

94  
C 73/2

1041

94-106  
C 73/2  
94-106

# 4-106 HIGH COST OF ELECTRICITY

GOVERNMENT DOCUMENTS

Storage

MAR 24 1977

FARRELL LIBRARY  
KANSAS STATE UNIVERSITY

## HEARINGS

BEFORE THE

### COMMITTEE ON COMMERCE

### UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

HIGH COST OF ELECTRICITY

OCTOBER 7 AND 8, 1976

Serial No. 94-106

Printed for the use of the Committee on Commerce

KSU LIBRARIES



AJ1900 953366



COMMITTEE ON COMMERCE

WARREN G. MAGNUSON, Washington, *Chairman*

JOHN O. PASTORE, Rhode Island

VANCE HARTKE, Indiana

PHILIP A. HART, Michigan

HOWARD W. CANNON, Nevada

RUSSELL B. LONG, Louisiana

FRANK E. MOSS, Utah

ERNEST F. HOLLINGS, South Carolina

DANIEL K. INOUE, Hawaii

JOHN V. TUNNEY, California

ADLAI E. STEVENSON, Illinois

WENDELL H. FORD, Kentucky

JOHN A. DURKIN, New Hampshire

JAMES B. PEARSON, Kansas

ROBERT P. GRIFFIN, Michigan

HOWARD H. BAKER, Jr., Tennessee

TED STEVENS, Alaska

J. GLENN BEALL, Jr., Maryland

LOWELL P. WEICKER, Jr., Connecticut

JAMES L. BUCKLEY, New York

MICHAEL PERTSCHUK, *Chief Counsel*

S. LYNN SUTCLIFFE, *General Counsel*

TIMOTHY NULTY, *Professional Staff Member*

EDWARD TANZMAN, *Professional Staff Member*

MALCOLM M. B. STERRETT, *Minority Counsel*

# CONTENTS

Opening statement by Senator Durkin .....	Page 1, 4
---	--------------

## CHRONOLOGICAL LIST OF WITNESSES

OCTOBER 7, 1976

Anderson, Pauline, director of Connection (consumer network for energy action) .....	6
Bower, Dr. Richard .....	58
Article .....	73
Daniell, Eugene, New Hampshire House of Representatives .....	15
Gross, Robert, acting director of New Hampshire Legal Assistance .....	55
Hays, Samuel .....	83
Hodges, David .....	38
Hollis, Morgan, assistant corporation counsel, city of Nashua, N.H. ....	30
Hopkins, Kevin .....	84
King, Samuel M .....	52
Mark, Richard, executive director, Common Cause .....	44
Prepared statement .....	45
Peterson, Frank .....	37
Ralph, Katherine, legislator, Merrimack County, N.H. ....	43
Taylor, Lois, on behalf of the League of Women Voters of New Hampshire ..	48
Taylor, Malcolm, vice chairman, Legislative Utilities Consumers Council ..	79

OCTOBER 8, 1976

Opening statement by Senator Durkin .....	89
Bellefeuille, Jean .....	124
Bradley, David J. ....	137
Brown, Peter, professor of law, Franklin Pierce Law Center .....	172
Brumer, Jeff, resource coordinator, Granite State Alliance .....	132
Carter, N. B. ....	112
Daniell, Eugene .....	166
Dube, Charles .....	120
Erickson, H. E. ....	114
Espiefs, Peter, attorney, Keene City Council, N.H. ....	91
Harris, John, consultant engineer .....	146
La Pree, Robert .....	127
Linehan, George .....	126
Morrison, Gail, president, Greater Nashua Chapter of NOW .....	131
Pillsbury, John .....	110
Proctor, Nancy .....	99
Snee, Beverly .....	165
Tallman, William C., president, Public Service Co. of New Hampshire, statement .....	198
Therriault, Albert, councilman, Ward 4, Berlin, N.H. ....	144
Letter of August 30, 1976 .....	148

## ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Allen, Donald G., vice president, New England Electric System, statement ..	189
Holden, R. A., president, Granite State Electric Co., letter of October 6, 1976 .....	189
Hollis, Franklin, letter of October 28, 1976 .....	204
Swanson, Karl, article .....	29, 95



## HIGH COST OF ELECTRICITY

THURSDAY, OCTOBER 7, 1976

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
*Concord, N.H.*

The committee met at 10 a.m. in the Concord Library, Concord, N.H., Hon. John A. Durkin presiding.

### OPENING STATEMENT BY SENATOR DURKIN

Senator DURKIN. At the outset I would like to thank the library for once again providing this space and making it as comfortable as possible.

I would like to thank Chairman Magnuson, chairman of the Senate Commerce Committee. This is the second time the Commerce Committee has met in this room. We met back in April to discuss the inverted 200-mile limit that the Coast Guard was proposing for Lake Winnepesaukee. That problem was solved the other night.

Hopefully the outrageously high electric rate problem in New Hampshire can be solved as quickly as the problem concerning the Coast Guard trying to take over Lake Winnepesaukee.

Again I want to thank the chairman of the committee for allowing us to come back. As I said during both campaigns, I thought one of the frustrations with the Federal Government is that the Federal Government sits in Washington and listens to professional witnesses who make their living by testifying before congressional committees.

Rarely does Congress hear from real people who have real problems and who live under the rules and regulations and edicts of Washington.

This is another effort to try to bridge the gap, to make Washington more responsive to real people who have real problems, serious problems back home. That is one of the reasons we are here today.

At the outset I am happy to announce—some of you may not have seen it in the paper—we put pressure on the Federal Power Commission (FPC) last week by virtue of a telegram to the chairman and President Ford asking them not to allow construction work in progress to be included in the electric rate base. The FPC has decided not to allow it to be included in the rate base. That is a substantial saving.

If they had decided the other way, we would have had to pay for every scheme while still on the drawing board and long before the companies were generating electricity. That would have been a radical departure from traditional ratemaking procedures.

