulating authorities for reasons that are totally foreign to present-day economic reality. It was made in an effort to encourage consumption in an era when the utility industry was in its infancy and wanted to sell as much power as possible to build up its industry. Certainly those factors don't make sense anymore today. I think we should be going the other way. We want to conserve energy. We want to conserve power.

I think, if we want to continue such a policy, it is the Legislature that ought to make that policy determination. But the present legislation gives that power to the Public Utilities Commission. What I am saying is that that power ought to be taken away from the Public Utilities Commission. I think that is particularly true in view of the fact that consumers today - I don't think there is any question about it - are subsidizing large industrial users and they are subsidizing them at a time when the consumer can hardly afford to pay his own bill and his own freight, without paying someone else's.

ASSEMBLYMAN ESPOSITO: Assemblyman MacInnes?

ASSEMBLYMAN MAC INNES: Herb, would you see any contradiction or conflict with the approach taken by Assemblywoman Wilson in her bill which specifies that there be a maximum rate for the small users, that for the first 300 kilowatt hours, they be charged at the rate of 3 cents per kilowatt hour, and then it would be left to the Commission to determine the spread of increased cost to the utility. It is sort of trying to get at the same objective, without specifying it, that you cannot offer volume discount.

ASSEMBLYMAN KLEIN: I wholeheartedly agree that Assemblywoman Wilson's bill, with which I am not intimately familiar

does seem to approach the same problem. It seems to head in the same direction. How that bill would operate, I think, would really involve a closer examination of the present cost and rate structure. So I couldn't say flatly, yes, to your question. But I think it is heading in the right direction.

ASSEMBLYMAN MAC INNES: Following up Assemblyman Garrubbo's question, do you think it would involve an examination of the cost and rate structure? Your bill doesn't require such an examination.

ASSEMBLYMAN KLEIN: Well, the intent of my bill - and I want to make it very clear - is not to interfere with rate-making that is related to cost. What I am solely directing my attention to is those discounts that are unrelated to costs and that amount to a subsidy and, by and large, I think that is what the volume user is getting.

ASSEMBLYMAN MAC INNES: As written, would your bill permit the non-peak user to receive a discount?

ASSEMBLYMAN KLEIN: Yes. I don't think it precludes that at all.

ASSEMBLYMAN MAC INNES: I think it does.

ASSEMBLYMAN KLEIN: Let me say this: It certainly was not my intent to and, if it needs some cleaning up of language in order to accomplish that result, I certainly would be wholeheartedly in favor of that.

ASSEMBLYMAN RYS: You and I come from similar districts. We have a distressed area at the present time. As you well know, Uniroyal and six other plants have moved out of Passaic and vicinity. My question to you is: What effect would your bill have upon new industry coming into this distressed area? At the present time, the plants are empty.

ASSEMBLYMAN KLEIN: I thought I had answered that. I will try to answer it again. I think the reason why those companies moved out had nothing to do with that. Manhattan Rubber, Uniroyal, to give two examples, were

companies that had been in plants that were built 70 years ago and they couldn't operate. They just could not efficiently continue to operate in those plants. They had a decision to make. The decision to be made was: Should they rebuild and modernize their plants in New Jersey or go elsewhere? And they opted to go elsewhere. But the reasons that they opted to go elsewhere were for the most part due to the fact that it was going to cost them a lot more to build if they built in New Jersey.

We think we have gone a long way toward solving that problem with the Economic Development Authority legislation, which would give tremendous incentives and very significantly reduce costs because of the lowered interest rates, the tax-free interest that is now available for reconstruction. So far the initial reaction to the Economic Development Authority legislation has been tremendously good and it seems to be accomplishing what it was intended to.

ASSEMBLYMAN ESPOSITO: Thank you, Assemblyman Klein. Your bill will be given full consideration by the Committee.

ASSEMBLYMAN KLEIN: Thank you. I appreciate it.

ASSEMBLYMAN ESPOSITO: The next witness will be Commissioner Joel Jacobson, representing the Public Utility Commission.

J O E L R. J A C O B S O N: Mr. Chairman and gentlemen of the Committee, my name is Joel R. Jacobson. I am a member of the New Jersey Board of Public Utility Commissioners. I am accompanied here today by Mr. Anthony J. Zarillo, Chief of our Bureau of Rates. I want you to know how much I appreciate this opportunity to come before you and to talk about this most complex problem that has been plaguing all of us, consumers, utilities and legislators alike.

I must commend the Legislature for its interest in holding these hearings. I think you are discharging your obligations as true representatives of your constituents in something that is of a burning, current nature.

I know something of the problem because the Commission has been attending meetings throughout the State of what can only be called irate consumers, much concerned with the increased utility rates that they are being asked to pay, and I know of the pressures that have been applied to the members of the Legislature, looking for immediate solutions.

I would like to indicate to you that I am going to speak with as much blunt candor as is possible, and also, as clearly as possible, distinguish between fact and opinion. I held many opinions about many subjects of which I am sure you are not the least bit interested. But I would like to present to you some facts concerning this problem as I have been able to fathom them during the five months I have served as a Commissioner.

There are three major reasons for the burgeoning increase in utility rates. I would like to take just a few minutes to speak about each of them.

The first and most significant reason for the irate consumer meetings and the pressures applied on you gentlemen and for this hearing is the soaring cost of fuel caused by the price-gouging of the oil buccaneers, both domestic and foreign. A barrel of oil at the beginning of 1973 cost \$2.63. During the so-called oil crisis of the winter of '73-'74, it went as high as \$25 a barrel. It is now hovering around \$14 or \$15 a barrel. You can figure out the percentage of increase as well as I can. In addition, there is no need for me to berate you with the details that the newspapers have heralded forth in headlines every day of the immense, in fact, obscene profits being earned by the oil buccaneers. It is unbelievable the amount of net return which is accruing to the pockets of the gentlemen who run our oil companies.

I just want to indicate to you that the general answer of the oil companies is that they

require these profits in order to continue their development so they can provide fuel for the future. I would like someone to ask the gentlemen who run the Mobil Oil Company who have earned a very healthy profit - 50 percent in 1973 over 1972, 66 percent the first quarter of 1974 over 1973 - what the company is doing with its profits when it is now attempting to buy into Montgomery-Ward. The last I heard Montgomery Ward did not have any oil wells with which to produce energy. That is one of the things they are doing.

I would like to indicate to you that in addition to the profiteering, the extraneous activities beyond their legitimate interest, the Federal tax structure has been one in which the oil companies have been highly successful in evading. This same Mobil Oil Company in 1974 had gross profits of \$2 billion. Their Federal tax was \$50 million. My calculator tells me that they are now in the 2.4 percent income tax bracket. For your information, Texaco was in the 1.6 percent bracket last year. Gulf was in a 1.4 percent bracket last year. And my point, I think, is quite obvious that the Internal Revenue Service tax laws on the oil companies permits them to evade their just responsibilities. A man who makes between \$10 and \$15 thousand a year is in the 20 or 30 percent income tax bracket. The oil companies who earn in the billions are in the 1 percent tax bracket.

I indicate this to you to let you know that the real culprit of the rising electricity rates is the oil producer. Unfortunately, neither the Legislature nor the Board of Public Utility Commissioners can do one thing to solve that problem. The solution to this problem rests at the Federal level. I may say parenthetically that a bill to roll back the price of oil in this State passed the Congress in the spring of this year, was vetoed by President Nixon and when the vetoed bill came back on the floor of the House of Representatives, the veto was sustained, and four members of the New Jersey delegation voted to sustain that veto.

That bill would have reduced electricity rates in this State considerably. Unfortunately, the veto was sustained.

So, point number one, fuel oil I am afraid nobody in this room can do anything about.

The second point deals with the impact of the tax structure on the utilities. Public Service Corporation has before us a permanent petition requesting two hundred fifty-seven and a half million dollars. If that petition should be granted in full - I underscore the word "if" - of the two hundred and fifty-seven million, the company would get \$117 million in revenue and one hundred forty and one-half million would go to taxes. In fact, more than 50 percent of every dollar of revenue which is granted by the PUC to a utility is drained off in the form of Federal taxes and, within our State, gross receipt and franchise taxes. This is another reason why the utility bills are high. In order for the utility to earn a dollar completely, we must provide a two dollar and twenty cent bill for the consumer.

ASSEMBLYMAN MAC INNES: Can you give us those figures again. Out of \$257 million, how much do they realize?

COMM'R JACOBSON: Revenue would be \$117 million; taxes, \$140.5 million. That is just for Public Service. If you want the figures for the other utilities, I have them. I can give you a total figure for the three big electric companies in the State. The requests total \$326 million. The total tax bill would be \$177.7 million. And the utilities would wind up with \$148.6 million in revenues under the existing tax structure.

So the first point is oil; the second point, taxes.

The third point deals with the question of capital. In the past 30 years, in every ten-year period the need to generate electricity, the capacity, has doubled. Every ten years, the ability to generate capacity has doubled.

The projections are that for the next ten years, between now and 1984 - if you read the book, that is an appropriate year for these difficult times - the need to generate capacity will also double or be slightly under, depending upon your estimates. There is not now on line in this State sufficient generating capacity to meet that need ten years from now. You don't have to be again berated with the fact that if this capacity is not produced, brownouts, blackouts, no new customers, cutback in industrial employment - all of these evils will, therefore, be attendant. It is something that nobody wants and we are trying very hard to avoid it.

The industry traditionally has produced for new generating plants, 50 percent of the cost from within its own funds, internally-generated funds. That has been the tradition in the past. However, since the passing of the dividend by Consolidated-Edison in April of this year, which sent shock tremors throughout the entire industry, it has been extremely difficult to raise capital. You see every day in the newspaper where a utility has cut back and stretched out. There is a great difficulty in raising capital. And if they can raise the capital, the bonds that they issued 20 or 25 years ago at 2 or 3 or 4 percent are being turned over today when the prime rate is just under 12 percent. Double A rated bonds are going for 10 1/2. You might ask the question, why would any prudent investor want to take utility bonds where he has to wait 30 years for maturity at 10 1/2 when two weeks ago he could go get a Treasury Note for 90 days at 9 1/2? So the difficulty in raising capital is something that is a problem for every utility. The current ratio for generating funds is only one-third from within and two-thirds from the market.

Now it is very difficult for this Legislature or the

Board of Public Utility Commissioners to deal with market psychology. I don't know what motivates the investor. I can hardly understand Wall Street. But I do know that in order for the utility to attract the investor, it must continue to show increased earnings, increased dividends, and the only way increased earnings and increased dividends are provided is by raising rates. I will not comment on the morality of having a senior citizen with a total income of \$150 a month having his rate increased so that the psychology of Wall Street may be served. That is not my function. But I must tell you as a fact the restraints under which we operate on the Board of Public Utility Commissioners. The legislative restraint that you have imposed upon us is that we require of the utility that it provide safe, adequate and proper service at reasonable rates. Gentlemen, I submit to you all of these terms are subject to interpretation, many of which are subjective. Reasonable people can disagree as to what is a reasonable rate.

However, the judicial restraint under which we function is not quite that nebulous and I would like to read you just three sentences from the decision of the United States Supreme Court dealing with this problem of capital. This is the Hope Natural Gas Case, in which Justice William O. Douglas delivered the majority opinion. These are the sentences: "The investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence

in the financial integrity of the enterprise so as to maintain its credit and to attract capital."

So, in fact, what you have here is a judicial restraint which requires the Board of Public Utility Commissioners to consider the needs or whims, depending upon your point of view, of the Wall Street investor, but no such restraint with regard to the needs or whims, if that is your point of view, of the utility consumer.