There is some good news coming out of Washington.

We are really here for several reasons. Wednesday, June 23, in the "Concord Monitor" it was expressed, "New Hampshire electric bill

increase, top in the Nation." That is the reason we are here. We are here to find out why New Hampshire has the highest electric rates in New England and some of the highest electric rates in the country. We want to know your ideas. We want to know what the average citizen can do. We want to know what the Public Utilities Commission can do or should have been doing. We want to know what the Public Service Co. could be doing, should be doing or should be forced to do. We want to know about the FPC, which a recent study of the Federal regulatory agencies released last week by a House committee, of which Congressman John Moss is chairman, indicated was, from a regulatory or consumer point of view, one of the worst regulatory bodies in Washington. It is tough to stand out in that crowd. They have managed to do it.

We want to find out what the FPC should be doing and what Congress can do to strengthen the backbone of the utilities commission, strengthen the backbone of the FPC.

I think the last 8 years or so have indicated that the Federal Government does not have a lock on the market as far as effective regulation or effective government. At least at the present there is no sentiment for a Federal takeover of the ratemaking procedure.

There is sentiment for Federal standards. There is sentiment for more than a patchwork approach to our whole energy problem, to our energy needs. I think there is sentiment to standardize the ratemaking procedure and that the State utilities commissions will be called upon to implement State standards.

But more importantly they will be called on to implement Federal standards. What happens when a prospective businessman is up in New Hampshire trying to see if they should relocate their plant—a small business person or large manufacturer. If he sees this type of headline it makes New Hampshire less competitive than other areas of the country. That costs us jobs. That has an impact. And that is reflected in our standard of living. That is one of the reasons that the sun belt economically has stepped far ahead of New England and New Hampshire in many many respects.

At this time I would like to point out that this hearing has nothing to do with the question of Seabrook. We have no jurisdiction, if you will, over this issue. Seabrook is before the Federal court system. Seabrook is before the Nuclear Regulatory Commission (NRC), and the appeals board. That is where, under law, Congress has delegated the responsibility to answer the very tough questions—safety questions and other questions—with respect to Seabrook and reactors all over the country. Congress has delegated that responsibility to the NRC and their appeals board. Any appeals from those decisions are to the courts and not to the Congress as contrasted with the natural gas pipeline bill.

If the contenders for the natural gas pipeline are not satisfied with the route selection process in that case, the appeal is to the U.S. Congress. In this case the whole appeal procedure is handled by the NRC and Federal court system. It is beyond the jurisdiction and scope of the hearing and we are not going to delve into the question of Seabrook. It is an important consideration but the NRC has primary responsibility for it and the question of Seabrook rests with the Joint Senate and House Atomic Energy Committee.

To expedite things I am not going to read my entire opening statement. My opening statement is on the table if the press or anybody else wants it. We will put it in the record. I would like to touch on a couple of other things that have happened since this statement.

We have been informed at least as of 10 o'clock this morning that the Public Service Commission—excuse me it is hard to separate the Public Utilities Commission and Public Service Co. Believe me it is difficult to tell them apart and it is difficult these days to see any difference in their action. They seem to be interchangeable. That is one reason your electric rates are so high. We have been informed at least now that the Public Utilities Commission, exercising that same good judgment that locked out the press several times during the long proceedings, exercising that same good judgment that lost a pile of coal the size of Cannon Mountain and the Public Service Co. exercising that same arrogance, that same lack of sound judgment that has resulted in the outrageously high electric rates, at this stage of the game have indicated they will not participate in the hearing and they will not testify. We hope that the Governor, if he is interested in electric rate reform and equitable rates, will instruct one of his public utilities commissioners to appear.

Furthermore, we hope that the stockholders and the directors of Public Service will give serious thought and reconsider what can only be described as the ill-conceived arrogance which has characterized their acts for some time. There are a lot of questions and I will not go into all of them today. If they don't show to testify, we will have questions for them in the record and hopefully someone else at a later date will pursue those questions.

For openers, we hear time and time again that the Public Service Co. is owned by widows and if you are too tough on the rates those widows will not receive their pension checks or dividend checks. We hear that any time that there is aggressive action by a utilities commission that we are penalizing widows. We would like to know who owns Public Service. We would like to know who are the stockholders and what are the size of their holdings.

Taking yesterday's AP story and the allegation that the Public Service has not been shopping around for the lowest-priced fuel, the question has to come to mind: Does an oil company, do oil industries, own substantial blocks of Public Service Co.?

If there are Public Service representatives in the room we would like you to take that question back and we will have other questions we would like you to take back.

The electric purchasers want to know whether you are owned by the oil companies. They want to know the answers to a lot of questions. Believe me, I think the New Hampshire public, I think the American public is going to get to the bottom of the utility rate mess in New Hampshire, in New England, in this country. I know the U.S. Congress—the U.S. Senate—will get to the bottom of this.

The fact they would not show up this morning, and they indicated that they would not show up today or tomorrow may slow us down. It will not deter us. We are going to find out who owns Public Service Co. We are going to find out why the Public Utilities Commission does not aggressively audit. We are going to find out why the Public Utilities Commission can allow Public Service to misplace \$4 million worth

of coal. It is not like an earring, or locket, or your wallet. You just don't misplace it.

We are going to find that out. We are going to find out the answers to an awful lot of questions. And, I think the arrogance of the Public Utilities Commission and the Public Service Co. is encouraging because it hastens the day when we will see tough, effective Federal legislation strengthening the backbone of the utility regulatory commissions, not just in New Hampshire, but all across the country. We would like to know among other things, why are electric rates in New Hampshire higher than any other State in New England? Are our electric needs any different from the people in Maine, Massachusetts, Vermont, and Rhode Island? Is it a different temperate zone? Why did it take the Public Service Co. 8 months to report to the consuming public the \$4.3 million coal overcharge? Why, during this period, did it continue to collect the costs of the overcharge? Was the heavy corporate foot on the coal scales, while the long corporate arm was riffling the consumer's pockets? Who owns Public Service Co. of New Hampshire—the oil companies? Who can be sure? And, if the fuel adjustment clause went into effect in April of 1972, why were no public hearings held until May of 1976?

Why, when the Public Utilities Commission gave a blank check to the Public Service Co., how in God's name did the Public Service Co. exceed that blank check and unlimited expense account? The figures are amazing. Many of you know them or you wouldn't be here today. Because the Public Service Co. has passed on an additional charge of \$49 million in 1975 over its 1971 fuel bill. This was paid by the customers without the advantage of review by any commission. That 73 percent of fuel costs has been added to your bill without any review or anybody asking the tough questions.

I would hope that the commission would review their position, and I think Public Service would be wise to review their position and come in. I realize it is a sore error. I realize full well that no one likes to stand up in public and confess to their inadequacies or mistakes. But I don't think they are fooling anyone who gets an electric bill. What we want to do is find out why the mistakes are made, where the mistakes are made, and make sure that those costly mistakes are not made time and time again in New Hampshire, and time and time again in New England, and time and time again across the country. Because the cost to the consuming public is staggering. Not just in New Hampshire but all across the country.

[The statement follows:]

#### OPENING STATEMENT OF SENATOR JOHN A. DURKIN

Good morning ladies and gentlemen.

I don't think it's necessary for me to tell you why we are here today. You and your pocketbook know the reason. New Hampshire's utility rates for consumers are the highest in New England. Utility rates in New Hampshire during 1975 rose faster than any other state in the Nation. The outlook for the future is bleak: Higher prices, colder winters.

Despite these outrageously high rates, nobody in the Public Service Company or the Public Utilities Commission seems to care. Well, I care. I care that your electric bill is 83% higher this year than it was four years ago. Working families, senior citizens, and the business community all feel the pinch of higher rates. I care that the Public Service Company misplaced a pile of coal the size of Cannon

Mountain and then charged you, the consumer, for its incompetence and inefficiency, as well as the coal. I care that the Public Utilities Commission began an investigation into New Hampshire rate structure 21 months ago and yet, to this day, has made no report to the New Hampshire consumer. I care that the Public Service is a monopoly that grows fat and rich at the consumer's expense.

These hearings are being held by the Senate Commerce Committee to investigate what can be done to help relieve the consumers of the terrible financial hardship Public Service is inflicting upon them. I want these hearings to be a forum for citizens to express their feelings about the exorbitant rates they are being forced to pay for electric power. For too long in this state, those in power listened only to the problems of the big corporations and electric monopolies. Consumer problems were felt to be too insignificant. We hope to change that today. With your help and participation, we intend to find out what lurks behind all the complex numbers and formulas Public Service blindly throws at the public. We hope to find out whether those mind-boggling numbers and formulas are just a smokescreen for corporate greed and inefficiency.

There are a lot of questions which we will be asking. Unfortunately, many of the people who know the answers have refused to come to today's hearings to testify before the consuming public. The consumer is expected to sit quiet and pay sheepishly through the nose the people who are filling their pockets with their money while refusing to be held publicly accountable. We are telling the Public Service Company and the Public Utilities Commission that we have some serious questions that demand answers. Just because they have decided to hide behind their coal piles, that doesn't mean we are not going to ask the questions.

Why are the electric rates in New Hampshire higher than any other state in New England? Are our electric needs any different from the people in Maine, Massachusetts, Rhode Island, Connecticut, or Vermont?

Why do electric rates continue to rise at the same time the consumer is being overcharged for coal?

Why did it take the Public Service Company 8 months to report to the consuming public the \$4.3 million coal overcharge? Why during this period, when it knew of the mistake, did it continue to collect the costs of the overcharge? Was the heavy corporate foot on the coal scales, while the long corporate arm was rifling the consumers pockets? Who owns Public Service Company of New Hampshire—the oil companies? Who can be sure?

And if the fuel adjustment clause went into effect in April of 1972, why were no public hearings held until May of 1976?

It is the responsibility of the Public Utilities Commission to aggressively regulate Public Service in the public interest. Has the Public Utilities Commission failed in its responsibilities to you, the electric paying public? Does it regulate Public Service, or act as its rubberstamp?

It would appear that the Public Utilities Commission has not protected the public interest, but has abandoned and ignored your interest in it. At every turn, the Public Utilities Commission has failed in its responsibility to aggressively and adequately regulate our electric utilities. Who has suffered because of these outrageously high rates—you have—I have—our working families, our senior citizens and our small business community have.

Before we commence testimony, let me just say that this hearing will not discuss the construction of the twin nuclear reactors at Seabrook. This matter is presently before the Nuclear Regulatory Commission and the Federal Courts and it would be improper for me to take testimony while the administrative and court decision is still pending.

But, we do want to gather testimony as to actions which could be taken by citizens, utility companies, public utility commissions, the Federal Power Commission, and the U.S. Congress to hold the line on electric costs and reform the electric rate structure. We hope to get some answers today.

Senator DURKIN. We got a number of calls yesterday from the north country. They hoped the hearings could be held in the north country. One person said it for everybody that called. He is happy we are holding a hearing. He wished it had been in the north country, but he couldn't take the day off. As he said, "I need the money to pay my utility bill."

Today's hearings are for those people who can't take the day off and can't come to Concord and testify. They do need the money to pay the bills. The questions of the extension of the GI bill benefits and electric utility rates overwhelmingly account for the largest number of calls we have received since we put the hotline in. That includes 1 day in August where we had 168 telephone calls through the hotline.

I would like to introduce the two people with me. To my left is Ed Tanzman. To my right is Claire Engers of the Labor Committee staff. They have been working with me on the utility rate question. Ed has been working on it for a couple of months and Claire has been working for a month or more on this question.