I have gone into some detail. I apologize for that. But these are the three reasons for high electricity rates.

Against that backdrop, I would like to discuss the bills which have been presented to your Committee and apply what I suppose would be the acid test: Do any of these bills solve any of those problems? It is my humble opinion - and I offer it as humbly as I possibly can - that the motivation behind each bill is noble, but I suggest that not one of them will solve any of the three problems I have outlined here.

With regard to Assembly Bill 1855, introduced by Assemblyman Gewertz, this legislation provides nothing that the Board's authority does not already encompass. In fact, as of a month ago, the Board of Public Utility Commissioners instructed its staff to do precisely what the bill prescribes. And we have a staff visiting the offices of a major utility to determine whether in fact the automatic fuel adjustment cost has been appropriately charged, whether in fact there has been due diligence in searching for the lowest possible fuel, and whether in fact the utility has really had to pass along that cost to the consumer. By the way, you do know, of course, that the fuel adjustment clause has been in effect for some three or four years and exists in virtually every

jurisdiction throughout the nation. While there may be some question about its applicability, it is here and has been here for a long time.

Assembly Bill 1527, introduced by Assemblymen Klein, Le Fante and Sinsimer, would prohibit the preferential treatment for high-volume users. Gentlemen, I must tell you mainly out of my own ignorance, because, as I indicated, I have only been on this job five months, the problem of utility rates, whether they be inverted rates, whether they be on-peak or off-peak, whether they eliminate the tail blocks, whether the rate design be devised to promote energy or conservation, is a most complex problem. I have been here five months and I tell you honestly, as bluntly as I can, it is something that requires much deep study.

I would very humbly suggest that decisions concerning these problems must be made within the context of the existing structure of the Board of Public Utility Commissioners where hearings are held, where petitions are offered, where cross-examination is permitted, and the decisions are made by the Board in a calm, quiet, quasi-judicial atmosphere rather than the hurly-burly of debate on the floor of the Assembly. I suggest as humbly as I can that the nature of these problems are so deep and so intense that they cannot be solved, in my opinion, on the floor of the Legislature.

Having said that, let me tell you that the intent, I underscore, is noble because in the two major decisions that this Board has made within the past five months the tilt of rates has been precisely in the direction prescribed by this bill.

I just happened to catch the last few words of Assemblyman Klein. And in the earlier days there was no question when energy was plentiful, there were promotional rates applied - the more you used, the lower the rate. Now that made sense during the time when energy was plentiful.

At a time when the patriotic plea is to save a watt and there is a crunch of energy, it does make more sense not to propose promotional rates, not to propose a premium on large use, but certainly a premium on conservation.

I emphasize that the last two decisions of the Board of Public Utility Commissioners on rate cases have done precisely that.

Assembly Bill 2105, introduced by Assemblywoman Wilson, provides for a rate not to exceed 3 cents per kilowatt hour for the first 300 kilowatt hours billed per month. There is a great attraction for this. And again I indicate that the tilt in which the Commission has gone moves in that direction. But I must point out to you the cold, hard, blunt fact that if you introduce such a rate to relieve the burden on one segment of consumers, the remainder must be picked up by another group of consumers. That merely means that you are shifting the load from one to another. It may be that you want to do this. I would again suggest that it should be done in the calm, deliberateness of the quasi-judicial process rather than, to repeat the phrase, the hurly-burly debate on the floor of the Legislature.

I understand the motivation behind this and I must tell you I respond emotionally to it. I find it very difficult to accept the premise that we must raise the rates on fixed-income or low-income people or senior citizens. I find it very difficult, if not impossible, to accept that.

I would suggest to you, gentlemen, there is within the Legislature a bill introduced by Senator Horn to provide lower utility rates for senior citizens and other low-income citizens. This is the proper way to go if you want to proceed in this direction because this has been done with regard to senior citizens and school riders on bus transportation. And if the Legislature wants to subsidize in this area, that is obviously your prerogative and I

assure you this Commission will live up to the letter of the law as soon as it is applied.

The next bill, Assembly 2040, introduced by Assemblyman Florio, which would impose a six-month moratorium on the effective date, I merely repeat once again, it solves absolutely nothing. It sweeps the entire problem under the rug for six months. When we come back six months later, it might be even more difficult to resolve some of those problems.

The last two, the Concurrent Resolutions, introduced, I believe, by Senator Russo and Mrs. Berman, calling for investigation of the PUC in one and the other calling for an investigation of the rates - it is my honest opinion that the Commission in its present form is dealing seriously with these problems of rising utility rates, that we are aware of the pressure being applied upon you, because we feel them, and that within the confines of this process, the solutions, if they are possible, will be approached by this Commission.

I want to conclude by saying again that the three major problems - the cost of oil, the imposition of taxes and the Wall Street market psychology - are problems that you can't solve and that the Board of Public Utility Commissioners can't solve. I would suggest again most bluntly that perhaps the answer to many of these problems lies at the Federal level and there perhaps all of us together can seek that solution.

ASSEMBLYMAN ESPOSITO: Assemblyman MacInnes?

ASSEMBLYMAN MAC INNES: Commissioner, I thought your presentation was very helpful, informative and factual, which is always a pleasant surprise in the Legislature. You mentioned the exponential growth of energy demand over the last four decades or whatever, and the assumption by people with crystal balls that energy demand will double

again between now and 1984. Is that the assumption of the Public Utility Commission when it reviews rate requests by New Jersey utilities?

MR. JACOBSON: No, that has been the figures projected by the industry. I must say that they have revised their figures to indicate a smaller capacity. I am not quite sure of the precise nature of it. But the estimates we hear now are that it will not quite be doubled.

We do not accept these figures. As a matter of fact there is currently in progress a meeting right now with the Presidents of the four major electric utility companies in this State to review precisely their construction program for the next few years and their estimates with regard to their needs. This is a continuing review going on by the Commission.

ASSEMBLYMAN MAC INNES: As a matter of policy when money costs 10 1/2 percent for a Double A rated utility and more for less well-rated utilities and when oil costs are as you have given them, aren't we in a different and probably permanent change in the cost of energy, and to try and compare what one was able to do and the investment decision that a utility made and the investment decision that a business made 20 years ago when there was 5 percent money available to a utility and oil was \$1.60 a barrel, is impossible? Of course, people made energy-intensive decisions because it was cheaper, cheaper than labor and cheaper than a lot of other things, and the consumer made decisions and he loaded up his house with all sorts of appliances, partly in response to advertisements by utilities to live electrically or live gaseously or whatever the thing was that they were pushing. But isn't it time to say that that ballgame is over and we are in an entirely different framework for making decisions, that we should be operating on different assumptions and that conservation of energy and intentionally

lower estimates of demand should be the guideline of the Commission?

MR. JACOBSON: Yes. It is obviously something of imminent consideration. The question of conservation is another point we have just stressed to the utility presidents this morning. There have been plans devised in other states which we are considering for applicability in the state, such as the insulation of new homes in Michigan. There is also a constant review of alternate sources of energy. I have been intrigued by the idea of windmills or recycling of garbage or solar energy. I must tell you, not being a scientist, that I can only repeat what I hear or read. And I just heard over the radio this very morning that somebody in Detroit at the World Energy Conference stated yesterday that the practical application of energy derived from windmills, solar or recycling, is a long distance off in the future.

We also have the question of nuclear generation of energy. This raises all sorts of problems - all sorts of problems. The fact is that it is cheaper to generate by nuclear energy.

ASSEMBLYMAN MAC INNES: Once it is on line.

MR. JACOBSON: When it is on line - precisely right. If you want to get into the question of the safety and all the other problems ---

ASSEMBLYMAN MAC INNES: Not today.

ASSEMBLYMAN ESPOSITO: One more question, Commissioner. This is in reference to Assemblyman Gewertz's bill A 1855. You say the soaring cost of fuel is because of the buccaneers' price gouging. Has your Commission policed the utilities to see that they are not buying from these price gougers?

MR. JACOBSON: It is hard to avoid buying from price gougers; they are the only guys with the oil.

ASSEMBLYMAN ESPOSITO: Could it be someone in the public utilities has stocks in Mobil Oil Company?

MR. JACOBSON: Well, if anybody on the Board of Public Utility Commissioners, either a member of the Commission or working for them, has stock ---

ASSEMBLYMAN ESPOSITO: I am not talking about your Commission. I am talking about the public utilities.

MR. JACOBSON: I wouldn't doubt that. We hear a great deal about interlocking directorates. I couldn't give you any evidence, but I wouldn't be a bit surprised.

ASSEMBLYMAN ESPOSITO: You know the thrust of Assemblyman Gewertz's bill. He claims that they are not being policed and that they are buying raw materials from favored companies.

MR. JACOBSON: I am indicating that the Commission has already a program in effect for one month now to do precisely that.

ASSEMBLYMAN ESPOSITO: All right.

MR. JACOBSON: If you pass that bill, it won't change one thing.

ASSEMBLYMAN GARRUBBO: Earlier, Mr. Rosen testified and I posed a question to him which I think you may have answered much to my distress because you gave an answer that I didn't really want to hear. The question was: In terms of the financial structure of the utility companies - and as with all businesses, you have costs and profit - in light of the fact we realize there is little we can do to affect the three considerations which go to make up costs, maybe the only other area we as a legislative body could deal with or you as a member of the Public Utility Commissioners could deal with is the profit aspect. It seems to me that when weighing the right of reasonable profit against the substantial public interest in the rate structure that profit ought to be the target area of the Public Utility Commission. Now I understand you have indicated there is a decision in the Supreme Court of the United States which somehow limits the area in which you can modify rates in terms of lowering profits. Do I gather from all that you have said that the Legislature of the State of New Jersey can do nothing

to affect the rate increases that are being hoisted upon the public daily? When I say "hoisted," I don't mean in any derogatory sense, but mean in actual fact.

MR. JACOBSON: Sir, there is one area in which I believe the Legislature can move. The first two, I clearly indicated, are Federal problems. In the last one, the question of capital, just by way of introduction, Public Service was just provided with a \$59.5 million interim rate increase. The tilt, as I indicated, was heavily toward industry. The average 500-a-month-kilowatt user - I use 478 kilowatts in my house - paid only 78 cents a month more. I think it indicates we have done precisely what many of these bills want. But the reason the award was given was that Public Service was in danger of having their bond-rating downgraded by Standard and Poor and Moody.

You and I may question why Standard and Poor and Moody all of a sudden become a factor in a decision affecting consumers in New Jersey, but they do. That is a fact. My opinion is that I don't like it, but the fact is that they do. And in order for this rating to be maintained, they had to have a certain percentage of their income over their interest, which is known in the trade as coverage. We provided the precise amount of rate increase to guarantee that coverage figure in the hope that their rating would not be downgraded. I am happy to say that the decision of the Public Utility Commission was right on target. The rating was retained and they were able to go ahead with their financing. That is the background.

There is an area in which I believe the Legislature can move, and Governor Byrne has already suggested it, and it is the institution of some sort of authority, either a bond authority or some other authority, whereby the State can either pledge its credit, either a moral pledge or some other pledge, so that bonds can be made available

for the construction of these needed facilities at a lower cost of interest.

I remember reading just a couple of weeks ago the Arthur Schlesinger book about the New Deal days and the Rural Electrification Administration. That was done on a Federal level. It appears to me it is now time for an Urban Electrification Administration. Perhaps either the Federal government or the State government might move in that direction.

ASSEMBLYMAN GARRUBBO: I am, together with some other members of the Legislature, co-sponsor of a bill that would place the oil companies of the State of New Jersey under the jurisdiction of the Public Utility Commission. I recognize that is only a small step in the over-all Federal problem, perhaps the international problem.