To start the direct testimony I would like to call Pauline Anderson, first and then Gene Daniell. Again, we are not much interested in protocol. We are not interested in all the hallowed traditions of Senate hearings. We are interested in information and not protocol.

**STATEMENT OF PAULINE ANDERSON, DIRECTOR OF CONNECTION,  
(CONSUMER NETWORK FOR ENERGY ACTION)**

Ms. ANDERSON. Thank you, Senator. I am Pauline Anderson, director of Connection, Consumer Network for Energy Action, a consumer energy project of New Hampshire Legal Assistance. Funded by a 1-year grant from the Catholic Church's Campaign for Human Development, the project has provided legal counsel in the rate structure case before the Public Utilities Commission for Voice, a low-income group from Nashua.

In addition to legal representation, the funding from the Campaign for Human Development has enabled us to develop a statewide network of persons concerned about the escalating costs of energy and the need for the conservation of energy resources.

Since 1971, the New Hampshire Legal Assistance has represented Voice before the PUC as intervenors in rate increases sought by Public Service Co. of New Hampshire. In early 1975 the PUC ordered a generic rate structure case with all utilities in the State to present their rate tariffs and also affording the opportunity for intervenors to participate.

New Hampshire Legal Assistance, realizing that their caseload was increasing at a rapid rate and they would not be able to adequately represent Voice in these proceedings made several attempts to secure outside funding for this purpose. They even petitioned the PUC, in the spring of 1975, requesting that the PUC hire a consumer advocate to represent the consumers in the rate structure case. This petition was denied by the PUC, the first of many denials by the commission of petitions filed by counsel for Voice in these proceedings and in other matters before the commission. An application made to the Campaign for Human Development was approved with funding for 1 year.

There is not the time to list all the matters that we have engaged in during the past 9 months before the PUC in representing our client, Voice, however, to list a few would give you some idea of the all-consuming effort that a consumer group has to put forth in order to participate on an even and fair basis with the utility companies. The rate structure case, now dragging into its 20th month, is a clear example of the saying of "justice delayed is justice denied."

The utilities in the State have all presented their rate schedules, with their justification for the declining block rate structure; an FEA official has testified and been cross-examined on his proposal for peak loan pricing; expert witnesses for Voice have presented their proposal and have been cross-examined.

For all intents and purposes the rate structure case ended in July with the last of the witnesses for the intervenors finishing up testimony; however, the PUC has decided to leave the case open at the request of the Public Service Co. of New Hampshire to allow even more experts and testimony to be presented. This protracts the case and causes additional expense to the utility company itself, which expense is eventually borne by the ratepayers, and also causes additional expense to the intervenors who will need to bring in additional experts to cross-examine the company witnesses, and the whole round starts over and over again.

I will leave it to you to wonder why and question this delay in this rate structure case. It took the Public Service Commission in the State of New York 1 year to do a generic rate structure case. The companies in New York are bigger than those in New Hampshire. They finished their case in 1 year. We question the delay after 20 months. I would like to give you one more example of the roadblocks put in the path of intervening consumer groups as they try to participate in the process of regulatory agencies.

My complaint is not with the Public Service Co., but with the regulatory agency that is supposed to regulate them.

In January of 1976 a petition was filed by counsel for Voice, requesting permission to borrow the PUC's copy of transcript of the proceedings before the PUC in order to copy the transcripts instead of facing the tremendous expense of purchasing them. For example, the transcripts for the August 1976 fuel adjustment hearing cost \$350 to purchase one set.

That petition, filed back on January of 1976 was denied. Nine months later, in fact, at the most recent executive council meeting, Councilor Bernard Streeter, Jr., of Nashua, raised the question of transcripts and availability of same to consumer groups at reduced costs to consumer groups? These questions were directed to the chairman of the Public Utilities Commission who agreed to bring the question of who owns the transcripts—the PUC or the court stenographer—the attorney general's office. Although I am grateful to Councilor Streeter for raising this question I wonder why the commission saw fit to deny the petition presented by Voice last January without once raising the possibility of going to the attorney general for an opinion on who owns the transcripts. I am not naive in the matters of politics and I know full well that someone with some "clout" gets faster and better treatment than a group of low-income persons.

However, the Public Utilities Commission operates as a quasi-judicial agency, with the commission sitting as judges in cases relating to utility rates and the regulation of utilities in general in the State. The blindfolded lady, with the scales of justice being equal, has been long forgotten in the State of New Hampshire, with the result being that the ordinary person knows that their participation in the regulatory process will be discouraged, ignored, and even disregarded, and that is why people are turned off from the governmental process.

There is no need for any Federal agency to spend one dime in trying to find out why people don't vote, why people don't participate. The very reason is right here. The reason is you cannot participate. The very reason is if you manage to find funding, and you do participate, that you are still ignored. And that is the reason why people are turned off.

I would like to give you an analogy of the impression, whether real or imagined, that consumer groups and, in particular, low-income groups, have of the regulatory agencies and of government in general. As a child when you approached your mother and father with a request for a driver's license, later curfew, choice of a school, you were probably surprised that they spoke as one, as if they knew what you were going to ask and had discussed it before you even asked it. Maybe they hadn't discussed it prior to your asking, but the fact was that they had lived together so long that one knew what the other one wanted.

You never knew this until you became a parent yourself and participated in the decisionmaking process with your own children. This is the way that consumer groups, and in particular the low-income groups, feel like children, being patted on the head and assured by the regulatory agency and by the utilities that the agency is supposed to regulate, that you should go away and play, that the whole problem is too complex for you to possibly understand and that they will take care of everything.

As we in New Hampshire know only too well, they haven't taken care of everything. The people, children, have now grown up and want a part of that decisionmaking process. We are no longer children and want to be treated with the same respect as the politicians and the people in power are accorded. The people, the low-income groups and the senior citizens in particular, are hurting because of the ever-rising cost of energy and the cost for electricity will continue to be borne by the small user as long as the declining block rate structure is used by the utilities. The Voice position is the same today as it was back in 1972 when they participated as intervenors in the rate increase case, that position being that the declining block rate structure discriminates against the low user of electricity and certainly does not encourage the conservation of energy, as under this structure, the more you use, the less you pay per kilowatt hour.

What can the Federal Government do? What can our elected representatives in Washington do? I believe that the time has come for the Congress of the United States and the executive branch of Government to come up with a firm policy on energy—if the figures put out by the Federal Government are true, that we waste 50 percent of the energy sources we have, that we waste as much energy in a year as two-thirds of the world uses, then it is time that the Federal Government declare that this is a national emergency situation and the Congress of the United States should look back to the 1960's, when the Congress passed the voting rights bill, because the State agencies charged with voting registration and the State governments themselves had dragged their heels for too long to open up the process of voting registration to all and follow the example of that Congress and act.

If the Federal Government means what they keep telling us, that the United States must become independent of the foreign oil imports,

that we face the danger of leaving our children with a country stripped of its resources; and if the figures presented by the same Government are true; of our waste of scarce energy resources, then it is incumbent on that Government to take whatever action is necessary to force the States to act through the regulatory agencies, to implement a different rate design for electricity that would encourage the conservation of energy by rewarding those who save on energy, right in their pocket-book, where it counts.

I would suggest that the Congress of the United States enact legislation that would require the States to implement either a flat rate or a time-of-day rate and to move away from the declining block rate structure. I would also tie to that legislation a time frame wherein those States not complying by a certain fixed date would lose Federal money for environmental and energy projects.

Senator DURKIN. Thank you, Pauline.

I have a couple of questions. Did I understand your testimony correctly, when you said that the Public Utilities Commission in January of 1976 refused to allow you to borrow a transcript of the proceedings?

Ms. ANDERSON. When the proceedings first started they did allow us to borrow one set of transcripts. We had a source in Manchester that allowed us to copy them and return them. Then the counsel for Voice, attorney Peter Brown, petitioned the PUC for the right to do this and that petition was denied. The thing that was startling to me was that just a week ago they assured Councilor Streeter that they would go to the attorney general to ask an opinion as to who owned the transcripts, the PUC or court stenographer. They have a copy at the PUC building. You may go in and read those and that is open to anyone. Except lawyers who participate in these cases feel they have to have a copy of the transcript so they can work on it and enable themselves to cross-examine witnesses competently.

Senator DURKIN. You have not been given adequate access to the testimony and transcript?

Ms. ANDERSON. Up until August we have bought the copies of the transcripts like everyone else. We had a grant for \$35,000. One thing we learned was that gets sucked up right away, when you participate in these kind of proceedings. In August we notified the court stenographer that we would no longer be able to purchase the transcript.

Senator DURKIN. Isn't the procedure that they charge the cost of the transcript to the electric company during a rate hearing?

Ms. ANDERSON. Chairman Kalinski stated that at a council session a few weeks ago. The cost of the transcript is borne by the utilities, which is eventually then paid for by the ratepayers.

Senator DURKIN. This way you have to pay for it twice. It is passed on in the rate base and paid for again if you buy one.

Ms. ANDERSON. I started to figure out with the new intervenors in the fuel adjustment hearings, I tried to figure out how many times we pay over and over. We pay to purchase the transcripts through the utility rates. The city of Nashua is purchasing the transcripts and that is borne by the local taxpayer. When a consumer advocate is appointed by the utility council, he will purchase the transcript and that will be borne by the State of New Hampshire.

I imagine that Attorney Brock, who represents Governor Thomson, is purchasing the transcripts and that cost must be borne by the FEA

and that is paid for out of our Federal tax dollars. So we pay and pay and pay.

Senator DURKIN. What is the extent of public participation in the whole ratemaking process of the PUC?

Ms. ANDERSON. I started in legal assistance in January. From talking to Voice people who have been attending these things since 1972, since 1972 to now, it was really only Voice. That would be three or four persons. They would have a legal assistance lawyer. I only attended probably two in January, when I realized soon, of course, that I, as an ordinary citizen could not participate. You have to have a lawyer and should have a lawyer with some utility knowledge, in order to cross-examine. The language is technical. It is a jargon all of their own.

It is like talking a foreign language. The beginning part of this year, it was Voice that was the only intervening group that appeared at all of the rate structure hearings, with our counsel, petitioner Brown, and the rest of the people at these hearings were the utilities.

Now, the fuel adjustment hearings are kind of different. When the public hearings were first started in May—

Senator DURKIN. How long did the New Hampshire Public Utilities Commission resist hearings, public hearings on the fuel adjustment surcharge?

Ms. ANDERSON. In all fairness to the Public Utilities Commission, I don't know if anybody raised the question over the years of having them. It came about because of a \$1.54 surcharge in March. Everyone was furious at that. They were more furious when people were told it was because their coal-generating plant had broken down and they had to purchase more expensive oil.

Senator DURKIN. I remember in Spring of 1974, at Keene State College, there was a hearing of sorts where several hundred irate citizens stayed in the cold amphitheater one night demanding answers of the Governor's counsel, demanding answers of the electric company and of the Public Utility Commission. Still there were no hearings.

Ms. ANDERSON. The first public hearing was held in May and that came about as a result of legislation.

Senator DURKIN. May 19—

Ms. ANDERSON. 1976. At that first hearing there was only Voice and our attorney and Senator Al Rock. In June there was a few more people and in July there were more intervenors. Then the coal pile news hit and there are more lawyers in the room now than there are utility people. There has been escalation of interest, because of the disclosures made over the past few months. There was a petition gathered in Keene at the time you're talking about, but there were no public hearings held until May 1976 and that came about because of legislation.

They were ordered by legislation to hold public hearings.

Senator DURKIN. Was that the legislation vetoed once?

Ms. ANDERSON. The legislation was introduced to hold public hearings. And an amendment was added for the consumer advocate. That was vetoed by the Governor and overridden by the legislature.