My question of you is: Do you see that as a practical device for the Public Utility Commission to have that jurisdiction? Would it be helpful? And what would be the position of the Commission on that?

MR. JACOBSON: Assemblyman Garrubbo, you would make me the happiest man in the world if you would give me authority to regulate the oil companies.

ASSEMBLYMAN GARRUBBO: I would be the happiest man if I could regulate them.

MR. JACOBSON: I fear that the approach of one state would be insignificant, if not meaningless; that again requires Federal legislation.

ASSEMBLYMAN GARRUBBO: Would it be significant for New Jersey?

MR. JACOBSON: I fear not. I don't believe that would solve the problem.

Now there is a bill that has been introduced by Senator Stevenson of Illinois for a Federal oil company for recapture of oil on Federal lands, to produce the

energy there and also provide a basis of comparison of operation with the buccaneers, which I would hope would pass. My judgment is that is the area in which to go. I don't believe we can do it here in this State.

ASSEMBLYMAN ESPOSITO: There is one more question from Assemblyman MacInnes.

ASSEMBLYMAN MAC INNES: Assemblywoman Berman's bill calls for a commission to review the powers and policies of the PUC to properly regulate public utilities in New Jersey. I am convinced by your argument that this is as complicated a policy question as one can get into and you are up against accountants with their sinking funds and deferred payments and reserves and everything else. You are up against capital markets that none of us can control and few of us understand and you are up against a mammoth operation where it might be exceedingly difficult. Are you able to identify the variable cost versus the fixed cost of oil as it manifests itself through the entire cost structure of a mammoth utility? Are you in general satisfied that the Public Utility Commission is in a position or ever will be in a position to have available to it the expertise and time and the facilities in order to fairly and properly represent the public in regulating this?

MR. JACOBSON: No, sir, I am not and I am very happy you asked that question because it will give me a chance to go into a subject of great concern to me.

ASSEMBLYMAN MAC INNES: We didn't set this up before.

MR. JACOBSON: At the present level, I don't believe that the Public Utility Commission is operating at one hundred percent efficiency. This is nobody's fault. If anything, the fault lies in the system. We have intelligent, dedicated staff who are overworked to the point of being unable to meet their responsibilities because of the crunch

of work. Years ago a rate case was a rare occurrence. Today we get one every single day. I am astounded at the number of petitions that come before us for rate changes. Mr. Zarillo who is with me is the Chief of our Bureau of Rates. He finds it difficult to answer questions that I ask him, not because he doesn't want to, but because he doesn't have the time. So we need additional staff. And, Assemblyman, if I may make a plea to you in the context with which I am quite familiar, we also need a better pay scale. These people are working at rates much lower than comparable positions in industry. You are asking them to compete with these people. We need more, higher-paid and better-qualified people. If you could help us in that respect, I would be very grateful to you.

ASSEMBLYMAN MAC INNES: Do you think it might be helpful to review the question of whether or not the PUC has been given too many areas to handle. I am thinking, for example, of the explosion of work - this is unrelated to bills we are considering today - created by PUC regulation of cable television. That bill was passed before there were FCC regulations governing this industry. Isn't it time we looked at that and said the State needn't be as heavily involved in that particular area and relieve the Commission somewhat? Shouldn't we review the solid waste area and find out if it couldn't be trimmed down a little bit in terms of the workload on PUC, without at the same time jeopardizing any public interest?

MR. JACOBSON: It is my judgment the industries you have mentioned must be regulated. It is also my judgment that the PUC is the proper arena in which that regulation should take place. My third point is that in order for us to do that, we must be provided with sufficient staff. You give us the staff - we'll do it. We are now in a period of lag primarily because of the shortage of staff.

ASSEMBLYMAN MAC INNES: I only have about thirteen more questions. Shall I hold them?

ASSEMBLYMAN ESPOSITO: You can hold them for this afternoon.

Thank you, Commissioner Jacobson. Your testimony has been informative and enlightening and I think it will help the Committee in consideration of these bills.

MR. JACOBSON: Thank you very much.

ASSEMBLYMAN ESPOSITO: We will recess for lunch at this time and reconvene at 1:30 P.M. Before we break, I have a few announcements to make.

The first two witnesses this afternoon will be Morris Pesin and William F. Morley. If anyone from the public sector would like to testify this afternoon, please see our committee aide and make arrangements with him.

(Recess for Lunch)

AFTERNOON SESSION

ASSEMBLYMAN ESPOSITO: This public hearing will now come to order.

The first witness this afternoon will be the Honorable Morris Pesin, Councilman in the City of Jersey City, also Chairman of the Hudson County Transportation Committee.

M O R R I S P E S I N: Thank you, Mr. Chairman and gentlemen. I don't know if any of the Assemblywomen are here yet. I am here, as I have been all summer long, with Mr. Bill Morley, who is at my left, representing Mayor Jordan and the City of Jersey City, at all of the utility hearings in the Public Service Case and the Bell Telephone Case.

Secondly, I am here representing 250,000 senior citizens, together with Mr. Morley, as associates of Mr. Donald Griesmann and of the Camden Advocate Center. These two gentlemen will follow me specifically regarding the problems of senior citizens.

We represent these 250,000 people out of a possible 800,000 senior citizens of the State of New Jersey.

I believe that this hearing is certainly to the good and I commend the Chairman and his associates for bringing it about.

Mr. Morley, Mr. Griesmann and I spent all summer here attending about fifteen hearings in this and other rooms. In fact, with one exception, Jersey City was the only city in the entire State - and I think our Chairman should be very proud of this - who was represented at practically all of the hearings, putting up a fight not only for Jersey City and other cities, but for our senior citizens. Jersey City has the distinction of being the second city in America with more senior citizens in population, the other one being St. Petersburg, Florida.

At these hearings, there was only one member of the Legislature who was present, Assemblyman Gewertz. And I believe that the proper place for representation of the Assembly should have been at these particular hearings where they could have exerted a tremendous impact.

Before Commissioner Jacobson spoke, I was prepared, but not totally, to agree and to defend the present Public Utility Commission. I have stated publicly that the PUC for the first time in history is not utility or corporation oriented, as has been the situation for many years that I have attended certain hearings. In the interim decision in the Public Service Case, even though I felt the award of \$58 million was substantially high, there was both understanding and compassion, particularly where the little users for the first time received a break as against industry.

I believe the Public Utility Commission is getting the message of the people as to exactly where the burden should fall, as should the representatives of the people here today.

To say that industry will relocate or not locate in the event that the burden of utility rates are put on the

big user is simplistic, to say the least. To say that industry is going to pass the cost on to the consumer is again an argument to favor big business. There are many factors that contribute to the reason for industry to locate or relocate and utility rates are a small factor, particularly where utility rates are a substantial write-off on their Federal income taxes. The little user or the senior citizen cannot pass his increase on to the Federal government. Further, competition in the open market will not permit the utility increase to be passed on to the consumer. Utility rates are only one small factor in the over-all cost of manufacturing or distribution.

I think the decision of the Public Utility Commission was very wise and may very well be the answer to some of the noble things in some of these bills that have been introduced by various Assemblymen and may make these bills unnecessary.

Mr. Jacobson was right when he said that the bills under consideration today may hinder the Public Utility Commission and possibly not withstand legal challenge. I do believe that the mere introduction of these bills serves a purpose in that it again has fortified the Public Utility Commission in becoming more and more a consumer-oriented group.

Regarding Mr. Rosen's statement - I believe he was the first witness - I strongly disagree with the statement that he made, namely: "The legislature authorized a Public Advocate this year to vigorously advance the consumer's interest in rate cases. The utilities are required to bear the Public Advocate's cost. He has had some notable successes in his first cases. You may be assured that the interest of the small user of utilities is being aggressively protected before the Public Utility Commission." Mr. Rosen is taking credit for their reaction and boasting that the fees are paid by the industry. Possibly this should end because there could be a real conflict of interest and I am

just questioning whether the Rate Counsel know who they are supposed to serve - I'm speaking of the old Rate Counsel who were not appointed by the present Advocate. Those of us who appeared all summer long were horrified that the Rate Counsel who supposedly represented the public came out and recommended the complete request of the Public Service of \$73 million, which we denounced and filed motions opposing these unusual recommendations.

Since this happened, we took a little trip to Trenton - Donald Griesmann, Mr. Morley and myself - to Mr. Van Ness's office and told him of the complete opposition and cruel treatment by Rate Counsel of those of us who are truly representing the public, the great mass of the public, the little user, the senior citizen, in our cities. And I can tell you now that there is no finer gentleman than Mr. Van Ness and there has been a complete change and a reversal in the stand of Rate Counsel. I am not going to give Mr. Rosen the credit for it or the industry, but we will give Mr. Van Ness the credit because since our trip down to Trenton, there has been a whole new direction by Rate Counsel. I say that his department should be expanded more and more so that the public can truly be represented, as I feel it is now.

As a result of the change in attitude of Rate Counsel, there was immediately the filing of a motion in the Public Service Case, asking to hold up the permanent hearings until the Public Service commenced action against fuel suppliers for violations of Federal Trade Regulations, anti-trust laws, etc. I think this is a wonderful step in the right direction and I am sure that the Public Utility Commission will take heed.

The recent action in the Telephone Case by rate counsel questioning the fuel adjustment clause in the courts is another example of the fact that the public

is finally being represented under Mr. Van Ness's direction

Regarding the fuel adjustment clause, even though Mr. Jacobson stated that it has been adopted in many states and only recently in New Jersey, this should be very seriously questioned by the Legislature, as Assemblyman Gewertz stated before. The utilities are receiving automatic rate increases, in some cases more than their regular application for rate increases, without any public hearings. I am glad that the Public Advocate is now beginning to question this matter. I do think that there should be pressure by the Legislature not only upon the Advocate, but also upon the Public Utility Commission, to completely reverse this whole procedure of the fuel adjustment clauses which gives no opportunity for the general public and our 7 million consumers in this State to question.

Again my heart was bleeding when Mr. Rosen was presenting his case. I have heard the same heart-breaking talk throughout the hearings all summer about the utilities. My heart was bleeding particularly while he was testifying and I was reading in today's Hudson Dispatch about the Public Service Gas and Electric's rise in earnings. "Earnings of the Public Service Gas and Electric Company for the first 12 months ending August 31, 1974, were \$114 million or \$2.26 a share. Earnings for the comparable period ending in 1973, excluding non-recurring credit reported separately, totalled \$108 million or \$2.43 per share." I will get later to a commission that I believe should be appointed to look into these particular problems.

Regarding senior citizens, none of you gentlemen can picture what took place this summer. Busloads with hundreds of senior citizens came in from Jersey City and Camden and some from Newark. It is understandable why the Public Utility Commission is now more sympathetic to their cause. This intervention on behalf of the senior citizens, which was begun by Mr. Griesmann who is not here today - he

has a representative here - was a novel thing. It appeared in the eyes of rate counsel and some of the examiners as some sort of a preposterous idea, but it turned out to be the most dramatic and most important thing that has taken place in all these rate hearings. I don't want to go too deeply into this because Mr. Morley and Mr. Bounds, who is representing Mr. Griesmann, will delve more deeply into it. This is where the Legislature can certainly exert their power and prestige in their direction.

Remember this, that there were suggestions offered by the Public Service and, to our dismay, by rate counsel and even by one of the Commissioners that possibly the restructuring or changing of the rate design regarding senior citizens should go to the Legislature. This is exactly what they want to do - they want to cop out - and throw this into a political fight in the Legislature. I am sure none of you legislators would want that.

The Public Utility Commission has full and complete power to set a rate structure for separate groups of citizens - small users, big users, employees. These things they have done all along. And if anyone deserves special consideration, it is the senior citizen. I will speak more about that later.