Senator DURKIN. The Governor of New Hampshire, the same Governor we have now, vetoed legislation requiring hearings on the fuel adjustment surcharge?

Ms. ANDERSON. It was the amendment really, amendment for the consumer advocate that got most people upset.

Senator DURKIN. It was the entire bill. The bill required public hearings and the bill required competent counsel at the public hearings to represent the consumer interest and that legislation was vetoed by the Governor.

Ms. ANDERSON. It was vetoed and overridden by the legislature.

Senator DURKIN. We didn't have hearings until that bill was overridden by the legislature?

Ms. ANDERSON. The legislation was overridden in June. The first hearing on the fuel adjustment charge was held in May. I asked someone at the Public Utilities Commission, "Gentlemen, you are not waiting for the legislation to go through." The handwriting was on the wall that the legislation would pass and the first hearing was held in May.

Senator DURKIN. We have a "Monitor" headline, Wednesday, June 23, which says our electric bills top the Nation. And the hearings commenced and the law took effect in June. Does this appear to be a case of the electric company coming and getting it while they could, before they had to answer to someone in public. The jump in rates, if my figures are correct, is something like a 52.4-percent increase in 1 year.

Ms. ANDERSON. The Public Service Co.'s explanation of this news account, John, was that their rate increase hearing took so long and was so protracted that they eventually got their increase in a short time span, between 1974 and 1975. There are all kinds of questions that should be answered, that no one has the answers to. Hopefully these answers will come out. There is a fuel adjustment inquiry starting on October 12.

Questions and answers to this AP article of yesterday, of the contract for the price of oil, those are answers that were raised by counsel for Voice on May 18 in our petition for an inquiry into the fuel adjustment clause. There are a lot of questions that should be answered.

Hopefully, this inquiry which starts October 12 will come up with some of these answers.

Senator DURKIN. That is something I don't understand. I can go back to my days in the insurance department. In those days most of the rates were set at the Brick Tower over lunch. Then they went into effect. The only time the insurance department said no to an increased rate request was when they didn't understand how much the insurance company wanted. I gather the process and procedure for approving electric rates is a clubby atmosphere, where discordant notes or someone who will ask tough questions is shunned and forced to undergo considerable expense. Do you think it is a fair procedure at the PUC? Is the public allowed opportunity to come in, question, cross-examine?

Ms. ANDERSON. I would like to give you an example of what went on at the first and second fuel adjustment hearing in May and June. At the first hearing Chairman Kalinski kept the questioning to the computations, figures for the month. It was very frustrating to try to get some answers just from those monthly figures. At the second hearing, Chairman Kalinski allowed State Senator D. Allen Rock to go over the territory. We are grateful this happened, because it triggered a lot of other interests. But it is almost as though there was a feeling

that here was a State senator participating in the proceedings and they better let the State senator have his say.

It is a feeling that low-income groups have had in this State for many, many years, a feeling of being treated as somebody different, a feeling of being treated as "Oh, here they are again, they are nitpicking." It has happened over and over through the years and before other regulatory agencies throughout the State, and I suppose all over the country.

Senator DURKIN. It sounds like someone should be nitpicking. It is hardly nitpicking when you misplace a pile of coal. The basic rate case has been going on for months, almost 2 years.

What about the problem of part-time commissioners? If it was a full-time job, do you think they would be able to get to these rate cases and decide them before the data is irrelevant?

Ms. ANDERSON. I'm in favor of full-time commissioners. In defense of the commissioners now they are probably working full-time. I think they are probably working full-time because of the consumer groups that have gotten in there and because of the fuel adjustment hearings. I'm in favor of full-time commissioners. They are not required to work full-time by law, however. They have other things to do. They regulate everything in the State, whether it is garbage collection, railroads.

Senator DURKIN. With the number of railroads left it shouldn't take too much of their time. That is another national problem, but we don't have time for that one. This used to be the way they did business at the insurance department. Instead of having an actuary check the calculations, they let somebody with a calculator add up the math. They never questioned the balance sheet. If the assets equalled the liabilities, and it added up, it was stamped okay. You said they added up the figures. You mean they don't attack the figures.

Ms. ANDERSON. The first two hearings, this was the type of sheet presented by Public Service Co. of New Hampshire, with figures of steam generation, fossil fuel generation and they came out with their requested charge for the fuel adjustment for the following month. It really wasn't until that coal pile came to the attention of the people of New Hampshire that things got started. That is why the August fuel adjustment hearing went on for 20 hours.

The commissioners realized that the people would not be satisfied with just this.

Senator DURKIN. It is kind of hard to sweep that under the rug.

Ms. ANDERSON. Since then, the September hearings got into more than just the figures. But it is my impression that the way the regular fuel adjustment hearings were to be held every month, was to be based on these calculations.

Senator DURKIN. We have it issued by them. Is this signed? It says issued by, and I guess that indicates it was signed by a typewriter, the executive vice president of Public Service.

What you are saying is that once the mountain of coal was found, that this statement was false.

Ms. ANDERSON. No, I am not saying that statement was false. I have no way of knowing whether their figures are false. That is up to the Public Utilities Commission to do.

Senator DURKIN. You are saying they don't look into this, They just add them up?

Ms. ANDERSON. We don't know. At the public hearings the Public Service Co. presents these figures. At the first three hearings, May, June, July, and August, they came in in the morning with those figures. They were handed out to us. The hearing would start immediately and you would be looking at these figures saying how will I figure out what this is? Then there was a petition presented and now they have to give them or make them available for the intervening groups 24 or 48 hours ahead of time.

They hold the hearings 10 days before the first of the month. The first of the month is when the PUC announces that, yes, they will allow the fuel adjustment surcharge that the Public Service Co. asked for. During those 10 days, you don't know what the PUC does with the figures. If you trust them, you assume they send it to their accounting department and engineering department and say, check this out, keep on top of this.

But there is a 10-day period between the public hearing and the time that the Public Utilities Commission announces the fuel adjustment charge.

Senator DURKIN. In other words, the consumer groups, the public, doesn't know whether the PUC has verified these figures or not.

Ms. ANDERSON. We have to take their word for it.

Senator DURKIN. If they verified the figures for the fuel adjustment calculation for the past year, then they either were using false figures or they missed that pile of coal. Either they ignored the pile of coal, \$4 million worth of coal or they were operating on false figures and either the Public Utilities Commission did not take the time to verify the figures or accepted the false figures.

Ms. ANDERSON. I can answer that by saying that Mr. Merrill's testimony, he is the Public Service Co. official, I guess, in charge of the coal pile, his words at the August fuel adjustment hearing and I'm sure the press will confirm this, because they were there, were that he was flabbergasted at the audit which showed the 127,000 tons.

So they are now saying that they don't know how that coal pile got there. They don't know when it happened. They are saying it happened over a period of 5 years. They want 10 percent of that \$4.5 million. So, in fact, they are saying they don't know. If you don't know, no one can accuse you of dishonestly doing something about your figures.

My position is that here is a sophisticated company, we hope a sophisticated company. They are planning for the future. They can't keep track of this coal pile. Here is the Public Utilities Commission, the regulatory agency, who Public Service Co. either does not regard with much respect, fear, or whatever, because they didn't bother to tell the Public Utilities Commission about the audits being done on the coal pile.

Never mind the public. They didn't tell the Public Utilities Commission. They went from October until August before they announced the news about the coal pile.

Senator DURKIN. I find that outrageous. At some point silence can become criminal. Has the Public Utilities Commission, to your knowl-

edge, ever challenged the figures that are presented at the fuel adjustment proceedings, or did they just accept them?

Ms. ANDERSON. Read the bottom figure. Doesn't that say they wanted 51 cents for the October fuel surcharge?

Senator DURKIN. Yes.

Ms. ANDERSON. That is what they got. It is low, because of the rebate on the fuel adjustment charge.

Senator DURKIN. Why did the fuel adjustment charge drop after we had sentiment and an outpouring of statements from the press?

Ms. ANDERSON. They are starting to pay back the money they owe us. The \$4.5 million. They were ordered to do this by the Public Utilities Commission.

Senator DURKIN. They are paying it through the fuel adjustment surcharge.

Ms. ANDERSON. That is why it was 51 cents. It would have been 98 cents for October without this payback. Next month it will be low again.

Senator DURKIN. I gather from your experience, in your dealings with the PUC, that they not only have not been aggressive as far as meeting their responsibility to the rate consumers, but they have resisted the consumer groups' right to ask questions.

Ms. ANDERSON. I cited examples of petitions we presented to the Public Utilities Commission that have been denied. There have been petitions submitted that have been denied. We are not submitting them willy-nilly on scraps of paper. We have a competent utility lawyer that follows the rules of the game that lawyers and other people have set up. There is something right now, John, that I think is interesting, that people should keep an eye on, as an example of who the Public Utilities Commission listens to.

They had scheduled a hearing for September 22 to discuss something known as a fold-in of the fuel adjustment charge. That would be to fold it into the rates. That hearing was scheduled for September 22. At the September 20 fuel adjustment hearing for the month of October, we filed a petition listing various reasons why we thought that September 22 hearing should be postponed. We thought it should be postponed until at the very least, after the fuel inquiry which is starting October 12.

We thought it should be postponed until the rate case is taken care of. We are opposed to anyone folding in the fuel adjustment charge into that declining block rate. That will make the declining block rate more horrendous for the consumer to face.

We filed that petition on September 20 at the fuel adjustment hearing. The hearing was scheduled for the 22d. On the 21st the Public Utilities Commission announced that the 22d hearing would be delayed until the 10th of October.

We asked kind of off the record if they were agreeing to our petition. No, we are not agreeing to your petition, but Public Service Co. of New Hampshire asked for the delay, because they didn't have all of their figures ready. The October 19 hearing is still on the board. Since that time, Concord Electric and now Public Service have both asked for a delay in that hearing. If the Public Utilities Commission orders a delay in that hearing—it doesn't raise any serious question in my mind,

because we have been denied our petition so many times—but I would be interested in looking to see if they delay the October 19 meeting after they have received requests from Concord Electric and Public Service.

Senator DURKIN. Thank you Pauline. I don't know whether you plan to stay or not during the hearing, but you are welcome to and later on if you want to add anything we would be happy for your comments.

We will also leave the record open for a substantial length of time, if anyone wants to add anything.

Earlier this morning I mentioned that we invited Mr. William Tallman, president of Public Service Co., and Franklin Hollis, a director of Public Service Co., to testify.

After Pauline Anderson went on, I was handed a communication from Mr. Hollis, and want to paraphrase it. The net effect of Mr. Hollis' letter of October 7, 1976, is that he wasn't able to prepare testimony. The questions we asked were of such complexity that he needed more time to prepare his testimony. He indicated if the hearings dragged on as long as the rate case before the PUC dragged on, he might find time to testify. His law firm received \$116,000 representing Public Service Co. last year. Yet they need additional time to prepare. I wonder what the legal fees went for if it was not to familiarize himself with some of the same questions before us. Again, there are more interesting questions with respect to the question of interlocking directorships, interrelationships between the utility companies.

I would like to ask Mr. Hollis if he can find time to get here, we would appreciate it. Why is one man president of two small electric firms that buy all of their electricity from Public Service and also a director of Public Service? His law firm received \$116,000 last year in business from Public Service and that same man indicates today he is not prepared to answer the questions of the committee looking into the very activities and very monopoly that he is so much a part and parcel of.

Again, I think we are witnessing the Public Utilities Commission and the Public Service Co. displaying that same arrogance which oozes out of every pore of Redi-Kilowatt.