Finally, I think there is a lot of merit in what Assemblywoman Berman had to say. I am sure a lot of what she said met with the approval of Commissioner Jacobson. I do think that there should be a commission created, a permanent one, of nonlegislators, consisting of economists, of professors, of students, not only in our State but in the nation, and of consumer groups, so that they can from time to time cope with this massive problem which is going to get worse and worse as the years go by. Right now we read that the cost of utilities all over the country is increasing from 50 to 75 percent.

I think it is understandable why the Public Utility

Commission cannot do the job with three commissioners. They have authority over not only utility rates, but so many other things have been given to them over the past years - garbage contracts, sewage and so many other things. I think that a state with 7,000,000 consumers certainly deserves many, many more dollars spent in this direction for the protection of the consumers, so that possibly more commissioners can be appointed. Fortunately we have a Governor who has been appointing men like Mr. Jacobson who are social-minded and who are understanding of the needs of the great mass of citizens of this State. I think this commission should pierce the corporate structure of our utilities to see if their figures are accurate because you can get five accountants in and five engineers in and they are all going to come up with different opinions.

This is one recommendation that should certainly be considered by the Legislature. I don't know that it is covered by any of these bills, but it may be covered by Assemblywoman Berman's bill. But this could be a ver great, momentous thing that the Legislature should certainly look into. There are many great minds, greater than ours and greater than those of public officials, who can dig deeply and come up with some answers to the problems that the Commissioner speaks of and that all of us are asking about today. There is something definitely lacking in this regard.

I don't want to go deeply into the question of whether or not to change the corporate structure of Public Service, as has been suggested by certain college professors, to a mutual company. Professor Easton particularly recommended this. I am not an accountant or an economist to question the logic of his suggestion to change the stockholder status of our corporation to a mutual company like

our insurance companies, and possibly do away with the hundreds of millions of dollars that are being paid to stockholders, which should be replaced by interest-bearing debt instruments. I am in no position to defend what he says. This can only be done by a commission made up of greater minds than ours, who can determine whether these are the things we should be thinking of this year, next year or in the next five years, because the public utility structure will ultimately, as things are now, make life impossible in our State.

I urge you to give thought to these remarks, and I will be glad to submit to any questions you gentlemen may have.

ASSEMBLYMAN ESPOSITO: Thank you. Are there any questions?

ASSEMBLYMAN RYS: You mentioned you represent 250,000 senior citizens. Is that the number in all of Hudson County?

MR. PESIN: I mentioned three organizations. We have 42 to 46 thousand in Jersey City and possibly an equal amount in the county. I don't know the statistics on that. But the state organization who has authorized us to represent them, including Jersey City, estimates their membership to be 250,000; and that is - let me get their letterhead here - the New Jersey Council of Senior Citizens, who are located in Newark. I have their letterhead here if you wish to see it. And Mrs. Mary Johnson, who happens to be involved in our local senior citizen problems in Jersey City, is the President. We and Mr. Morley, without compensation, spent the whole summer in Newark for the senior citizens.

ASSEMBLYMAN RYS: I have another question. In your meetings with the PUC or other organizations in the State, were you able to obtain any benefits for the senior citizens in regard to the rate structure?

MR. PESIN: I didn't see the actual text of the last decision of the PUC. But Mr. Jacobson said right in one of those chairs that they are giving serious consideration to the senior citizens. You may learn more from Mr. Griesmann's remarks. He has the know-how and he has set up a way this can be accomplished. But the whole tone of the meeting was encouraging. Even rate counsel in later days started to see the legitimacy of this. One thing to remember is that it is not the duty of the Legislature. It can be done right in the Public Utility Commission. But the Assembly might pass a resolution or a concurrent resolution with the Senate saying the time has come to do something. There have been editorials in the local press and over the State saying that the time has come for consideration to be given senior citizens. I think it would be wonderful if this Committee did introduce a resolution stating their deep interest in this and saying that the time has come for the Public Utility Commission to take note that something has to be done for senior citizens. Maybe not all of us are now senior citizens sharing their plight, but the day will come when the 800 thousand will become a million and a half or two million, and we cannot disregard them.

ASSEMBLYMAN ESPOSITO: Thank you very much for your testimony, Mr. Pesin.

The next witness is William Morley, special counsel to the City of Jersey City on the public utility rate schedule.

W I L L I A M F. M O R L E Y: I am a member of the Bar of the District of Columbia and New Jersey and have served approximately nine years with the Interstate Commerce Commission in Washington.

It is an honor and a privilege to be associated with Councilman Morris Pesin and to be working with our respected Mayor, Jr. Paul Jordan, who is most sensitive to the needs

of the poor and the elderly in these vital rate cases. Morris Pesin is very modest, but he did lead the fight to keep the fare down to 30 cents on the PATH lines last year and coordinated a magnificent effort in that regard. We appreciate all the help we received from the Legislature in passing a resolution to hold the fare down, as well as the help we got from Governor Byrne and Commissioner Sagner.

Addressing myself to the matters that are presently before this vital committee and its distinguished chairman, Michael S. Esposito of Jersey City, there are five pieces of legislation before you. This is merely a suggestion - I am not speaking for the Mayor on the mechanics of this - but possibly you might consider consolidating 203 and 145 into one bill to establish a commission, not so much to look into the Public Utilities Commission, but to oversee the entire problem of utility and energy regulation or lack thereof. This could include the relationship of the New Jersey Bell Telephone Company to the American Telephone and Telegraph Company, the largest company in this country.

The deeper and deeper we get into this phone case, the more and more we see that the rate base - that is the tap root, if you will, of how much money an individual consumer pays -- how much of that rate base are payments made by Jersey Bell to A.T.&T. and are these payments fair, valid and reasonable. Who at Jersey Bell can say, no, to A.T.&T.? That I think is going to be a vital factor in the hearings that are coming up, and it is something that I think the Legislature would have concurrent jurisdiction over, were they to establish this commission proposed by 203 and 145.

As far as the other three pieces of legislation are concerned, 2105, 1527 and 1855, it might be that these are matters that are best left to the PUC. If they don't

do their job, perhaps the Legislature could step in at that time. But, nevertheless, the Legislature would have a vehicle to make its wishes known perhaps through the medium of a joint or concurrent resolution. But if the Legislature were to grapple with the nitty-gritty, that might move the scene of the action from here to Trenton because the utilities certainly would have the right to be heard. All their experts would be in. The public experts would be in. It would just move the scene of the action. And whether or not it would accomplish what it was set up to do, I just question.

I will now switch to the Public Service Interim Case, in which a \$59 million increase was granted. I do note with great satisfaction that this increase is to be borne, give or take, 64 - 65 percent, by commercial and industrial users with residential users bearing only approximately 34 percent of the increase. That is a complete reversal of the rate structure as it has been heretofore known in the past in this State. I think that is a significant accomplishment, a significant step that has been taken, by our newly-constituted PUC, and I certainly think it is a step in the right direction. I do hope as we get into the case further that there will be some consideration given to the acute needs of senior citizens, the poor, and those people living on fixed incomes. This is something on which reasonable men can differ, but certainly some consideration should be given to a hearing before a shutoff. We all recall what happened up in New York last year during the winter. There were two people that died because their utilities had been shut off and they weren't found for about two weeks.

Another thing that I think it would be well for this Committee to consider is, if the commission is established, it should look into big oil. That is where

it starts and that's where it stops.

Now what can this State do to regulate big oil operating and doing business in New Jersey in so far as big oil sells to retailers who fix the price of gas at the pump? Both New Jersey Public Service Electric and Gas and Bell Telephone are regulated by the PUC. They are also federally regulated, one by the Federal Power Commission and the other by the Federal Communications Commission. There is sort of a concurrent jurisdiction. I would think that from a legal or constitutional viewpoint there would be no objection to putting the big oil companies under some form of intra-state regulation here in New Jersey, simply because there is no Federal regulation right now. The Federal Power Commission has nothing to do with the price of gas at the pump, other than if it is involved in a pipeline movement. So in the absence of Federal regulation and until such time as you have a form of Federal regulation with a quasi-judicial commission setting rates, I think we would be well advised to explore this matter, to staff it through several of the committees, to get the experts in with a view toward putting big oil under some form of State regulation, without prejudice to any other kind of Federal regulation.

If this means expanding the PUC from three men to five men, so be it. If it means bringing in a petroleum engineer or geologist or what have you as a form of technical backup, fine.

I would find myself in a slight disagreement with Commissioner Jacobson on that one facet. I do agree that a lot of the utility costs are based in part on the oil increase and it seems incongruous that the oil companies are reporting high profits. They are paying their stockholders unheard of dividends. To what extent they are involved with the Arab principalities may be beyond this committee here and now today. But I certainly think, in

so far as intra-state operations that are taking place in New Jersey, their people should be brought in and should be examined under oath and subject to cross-examination regarding what their policies are, regarding what sort of interlocking arrangements they have with these Arab kingdoms, and how is it that they are making more money than ever today.

I am pleased to see that the Division of Public Advocate has been established. They are taking a new look at things. I was shocked when independently-appointed rate counsel came right out in this very room and said, "Give Public Service \$73 million. They need it." If this were based on the testimony of experts brought in by rate counsel, I might be more sympathetic to it. But when I feel they abdicated their professional responsibility as advocates and accepted and believed Public Service's word on their own witnesses, I question whether or not that was an effective representation of the public interest.

I am glad to see that under Mr. Van Ness and the newly-formed Division of Rate Counsel, there will be a more simpatico viewpoint towards the senior citizens. In fact, at one point, rate counsel said words to the effect that the senior citizens belonged in a separate hearing or else that they should petition the Legislature. Well, I think the buck in so far as senior citizens are concerned should at least stop with the Public Utilities Commission, and they should do as they have done so well in the Public Service Case. They have addressed themselves to the problems. They did give a rate increase, but they restructured - that's the vital thing -- they restructured it so that those that are best able to carry their fair share of the load are so doing.

I am certainly looking forward to a positive action on the part of the Public Advocate's Office in bringing in some technical people, their communications consultants,

their economists, their accountants, to examine in greater detail in the phone case the complicated relationship between Jersey Bell and its parent corporation, AT&T. I will say for the record here and now - and this is all a public record - that AT&T is the only stockholder of Jersey Bell. So when someone talks about a fair return for stockholders, they are merely talking about a fair return for the Jersey Bell parent corporation, AT&T. They are also a major creditor of the Jersey Bell. They are also the licensor of Jersey Bell. I feel these things should be brought out, and I am sure they will by the Public Advocate's Office in this rate hearing, but that is not without prejudice to the Legislature to have this as one facet of its own commission that is being discussed in 203 and 145.

Thank you for your time.

ASSEMBLYMAN ESPOSITO: Are there any questions?

Assemblyman Gus Rys.

ASSEMBLYMAN RYS: Regarding the pricing of gasoline, I am under the impression the tank prices are under Federal control, plus the retail prices.

MR. MORLEY: My impression is now that they cannot set the actual price at the pump. There was some control somewhere along the line. It was limited. To what extent it was limited or the date that the controls came off, I can't say. But I do not believe the Federal government completely sets the price at the pump. The Energy Office has something to say about it, but I haven't been able to find out just where the line stops. I understand they did order the oil companies to pay back some rebates of, I think, \$40 million for some overpricing when there were some controls on, say about eight or ten months ago. But my understanding is those controls were limited in the last several months.

ASSEMBLYMAN RYS: It was my experience - I worked for an oil company years ago - that each and every month or every two weeks, the terminal price would come in from the Federal government.

MR. MORLEY: I don't think they can say to an oil company, "This is what you will charge at the pump." They can only control one aspect of the oil flow. I think the Power Commission has the jurisdiction over the pipelines, but prior to the establishment of the Federal Energy Office, I don't think there was any control.

ASSEMBLYMAN RYS: Do you think it would have been under the old OPA?

MR. MORLEY: That would have been before my time. Everything, as I recall, was regulated then. But I think that it is something that should be explored, especially their taxes, --

ASSEMBLYMAN RYS: I agree with you on that

MR. MORLEY: (Continuing) -- in public. And, quite frankly, the PUC at this point has no jurisdiction, so the only other place I think the citizens of this State can go is to the Legislature.

ASSEMBLYMAN ESPOSITO: Any further questions?
(No response.) Thank you, Mr. Morley.

MR. MORLEY: Thank you, sir.

ASSEMBLYMAN ESPOSITO: The next witness will be Charles Bounds.

C H A R L E S B O U N D S: Gentlemen of the Committee, I would like to thank you first of all for this opportunity to present statements, of which I would like to give copies to the Committee.

My name is Charles Bounds. I am a law student and currently a legal intern with the Camden Regional Legal Services, assisting Mr. Donald Griesmann, who has been mentioned here already, who is a member of the Bar of New Jersey, and for whom I would like to read this statement.

The Senior Citizens Advocate Center in Camden Regional Legal Services, Inc. is funded in part under Title III of the Social Security Act to provide for legal service to the elderly poor. As the result of our clients requesting intervention, we represent over 340,000 senior citizens in the Public Service Electric and Gas Company, and the New Jersey Bell Telephone Company cases presently pending before the New Jersey Public Utilities Commission.

Our intervention in both cases requested the following for the elderly poor:

1. A freeze on all increases as to the effect on seniors;
2. A 50 percent reduction in present rates for seniors;
3. No terminations or discontinuances of service for seniors;
4. No security deposits for seniors.

In addition to these four broad areas, we also filed with the Commission new procedures relative to terminations and security deposits which would require due process of law; a right to electric, gas, and telephone service as a necessity of life; and the right to a fair hearing with attendant means of representation and discovery prior to termination or deposits. A sample of these rights was to have been attached to the statement that I have given you, but in view of the fact we only had time to get together two, I would like to present to the Chairman a copy of each of the following: the due process rights in the Public Service Electric and Gas case, and also the Bell Telephone case, both for an increase in rates. And copies will be made available to anyone else who is interested.

The New Jersey Bell Telephone is also attempting to secure payment for information calls, which we oppose on the ground that many senior citizens cannot read the small print

of the telephone books and have inadequate light (as the result of high energy bills) to read the telephone books. Seniors live in fear and isolation, and should have the free service of calling for information. Only yesterday, the City Council in the City of Camden unanimously approved a resolution in opposition to any increases for seniors and any indigent persons in the Bell Telephone Case.

It has been our contention that the Commission must face the senior citizen consumer's inability to pay because of fixed, limited income, employment discrimination based on age, and other factors affecting the elderly.

The Commission recently stated in granting interim relief to Public Service (Docket No. 744-335, dated September 16, 1974), and I quote:

"The plight of the senior citizen with low fixed income is of particular concern to us. Senior Citizens comprise a significant segment of the public. Many of their problems are common to other consumers but they also have problems associated almost exclusively with age. Difficulty (even impossibility) in obtaining employment, fixed income at levels below income earned during younger years and more productive years, inability to meet the soaring cost of the most basic necessities and the ever-present specter of large hospital and medical bills place senior citizens in a category that justifies special consideration in the form of economic aid."

The Commissioners then increased the cost of electric and gas, albeit at a lower rate increase, for the first 300 KWY and 400 therms, which is a measure of gas.

Perhaps the most salient statement the Commissioners made relative to this present hearing is:

"Economic and other help might take various forms which go far beyond our jurisdiction and expertise. These areas must be left to legislation and other more appropriate agencies."

We have been, and will continue to be, before the PUC. The PUC sends us now back to you, the State Senate and the State Assembly. Does the "buck" stop here?

There are over 800,000 senior citizens in the State of New Jersey. Over half of them are living in poverty. What is poverty to the elderly poor? It is a lack of funds. It is owning an old house for which there is no money to make repairs, a house lacking proper insulation, causing greater heat loss, resulting in greater consumption of oil, gas and electricity than if properly insulated. And may I add there is no money to assist these seniors in properly heating their homes or in providing insulation for homes which are currently inadequately insulated. It is also facing tax foreclosures in today's inflation. It is renting a house or apartment for over 35 percent of their income. It is not going to the doctor because they are not eligible for medicaid. It is not buying medicine because druggists, if they give discounts to seniors, cannot legally advertise that fact. It is living in isolation and loneliness in the city, country or suburbs. It is being easy bait for "con" artists and consumer fraud. It is being ignored because of age. It is a breakdown of human dignity to ask for discounts rather than paying one's way. It is eating potatoes and bread only or dog food at the end of the month. It is paying more for the necessities of life, electric, gas, water and telephone; it is conserving on these necessities in order to keep the cost down.

New Jersey's elderly poor have lived and worked, dreamed and fought for a better world in which their children could live. The elderly poor have scratched out an existence through declared and undeclared wars, depression, recession, and inflation. The reward apparently is hollow rhetoric for the plight of seniors.

And now we come to you. We come not for a committee to study the problem. We come for a commitment. We come for policy. We come for law.

To this end, you will find attached to this statement sample legislation from other states designed to give rate relief to the elderly. The legislation happens to be particularly from Massachusetts and California and is not yet law in those states, but could be used as models for New Jersey legislation.

The commitment we seek is the commitment that senior citizens will live in dignity in New Jersey. The policy we seek is that senior citizens shall pay for utility services on the basis of their ability to pay.

Much of the plight of the elderly poor is based on the fact that they are poor. There are two general alternatives to resolve that poverty: either increase their income, or decrease the cost of necessities. Until such time that New Jersey sets an income floor for the elderly to live in dignity, the cost of necessities must be decreased.

Thus the law we seek is a fifty percent reduction on electric, gas, telephone and water bills for persons aged sixty years and over, whose income is below \$5,000 a year, not including Social Security, Veterans or Railroad benefits.

In addition to the above, we support further study of financing utilities through alternative means including mutual ownership, state ownership, the use of the state bonding or credit process, flattening rates, reduction of profit margin, consumer stock plan and, only as a last resort, state subsidy.

One final area that should be considered is the opening of rate hearings to the public and the media. It has already been mentioned today that hearings were held here this summer in regard to utility raises for persons all over New Jersey.

Under present Commission rules, no cameras are permitted in hearing rooms, even during a recess. There is a cloak or veil, perhaps it is a pall, in rate hearings

that permits a powerful inference to the public that rate hearings are not really open to the public and to the public scrutiny. This cloak exists over and above the technical data and testimony required at a rate hearing in order for a decision to be made. There is a public mistrust of the PUC that is increased by closing the "watergate" to the media, by discouraging hearings throughout the state, and by an atmosphere of "lawyers only."

Respectfully submitted,
Donald A. Griesmann
State Attorney

(End of reading of statement.)

(The attachments to the statement, mentioned by Mr. Bounds, can be found beginning on page 108.)

ASSEMBLYMAN RYS: You are Mr. Bounds?

MR. BOUNDS: Yes, sir. My name is Charles Bounds. I am a law student, working as a legal intern with Mr. Griesmann for the Senior Citizens Advocate Center.

ASSEMBLYMAN RYS: I want to congratulate Mr. Bounds for making a wonderful presentation before this committee. Were you successful in that class action suit in behalf of the senior citizens? I somehow picked up that you had a class action suit.

MR. BOUNDS: Yes, the suit was class action.

ASSEMBLYMAN RYS: Has it been terminated?

MR. BOUNDS: The interim portion of the proceedings has been terminated. An order was delivered from the PUC to Public Service and, as has been mentioned earlier, some portion of that decision grants relief in recognition of the plight of senior citizens, but not to the extent that we had requested in the hearings. All of the points in our brief - a 50 percent reduction in the current rates seniors pay, a freeze on any new rise in rates, and also due process rights - were not at all considered or mentioned

in the interim order, but were determined to be better placed in the main case. We were successful in achieving the demarcation of the first 300 kilowatt hours of electricity and 400 therms of gas at a lower rate increase for consumers of Public Service. We did not achieve everything we had set out to achieve. The main case is yet to be consummated. It has just recently been begun. We will be participating in that case on the same basis. So we hope the points that we are trying to achieve in this case may still be brought up.

ASSEMBLYMAN RYS: Thank you very much.

ASSEMBLYMAN ESPOSITO: Thank you, Mr. Bounds.

The next witness is Assemblyperson Betty Wilson, who is the prime sponsor of Assembly Bill 2105.

B E T T Y W I L S O N: I am here to testify on A-2105 and I would like to state what the reasoning and rationale for A-2105 are.

I will first state what it is. This bill would require every utility company in the State to provide service at a rate not to exceed 3 cents per kilowatt hour on the first 300 kilowatt hours billed per month. It addresses itself to two problems: (1) the high utility rates for residential users. (2) The need to conserve energy.

A-2105 recognizes that no one can live in our society without electricity and, therefore, that a "lifeline" of electricity should cost a minimal rate. Under our present system, the highest rates are charged for initial use, thereby imposing the highest rates on small users.

Further, under the present system, rates go down as use goes up, thus rewarding increased use and often waste of electricity and thus energy at a time when we ought to be concerned with conserving energy.

Persons have a right to the basic needs of life at a fair cost; however, under the present utility rate

structure small users are charged higher rates and are actually subsidizing large users. This cannot be considered fair by any measure. In fact, the system contributes to the hardships endured by senior citizens, the poor, those living on fixed incomes and, in fact, everyone struggling to get by in these inflationary times.

In a recent column in the Star Ledger, Leo Carney, III, quoted Audrey Olsen Faulkner, professor of Rutgers University's School of Social Work and the director of two senior citizen research and service programs in Newark. She said, "For seniors on fixed incomes, who cannot go out and get a second job to increase their incomes, and cannot reduce expenditures for food, shelter and medical expenses without harm to their well-being, a raise in utility rates will force them to choose between food and medical care and heat and light." This situation is true for older persons throughout the State. We ought to be finding ways to reduce, not increase, rates for those who are hit hardest.

Three hundred kilowatt hours per month represents a minimal level of use for an average residential household for very basic uses of electricity in the home. In fact, the average home uses closer to six hundred kilowatt hours per month.

Our present rate structure prior to a recent increase granted to Public Service Electric and Gas shows: For Atlantic City Electric Company, the residential rate is 3.41 cents per kilowatt hour, and for commercial and industrial use it is 2.9 cents per kilowatt hour; for Jersey Central Power and Light, the rate for residential use is 3.2, and for commercial and industrial, 2.4; Public Service has the highest rate for residential use, 4.3 - and that was prior to the increase - and for commercial and industrial, 3.1.

It is clear that commercial and industrial users enjoy a clear unit cost advantage over residential users.

Further, according to the Star Ledger of the 24th of September, Public Service Electric and Gas was recently granted an increase which would bring the cost of electric for 300 kilowatt hours to \$16.47 from \$16.13 per month. Under my proposed statute, that monthly bill would be \$9.00. I believe it is absolutely essential to bring this kind of direct relief to hard-pressed consumers throughout the State.

I might explain the disparity between the 4.38 and the 16.13. The 4.3 figure that we show per kilowatt hour under Public Electric and Gas for residential use is probably higher than that. That includes some factors that are not widespread, like all-electric homes, which have a lower rate, which brings down the over-all average rate. The average rate is actually higher in each of these cases for residential use, as can be reflected in those other figures.

It is a bill that directs itself to a real consumer problem. Everybody in the State would benefit. It would not be just one particular class. It would benefit at the front end for very basic use. I will tell you what some of the things are we included in those 300 kilowatt hours: no air conditioner, no color television, just a small fan, a radio, black and white television - very, very limited use of electricity to keep people alive.

ASSEMBLYMAN ESPOSITO: Are there any questions by members of the Committee? (No response.)

ASSEMBLYPERSON WILSON: If I could just add here at the end, I think this bill together with the other two or even all three of the other bills that you have under consideration here would make a very fine utility package. I believe none of them addresses itself to the total problem, but together they can address themselves to the total problem, in the sense of examining what the

PUC is and does and what our needs are, and also drafting some guidelines and some very specific statutory mandates to the PUC to hold the rates down for the small user, as in my bill, and to prevent the granting of preferential rates to the large user, as is the case in Herb Klein's bill.

ASSEMBLYMAN ESPOSITO: Betty, I think this is the reason we have these public hearings, to consider all these bills as a package and then come up with one bill that will include probably the intent of your bill and the other bills.

ASSEMBLYPERSON WILSON: Thank you.

ASSEMBLYMAN ESPOSITO: The next witness will be Bernard J. Gallagher, Director, Essex County Office on Aging.

B E R N A R D J. G A L L A G H E R: For the purpose of the record, I want to identify myself as Bernard J. Gallagher, Director of the Essex County Office on Aging. It is by virtue of heading this department that I represent more than 150,000 senior citizens of Essex County aged sixty and over.

Financial stability in this day of ever-increasing costs is by far the most immediate concern of our aging citizen. At least 20 percent of our county's seniors are attempting to survive on incomes under \$3000.

The Office today just completed a week of public hearings throughout Essex County on the needs of our county's seniors. The testimony heard supported our worst fear that inflation was having a tremendous effect on both our urban and suburban elderly. Senior citizens who for the most part exist on fixed incomes are presently having critical life decisions to make this coming winter as to whether their meager financial resources should be used for food, heat, housing, clothing, medical expenses,

and/or other critical necessities.

Freezing utility rates would certainly be of great benefit to so many of our county's seniors. However, I would submit that a more comprehensive and long-lasting response by our State and Federal legislators is absolutely necessary.

I would like to suggest today that our State legislators consider immediately the creation of a Commission to study and make recommendations on potential legislation to counteract the economic hardships that all of the citizens of New Jersey are presently faced with.

I would hope that this Commission would address itself specifically to some of the critical situations that confront our senior citizens:

(1) increased social security benefits. Although the Assembly can't take any action on that, you certainly can be the advocate of our senior citizens.

(2) comprehensive non-deductible medical insurance. (There I think you could also be the seniors' advocate.)

(3) broader food stamp benefits.

(4) housing relief. We have a terrible housing situation in Essex County. Senator Williams had a hearing in January which brought forth the fact that our seniors are paying 60 percent of their total income for housing. It also was indicated that we had a vacancy factor of 1 percent in the county. Statistics tell us that if we drop below 5, we are in a crisis. We have a crisis in Essex County in housing.

(5) utility stamps. I testified back at the interim PUC hearings on the utility hike. At that time, I commented that the food stamp program was working very well and I suggested that we have utility stamps. I think that would work out very well for our poor.

(6) lower cost transportation. We have half fare now. Governor Byrne did intimate one time that he was

in favor of our senior citizens riding free. I would be very appreciative if you would give that some consideration.

(7) lower telephone costs. I think this is very important. I also testified before the PUC at that time and I suggested that they have a special rate for senior citizens. The telephone is their life line. I suggested the rate of \$2.50. I think it is very unfair to have our inner-city paying a basic rate of \$7.50 when Essex Fells and Short Hills pays the same amount. I think we could have a special rate for senior citizens. We might cut down their number of calls, but at least we would not cut that life line. I also found out that in Ringwood, New Jersey, they have a basic telephone rate of \$4. I think we could do better for our seniors as far as telephone rates are concerned.

The tragedy of today's seniors is living on a fixed income in a time of spiraling inflation. To exist from month to month, being unable to be aware of what one's essential costs for housing, food, utilities, etc. will be even next week has been a real strain for many of our seniors.

The greatest tragedy, however, that I hear from our seniors is their belief that all levels of government are unaware and unconcerned about their present-day plight. I am hopeful that this Committee and the State Legislature will move decisively with innovative measures to make our seniors' last years their best years. Thank you.

ASSEMBLYMAN ESPOSITO: Thank you, Mr. Gallagher.
Any questions?

ASSEMBLYMAN GLADSTONE: Mr. Gallagher, I just want to bring to your attention the fact that I have had some negotiations with Mr. Sagner, the Commissioner of Transportation, with the hope of getting senior citizens transportation at the reduced rate all of the time on the trains and on the busses. At the moment, he says it can't be done because we

are short of money, but there are those of us who are still trying to work something out.

MR. GALLAGHER: The present program runs the State about six million dollars. I don't think you are talking a lot of money when you are talking about another six million dollars. We have to somehow make a start. We must make some effort to alleviate the problems of the seniors. I don't think that is a difficult problem.

ASSEMBLYMAN ESPOSITO: I thought that figure was closer to eleven million.

MR. GALLAGHER: Well, I was quoted six.

ASSEMBLYMAN ESPOSITO: It is up to eleven million.

MR. GALLAGHER: You are probably in a better position to know than I.

ASSEMBLYMAN ESPOSITO: Do you know there have been over 3,000 bills introduced in the 1974 Legislature and there are any number of bills pertaining to some of the seven categories you have listed in your statement. I believe the Assemblymen and the Senators are aware of the plight of the senior citizens and they are doing everything in their power to help the senior citizens of the State of New Jersey.

MR. GALLAGHER: I would just like to say to you that these bills were introduced, but it is a sad thing that not a single bill was passed in the State Legislature and signed by the Governor last year for senior citizens.

ASSEMBLYMAN ESPOSITO: We have one bill in committee to give free bus rides.

MR. GALLAGHER: You have numerous bills, but they are not moving.

ASSEMBLYMAN ESPOSITO: They are not moving because of the fiscal notes. We found out if we were to give senior citizens free bus rides, it is going to cost more than \$11 million and there is no money in the Treasury. If it were up to us, we would give you everything we had.

MR. GALLAGHER: I would like to see the Assembly respond to senior citizens. In our Office on Aging, we are formulating a 1975 area plan. We had five public hearings. We said, "You are the senior citizens. You come to us and tell us what your needs are and we will try to fill them." But it is very pathetic. Here in Essex County, our 1974 plan consisted of \$300,000 and we have 150,000 senior citizens. What it amount to is you are spending \$2 on a senior citizen. I think this is tragic.

ASSEMBLYMAN RYS: I want to join our esteemed Chairman and say I think we are cognizant of the plight of senior citizens. We all sooner or later are going to become senior citizens. There are bills pending in behalf of senior citizens. As you mentioned, there are bills before the Governor. I think it would behoove you - you have a tremendous group of senior citizens behind you - to talk to the Governor pertaining to the bills that have passed the Assembly and the Senate and ask why he is holding them up. It is as simple as that. You may be very successful in this effort for senior citizens. I am a member of the Senior Citizens of Bergen County. I work very closely with the Senior Citizens of Bergen County. I think each of us are very interested in the senior citizens in our counties. We are not letting them hang on the fence or be on the fence. Let me put it that way.

MR. GALLAGHER: Could I do this, if it is possible? Dr. Audrey Faulkner, who was mentioned here today, testified before the Utility Commission. I think her testimony was terrific. I have a copy of it. Would it be possible to make it a part of the record?

ASSEMBLYMAN ESPOSITO: Yes.

MR. GALLAGHER: Thank you very much.

ASSEMBLYMAN ESPOSITO: The next witness will be Ed Lloyd, representing the New Jersey Public Interest Research Group. (Not present.)

The next name on the list is Richard F. Aronsohn, Multiple Dwelling Electric Users Association. (Not present.)

Lois McLain, Fight Against Corporate Takeover.

L O I S M c L A I N; I am Lois McLain, 40 Wickapecko Drive, Interlaken, and I represent approximately 15,000 people in New Jersey and many in Pennsylvania, all united in a common cause.

I came here today fully convinced that the oil industry was chiefly responsible for the huge escalation in our electric light bills. However, after hearing many people testify, I now realize that the oil industry, banking, electricity, etc. are all interlocked. This presents a more critical situation than previously realized.

We have three main factors affecting our bills: oil prices, banking interest rates, and a Supreme Court decision. Our government could properly be defined as a representative of the most powerful industries. If these industries are all united in some way, then the people are actually at contest with their own government. We haven't much to hope for in the way of reform unless we can touch the hearts of those in command.

I am here today in the interest of the people who nearly 200 years ago were known as Brother Jonathan. Somewhere along the line, Uncle Sam took over and the people were forgotten. I am hoping to revive Brother Jonathan, for the people were the most important when our Constitution was formed.

I personally seek neither fortune nor fame, but am dedicated to furthering the cause of the people. Once before, a member of my family assumed an active role in America and succeeded in creating a beneficial change in government. In that same spirit, I appear today.

I must point out that I don't wish to create enemies among the utility companies, the PUC or the oil industry, but we must realize the time has come to reason together. I cannot understand why we, the people, are faced with higher bills than we are able to pay. Bankers differ on the reason. The big bankers claim labor is at fault. The savings and loans claim that the never-ending spiral of interest rates is the cause.

I happen to know that General Public Utilities, which is the head corporation of Jersey Central Power and Light, and subsidiaries in Pennsylvania, are continuously purchasing interests in other power companies clear out to Ohio.

I don't mind the expansion of their empire, but I do mind having to pay ridiculous light bills to further their cause.

Much more could be said, but I will leave you with this in mind: It is not the light company, the PUC or the oil industry we are to question; it is our very own beloved government.

There are a few other facts that should be brought to your attention which came to my mind as I sat back there.

Number one, in the August 24th edition of the Times, there was an article that appeared which proves that our anti-trust laws were reversed on a national level, without the regulatory division's knowledge. It appears from the article that Howard Hughes played an important part in obtaining that reversal.

Another thing that you haven't mentioned today by name, although you have pointed out that the oil industry is benefitting by huge profits, is that someone in the United States came up with the magic profit theory. But who came up with it, which division or which agency, no one seems to know. You might like to check that out.

Now the Supreme Court decision that was mentioned before guarantees fair, reasonable or sufficient dividends be paid on all utility stocks. But I would like to know who makes up their minds what is "fair, reasonable or sufficient." Does Jersey Central or does the PUC? Because, if I went to the bank and told the bank I had a million dollars to invest, they would immediately take me to the Trust Department and in no way legally could they invest my money and guarantee me 14.8 percent return, which is currently being paid on utility electric stock. Now either the bank is very, very unfair or whoever made up their minds about this being fair is not correct. That should be checked out also.

With regard to the Supreme Court decision which I just mentioned, filed against the Federal Power Commission by the Hope Natural Gas Company, it would be interesting to know just who the Hope Natural Gas Company is, since so many people walk around today in disguises. It happens to be completely owned by Standard Oil of New Jersey.

If you have any questions, I will be willing to answer them.

ASSEMBLYMAN ESPOSITO: Are there any questions?
(No response.)

MS. MC LAIN: Would you like me to leave these with you?

ASSEMBLYMAN ESPOSITO: Yes.

MS. MC LAIN: And I have provided you with a copy of the Supreme Court decision which you can go over at your leisure. It looks difficult, but actually it is in kindergarten language, and there are many provisions there that enable us to go right back into court and have a new decision. Each case merits its own decision - the light company, the gas company, the phone company.

Thank you.

ASSEMBLYMAN ESPOSITO: Thank you.

The last witness will be Connie Powe, a private citizen.

C O N N I E P O W E: Thank you. Most of the things I had in mind to say have been said. My special reason for coming this afternoon is to find out how the law adjusted so that the Public Service, the Bell Telephone Company, the Standard Oil Company, the Gulf Oil Company, is all into one. They are all crooks and they are doing nothing but robbing the poor people.

I came this afternoon -- you see, I know everything that is going on. I know who the crooks are. I say that because I am telling the truth. I know who raises the prices. I know everything about all of it - and that Public Service --- I came this afternoon to ask you people to send somebody down there to correct them people from robbing the poor folks.

Last year they claimed that I owed them \$200. I was working then. I paid them. This year they claimed I didn't open the door and let the gasman in for six months. They didn't give me no notification because it wasn't the truth. Then they billed me for \$100 for gas, and I was paying the bill.

You go down and you pay and pay and you never get through paying them. Now they claim that I owe them \$232, which is not the truth.

I came down here this afternoon for protection, to send somebody down there to straighten out them people. I wonder did Public Service pay any income tax? They collected two million dollars. What did they do with it, huh? They collected two million. What did they do with it?

The Gulf Oil Company got about \$500 out of me and somebody sued them and they closed a place up in Ridgefield. It is the men the head of this country -- You see my people was in this country. I am half Indian. My people came down from Lansdale, Pennsylvania. When the white man came into this country and made the laws, all men should be

equal. Is that right? I have just as much right to protection of the law as anybody else. Is that right? A law was created for all men to be equal.

For the last 20 years, there are so many --- May I say this? Can I say this?

ASSEMBLYMAN ESPOSITO: Say what you want to.

MRS. POWE: There are so many corruptible people have come to this country, knowing that they could do the things in this country that they couldn't do in any other and came over and took possession and robbed the people. That's what's wrong with this country. And if I want to say this, I'll say it. It's the communists because the communists don't want nobody to have nothing but themselves. And the Caucasian man has been so disobedient to God, that God has such a cuss on him that He'll never get off of him. Do you think God is going to let this mess go on all the time? Do you think God is going to let the heads of this country take advantage of the poor people and kick them around? Do you think God is going to do that? Do you think He is going to let it go on all the time? If you does, Mister, you are so sadly mistaken.

ASSEMBLYMAN ESPOSITO: Mrs. Powe, we have listened to everything you have said and it will be considered by this committee.

MRS. POWE: Yes. I was going to say it before they got here; I had it in my mind. I am asking for protection to go down and ---

ASSEMBLYMAN ESPOSITO: Wait for judgment day.

MRS. POWE: Wait for judgment day! Well, that's going to be soon anyway.

ASSEMBLYMAN GLADSTONE: If you want that protection, I suggest you go next door.

ASSEMBLYMAN ESPOSITO: The PUC are the people you should go after. They are there to protect your rights.

MRS. POWE: They won't.

ASSEMBLYMAN ESPOSITO: And ask them about your bill, why you are charged so much.

MRS. POWE: I have been in there two times and it didn't do any good.

ASSEMBLYMAN ESPOSITO: Thank you, Mrs. Powe.

MRS. POWE: Thank you very much.

ASSEMBLYMAN ESPOSITO: This hearing is now concluded. I want to thank all of the witnesses who have appeared today. Your testimony has been very, very informative. It has been enlightening. All the testimony will be scrutinized by the Committee and we will do everything in our power to come up with a bill to do something about the complaints of the irate users of gas and electric. Thank you.

(Hearing Concluded)

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THE FOLLOWING EXHIBITS WERE PRESENTED
BY HOWARD T. ROSEN, N.J. STATE PUBLIC
UTILITIES ASSOCIATION

THE FOLLOWING EXHIBITS WERE PRESENTED
BY CHARLES BOUNDS, SENIOR CITIZENS ADVOCATE
CENTER IN CAMDEN:

Public Utility Rate Reductions

Heat and light have always been recognized as necessities of human life. Today, at least in the United States, the telephone is fast approaching the status of a necessity. Certainly for the aged it plays a vital role, often providing the only secure link with the outside world to relieve loneliness and to call for needed goods and services. While elderly persons must have gas, electric, and telephone service, they often find the costs a heavy burden.

Alternative I of the proposed legislation meets the problem by requiring rate reductions of at least fifty percent for elderly subscribers to gas, electric, and telephone service. In a society where older families in 1968 averaged under half of the income of younger families and where older unrelated individuals in that same year averaged only two-fifths of the income of their younger counterparts, a suggested minimum reduction of fifty percent seems reasonable. To avoid abuse, Sections 1 and 2 confine the reductions to situations where the same dwelling unit is shared with no more than one person who is less than sixty-two years old. A spouse or any one person under sixty-two would be benefited by the reduction. Section 2 limits telephone rate reductions to basic service charges and thus to those primarily local situations where telephone service is most needed by the elderly.

Alternative II of the proposed statute enables the appropriate State agency to require rate reductions by gas, electric, and telephone companies for persons sixty-two or older. Subsection (2) applies where the appropriate State agency might already have the requisite authority to approve free or reduced transportation rates for the elderly. Subsection (2) is designed to remove any possible doubt about the authority of the State agency if it should require rate reductions before the effective date of the Act.

[Alternative I: Mandatory Reductions.]

(Title, enacting clause, etc.)

1 Section 1. [Gas and Electric Rate Reductions for the Elderly.]

2 The [appropriate State agency] shall not approve rates or schedules for
3 gas or electric companies unless those rates or schedules include provisions
4 granting reductions of at least [fifty percent] for the dwelling units of all
5 subscribing individuals who are [sixty-two] years of age or older and who
6 do not share the same dwelling unit with more than one person who is less
7 than [sixty-two] years of age.

8 Section 2. [Telephone Rate Reductions.]

9 The [appropriate State agency] shall not approve rates or schedules for
10 telephone companies unless those rates or schedules include provisions grant-
11 ing a reduction of at least [fifty percent] in basic service charges for the
12 dwelling units of all subscribing individuals who are [sixty-two] years of age
13 or older and who do not share the same dwelling unit with more than one
14 person who is less than [sixty-two] years of age.

15 Section 3. [Rules Governing Rate Reductions.]

16 The [appropriate State agency] shall establish rules for the prompt, fair,
17 and efficient establishment and maintenance of reductions in the rates and
18 schedules for elderly subscribers of all gas, electric, or telephone companies.

19 Section 4. [Review of Rates and Schedules for Compliance.]

20 Within [ninety] days of the date on which this Act becomes effective, the
21 [appropriate State agency] shall review the rates and schedules of all gas,
22 electric, or telephone companies and, if necessary, shall require the sub-
23 mission of new rates and schedules for approval in compliance with this Act.

[Alternative II: Authority to Permit Reductions.]

(Title, enacting clause, etc.)

24 Section 1. [Gas, Electric, and Telephone Rate Reductions for the Elderly.]

25 (a) The [appropriate State agency] may refuse to approve rates or
26 schedules for gas, electric, or telephone companies unless those rates or
27 schedules include provisions granting reductions for the dwelling units of all
28 subscribing individuals who are [sixty-two] years of age or older and who
29 do not share the same dwelling unit with more than one person who is less
30 than [sixty-two] years of age.

31 (b) This Act is intended to complement authority presently existing in
32 the [appropriate State agency] to require free or reduced rates for elderly
33 persons [for the public benefit; as constituting a charitable purpose], and
34 nothing in this Act shall be interpreted as expressing a legislative finding or
35 intent that the [appropriate State agency] lacked the power to give that
36 approval prior to the effective date of this Act.

Comment

In 1970, the Massachusetts General Court had a bill pending which would require a minimum fifty-percent rate reduction for subscribers to gas, electric, or telephone service who are sixty-two years of age or older. Another bill pending in Massachusetts would enable the Department of Public Utilities to approve rate reductions for elderly subscribers.

Public Utility Deposit Exemption

Another source of financial discomfort for the elderly in their need for gas, electric, and telephone service is the cash deposit requirement. A deposit is generally required from any potential subscriber considered a bad credit risk. Because so many of the elderly are poor, they are frequently required to pay cash deposits. Yet, most elderly persons are stable, responsible, and assured of steady, if inadequate, income.

Alternative I of the proposed legislation requires that all gas, electric, and telephone companies exempt persons sixty-two or older from cash deposit requirements. A utility company is still permitted to require a deposit from an elderly person who is a bad credit risk, but the company has the burden of establishing who is such a risk.

Alternative II of the proposed legislation enables the appropriate State agency to require cash deposit exemptions by gas, electric, or telephone companies for persons sixty-two or older. Subsection (b) applies where the appropriate State agency might already have the requisite authority to require deposit exemptions for the elderly. Subsection (b) is designed to remove any possible doubt about the authority of the State agency if it should require rate reductions before the effective date of this Act.

[Alternative I: Mandatory Exemptions.]

(Title, enacting clause, etc.)

1 Section 1. [Gas, Electric, and Telephone Deposit Exemptions for the
2 Elderly.]

3 (a) The [appropriate State agency] shall require all gas, electric, or
4 telephone companies to exempt the dwelling units of all subscribing individuals
5 who are [sixty-two] years of age or older from any cash deposit requirements
6 except where the company can show that the subscriber is a bad credit risk
7 according to standards set by the [appropriate State agency].

8 (b) Within [ninety] days of the date on which this Act becomes effective,
9 the [appropriate State agency] shall review the cash deposit requirements of
10 all gas, electric, or telephone companies for the purpose of complying with
11 the provisions of this Act.

[Alternative II: Authority to Permit Exemptions.]

(Title, enacting clause, etc.)

12 Section 1. [Gas, Electric, and Telephone Depos. Exemptions for the
13 Elderly.]

14 (a) The [appropriate State agency] may require all gas, electric, or
15 telephone companies to exempt the dwelling units of all subscribing individuals
16 who are [sixty-two] years of age or older from any cash deposit requirements
17 except where the company can show that the subscriber is a bad credit risk
18 according to standards set by the [appropriate State agency].

19 (b) This Act is intended to complement authority presently existing in the
20 [appropriate State agency] to require cash deposit exemptions for elderly
21 persons [for the public benefit; as constituting a charitable purpose], and
22 nothing in this Act shall be interpreted as expressing a legislative finding or
23 intent that the [appropriate State agency] lacked the power to require cash
24 deposit exemptions prior to the effective date of this Act.

JW

ASSEMBLY BILL

No. 3667

Introduced by Assemblyman Dunlap

April 4, 1974

REFERRED TO COMMITTEE ON COMMERCE AND PUBLIC UTILITIES

An act to add Section 739 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 3667, as introduced, Dunlap (C. & P.U.). Public utility rates.

Requires the Public Utilities Commission to establish electrical, gas, and water rates for each class or category of customer and use so that the per unit rate of charge increases with increased consumption by a customer or user.

States legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that
- 2 the rates of certain public utilities which are set so as to
- 3 decrease the per unit cost of the service or commodity in
- 4 accordance with increased use encourages waste and
- 5 inefficient use of scarce natural resources of this state. It
- 6 is the policy of this state that rates charged to consumers
- 7 for the furnishing of electricity, gas, and water shall be
- 8 established to discourage increased consumption and
- 9 waste of these services and commodities.

1 SEC. 2. Section 739 is added to the Public Utilities
2 Code, to read:
3 739. The commission shall establish rates for
4 electrical, gas, and water corporations for each class or
5 category of customer and use so that the per unit rate of
6 charge shall increase with increased consumption by a
7 customer or user thereof.

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BG (JW)

ASSEMBLY BILL

No. 2771

Introduction by Assemblyman Keysor

January 10, 1974

1 FEB 1974

REFERRED TO COMMITTEE ON COMMERCE AND PUBLIC UTILITIES

*An act to add Section 741 to the Public Utilities Code,
relating to public utilities.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2771, as introduced, Keysor (C. & P.U.). Senior citizens: reduced rates.

Directs the Public Utilities Commission to require electrical, gas heat, telephone, and water corporations to file revised rate schedules providing for reduced rates for senior citizens, 65 years of age or older, for their individual residential consumption, and to establish such reduced rates.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 741 is added to the Public Utilities
- 2 Code, to read:
- 3 741. The commission shall require that every
- 4 electrical, gas, heat, telephone, and water corporation file
- 5 a revised schedule of rates, charges, and classifications
- 6 providing for reduced rates and charges for the
- 7 furnishing of the service, product, or commodity of such
- 8 corporation to customers or subscribers who are senior
- 9 citizens, 65 years of age or older, for their individual

- 1 residential use.
- 2 The commission shall provide by order or regulation
- 3 for the establishment of the rates, charges, and
- 4 classifications required by this section.

O

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OF COUNSEL

October 9, 1974

New Jersey Assembly and
Transportation & Communications Committee
Legislative Services
State House
Trenton, New Jersey 08625

Attention - Steven B. Frakt
Research Associate

Re: PSE & G Co. adv. Multiple Dwelling Electric Users
Association
Docket #747-559

Gentlemen:

As you know, I was unable to attend the hearings on Friday, September 27, 1974, because of other commitments; but I want to express to the Board my thanks for placing our group on the agenda. You had indicated to me that we would have the opportunity to present these remarks in letter form.

As I had mentioned to you, we represent a group of 20 multiple-dwelling, all electric, high-rise apartment dwellings, located mainly in Bergen and Hudson Counties.

We have intervened in the hearings relating to Public Service & Gas Petition for increased rates, and will be, in late November or December, presenting appropriate expert testimony with regard to rate classification and rate structure.

In the meantime, we would like the Board to be apprised of the following concerns:

1) Quite obviously, the disastrous increases in electrical rates are the result of the fuel adjustment pass through. What concerns our client, which is the Multiple Dwelling Electric Users Association, is that Public Service merely requests additional rate increases without, in any manner, prosecuting what is a very viable cause of action against the fuel companies. In point of fact, if Public Service does not institute such an action, my clients have instructed me to intervene in a suit presently pending in the United States District Court in the Eastern District of New York between The Lefrak Organization's interests and the various oil and fuel suppliers. It seems to us that the Utility has an obligation to prosecute such an action.

2) Additionally, there is a substantial question relative to the legality of the fuel adjustment pass through without appropriate public hearings, relating to the necessity and reasons for an automatic pass through. Legislation should require public notification of same and the opportunity of affected parties to be heard thereon.

3) The buildings we represent contain between 200 and 900 units and are generally all electric units. Additionally, these buildings are, unfortunately, located in the communities which have enacted rent stabilization ordinances. Accordingly, the owner is caught in a bind between sky-rocketing utility rates, which have increased between 100 and 200 percent over last year, and the inability to pass on these charges to the tenants. Without some form of appropriate legislative relief, there will be resultant failure to pay the existing debt services on these buildings and eventual abandonment of same, either by forced foreclosure, or simply by the landlords' frustration. This is, of course, not to mention the lack of maintenance which will result from an inability to pay for these costs.

4) As I am sure the Board knows, Public Service has heavily invested in certain banks, when these bank directors sit on the Boards of, or when the bank itself holds substantial stock in, certain fuel and oil suppliers. This interlocking relationship must be terminated in order to obtain a more aggressive position and activity against the oil suppliers.

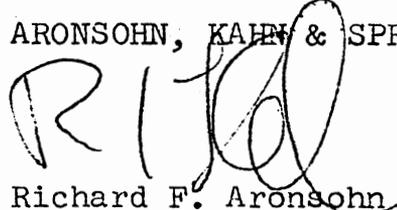
October 8, 1974

We do not feel that a Utility, such as Public Service Electric & Gas Company is automatically entitled to a net operating profit of 7% per annum. As a Utility, it might be unfortunately necessary for the Utility to sustain either a negative cash flow or a lesser profit because of the aforementioned emergency circumstances.

I would appreciate your passing these remarks on to the Committee and stand willing and able either with or without our clients to appear personally before the Committee at any time.

Very truly yours,

ARONSOHN, KAHN & SPRINGSTEAD



Richard F. Aronsohn

RFA:j

cc: Mr. Norton Herrick

*Barbara
Smith*



The League for Conservation Legislation

Box 605, Teaneck, N. J. 07666

REPLY TO:

32 Lafayette Street
Trenton, New Jersey
609-393-7474

October 18, 1974

Hon. Michael P. Esposito
Chairman
Transportation and Public
Utilities Committee
State House
Trenton, New Jersey

Dear Mr. Esposito:

On behalf of the League for Conservation Legislation, I am submitting the following testimony on Assembly Bills Nos. 1527 (Klein), 1855 (Gewertz), 2040 (Florio), 2150 (Wilson), S977 (Ammond), ACR 203 (Berman), and SCR 145 (Russo), which collectively deal with the rate structure of the electric utility industry. LCL is a state wide coalition of environmental groups organized with the express purpose of influencing legislation. We are currently intervening in the Public Service Electric and Gas rate hearing before the Public Utility Commission.

With two exceptions, these bills seek to cure the symptoms of the problem rather than the sickness itself. Instead of looking at the reasons for the spiralling cost of electricity and attempting to control those factors, the sponsors of the bills have taken the easy way out and simply opted to control price.

As I will endeavor to show, we feel that the root cause of rising rates is outdated state regulatory policies which can and should be changed.

While utility propaganda seeks publicly to blame higher rates on the tripling of expenses such as the oft-quoted wooden transmission pole and fuel costs, testimony before the PUC justifying the rate hikes stresses instead the difficulties of raising capital for new construction in a tight money market. For example, PSEG is embarking on a capital construction program that will cost \$2 billion and which will build the equivalent of their entire present generating capacity by 1985. Even after fuel prices have begun to stabilize following the end of the Arab boycott last winter, consumers are still being faced with rate hikes to pay for extravagant and unnecessary expansion programs.

The rationale for this is complex. Unlike other industries, the utility companies are required by law to meet any demand placed on them. As a result utilities cannot legally move to restrict demand in times of tight supply -- such as we have now. The utilities therefore continue to build because they cannot take the chance that ten years from now they will have insufficient capacity because they overestimated our ability to conserve energy.

PUC regulation also encourages, rather than restrains the utilities' grandiose expansion plans, since the company is guaranteed an adequate return on its investment, no matter how unwise. The result of both of these policies is that none of the traditional free market checks on unwise growth can operate. The companies continue to expand even though neither they nor their customers can afford to, safe in the knowledge that the state cannot let them go bankrupt.

Since the reason for the continuing rate increases is the need to build more capacity, the solution is to hold down demand, particularly peak hour demand, while encouraging the utilities to employ more efficient conversion systems to produce electricity.

While LCL shares the sponsors' concerns that rate increases are not needed now and that the small user is unduly subsidizing the large user, we cannot agree that the solution lies in having rates set by simple legislative fiat, as bills A 1527, 2150, 2040 and S 977 seek to do. The legislature simply has neither the time nor the expertise necessary to monitor utility rates on a full time basis. Nor can the legislature control other aspects of the economy that affect the utilities, and we have all seen in the past few years the economic havoc created by partial wage and price controls. We are also concerned that passage of any of these three bills would set a dangerous precedent for the future. Therefore we suggest that the legislature confine its activity to the broad questions of energy policy and leave the nitty gritty of rate structure to the PUC.

Of the legislation set before you we do support ACR 203 introduced by Mrs. Berman and Assembly Bill 1855 by Mr. Gewertz. These, we feel, come closest to meeting that goal.

As is evident from the bills before the committee, the legislature and indeed the rest of us, suffer from an inadequate understanding of the complex issues we are dealing with. An independent analysis of the PUC's role in guaranteeing the State an adequate flow of energy, and its effectiveness in carrying out that role is long overdue. The study should not be restricted to the rate structure of the utility industry as called for by Senator Russo's resolution because these issues cannot be so segregated and simplified. In addition to the topics generated in ACR 203, we suggest that the study Commission also answer the following questions:

- Should the PUC do its own projections for energy growth in the State and set its own policy objectives, or should it rubber stamp those of the utility companies?

- Is the PUC implementing State energy policy in its decisions as recommended by the State Energy Office and the Department of Environmental Protection?
- Does the PUC hearing procedure allow for effective citizen involvement in the proceedings and do citizens have adequate access to PUC documents and information? (For instance, subscription to the PUC calendar is prohibitively expensive for most citizen groups.)
- And finally, is the PUC adequately staffed and funded to carry out its assignments?

Given the immediacy of the problem, we further suggest that the study commission report back its findings within six months or less following its creation.

We also strongly agree with Assemblyman Gewertz' contention that the utility industry suffers from too little of the right kind of supervision rather than too much. The question of whether a utility is actively seeking the best price in the market place is extremely important. We agree that the utilities should certify that they are making an effort to competitively shop, and are not just passing higher costs on to the consumer with a devil may care attitude.

However, fuel should not be the only commodity that needs such certification. The company should have to prove that it is using the cheapest and most efficient method of converting raw fuel into electrical energy. We raise this point because we doubt that the total commitment on the part of the state's utility companies to nuclear power will ever save anyone any money. Are there systems which can convert fossil fuel more efficiently than the present ones? What about solar and wind power? These questions need answers now and the proper forum for them is the PUC.

But there are steps that the legislature can take immediately to hold down construction inspired rate increases. At this point no one -- neither the PUC nor the State nor the utility companies themselves -- have made any kind of serious attempt to hold down peak hour sales.

The PUC should be given explicit legal authority to limit sales to those customers who waste energy and to those that contribute to peak hour demand. This might include an outright ban of certain heating and cooling systems in new buildings, which, after proper hearings, etc., the PUC might determine to be wasteful. Furthermore, the legislature should move to adopt a state wide building code which encourages maximum energy efficiency in design. Two such codes have been developed by the Federal General Services Administration and the National Bureau of Standards. In these and other ways we can reject the doctrine that energy is a free commodity, and reserve our scarce resources for truly essential uses.

Another step that we recommend is the breakup of the energy monopoly in the State, and by this we mean the combined gas and electric utility. Many of the alternatives to our present system of energy production and distribution'

lies not in the central generating plant, but instead in the use of decentralized on-site generating units where power is produced at the point of consumption with much greater efficiency. Many of these on-site systems use natural gas or oil, and we cannot expect a gas company to promote the use of these systems when it is owned by the electric company which is trying to expand and sell its product. Yet active competition between energy suppliers is essential if New Jersey is to retain any options in the energy field. The only way to maintain this competition is to weaken the strangle hold the electric utilities have on the State.

One final thought. Every utility, whether publicly or privately owned, needs money to expand. Ultimately that money must come from the consumer whether in the form of rate hikes or through tax subsidies, as in New York State. Unless New Jersey can hold down demand while stimulating new techniques of producing electrical energy, we will continue to pay more for electricity than we have to. Sufficient studies have been done in this field, from the State Energy Task Force recommendations which have been filed away to be forgotten, to the New Jersey Public Interest Research Group's study on ways to reduce waste in the industrial and commercial energy sectors. It is time for action.

Sincerely,



Bill Beren
Legislative Agent

BB:jk

AUG 14 1985