Senator DURKIN. Is the Governor's energy watchdog in the room today? Let the record show that the Governor's energy watchdog, if he is here, is a silent watchdog.

I would like to call a man that needs no introduction to utility rate-making questions, a man who's been very supportive of me and a man who is very supportive in challenging the relationship between the regulators and those supposed to be regulated.

It is a pleasure to introduce Gene Daniell.

#### STATEMENT OF EUGENE DANIELL, NEW HAMPSHIRE HOUSE OF REPRESENTATIVES

MR. DANIELL. I don't mind testifying under oath; I prefer to. If that is not the procedure, fine, but I offer to repeat this under oath if you want me to.

Senator DURKIN. It would be nice if the protectors of the public purse and the utilities were so eager to testify under oath as you have indicated you would.

Our quest is in search of information. Proceed in whatever way you find is most comfortable.

Mr. DANIELL. I'm a graduate of Harvard College, Harvard Law School. I have completed six terms as mayor of Franklin, N.H. I have had five terms in the New Hampshire Legislature, including one as a State senator.

I'm a stockholder in Public Service Co., and a stockholder in Exxon. As a result of getting a 100-percent stock dividend, I'm a little heavier on the stock than I really intended to be.

Senator DURKIN. We know one stockholder; now, if you can get us the rest of the names—

Mr. DANIELL. I want to say on that, I think the problem is more with the companies that serve Public Service Co. than with Public Service Co. I consider Public Service Co. to be the most captive operating utility in the United States. That is one of the reasons we have the highest rates.

I would like to go into my own experience. I fought rate cases as an attorney for Franklin and as a State senator in 1950. I fought for practically a solid year, between the rate case of Public Service Co. and rate case of the telephone company.

I have followed utility regulation ever since. I have always had experience dealing with Public Service Co. We have had two fights on tax valuation in the city of Franklin, and I would say they are no more dependable under oath in a valuation case than they are in a rate case.

I want to say again what I propose to develop, and as a result of attending the rate hearings and as a result of attending the fuel hearings in August and September I have been able to get information and do work that has given me information that hasn't come out yet.

I'm convinced there is a criminal conspiracy between Public Service Co. and Conoco Oil Co., to extract excessive rates from the ratepayers in New Hampshire. I think there should be action based on fraud for their defrauding of the people of the State of New Hampshire with rates they know are unjust, and by manipulations on fuel costs which to my mind come close to criminal.

I have had some experience, because when I appeared and made charges that were similar to the ones I'm making today, the attorney general against my wishes brought me before the grand jury. I was more than anxious to appear before the grand jury, but I needed time to prepare my case.

We held the Merrimack County jury longer than they had been held before. They wanted to indict several of the officers of Public Service Co., but the Governor communicated to them that he was going to put up \$25,000 for special counsel and the indictments never came through.

We did get the \$25,000, and Mr. Thornton Lorimer was retained as a lawyer, and did a good job in that rate hearing in 1950.

You might ask why we have excessive rates in New Hampshire. I say the rates are in inverse proportion to the regulatory boards. I think we have the highest rates and the worst regulation. And the best evidence are the rates we suffer from.

From my experience I have found, and I think Mr. Thornton Lorimer could testify to this as well, that Public Service Co. has been able to get where it has because of a great deal of political influence. I learned this early in my political life in New Hampshire. I started in the practice of law in 1929 in Massachusetts. I came up here in 1940.

I got into this fight first, I believe, in 1947. At that time there was a referendum for public power in Franklin. They were very interested in it. I wasn't particularly interested in it.

But after three solicitations I did agree to run for mayor. The day following, I received a call from the district representative of Public Service Co. He said, "Young man, we need an outstanding lawyer to represent us in this area. We would like to grant you a retainer, and you may name your figures as to what you feel is proper for a retainer."

To which I said, "I'm sorry, but I'm representing the city of Franklin. There may be conflict of interest."

I had no objection to representing them and receiving a fee. I said I couldn't do it while I was presently engaged in a political campaign. I didn't support their referendum. I have not had another offer from Public Service Co. since, and I don't know why, because I did a pretty good job in the campaign.

When I started my campaign, I received a reasonably sized check from a member of the firm who represents Public Service Co. to put a good campaign on against my opponent. It was somewhere in the vicinity of \$300. I found that the easiest way of losing your job as a utility commissioner is to show some interest in consumers.

Senator DURKIN. That happens to insurance commissioners, too.

Mr. DANIELL. You had personal experience there. I think this is the reason. The real people to blame for the excessive rates we have today are the lethargy and apathy of the voting public. They permit this kind of control to exist. If you leave politics to people like Public Service Co., you pay a hell of a price.

I also appeared as counsel for the town of Hampton or Hampton Beach precinct in a utility hearing. I have followed Public Service Co. in rate regulation because it's one of the most interesting fields and one in which the general public has been more cheated and had more money extorted from them than perhaps any other field in the State of New Hampshire. I think they do a better job than even the Mafia.

You perhaps recall that we have had some good utility commissioners. If you compare the group I appeared before in 1950 and today—Well, there is no comparison as to the board; it has deteriorated a great deal. I think they are chosen for their bias, their limited ability and, in one case, for complete mental inadequacy; and I won't name the individual.

As long as you can be reasonably certain to follow orders from the statehouse, then you appear to be a desirable candidate. This has been shown not only in the regulation of public utilities, but in many other departments of the State. I refer particularly to Commissioner Thornton, who was probably one of the outstanding, if not the outstanding public utilities commissioner in the State. He was removed by a Democratic Governor. But Public Service Co. had their way.

It is not necessarily dishonest. I don't think there is dishonesty necessarily in contributions. They have had excessive power, not only over the commissioners and choice of commissioners, but much more

so over the domination of the staff. Now we are told that we should have more of a staff. I don't care how many members are on the staff. A member of the staff took personal initiative and tried to protect the consumers; I am referring to David Lessels.

You know, and it has come out, that the \$4.5 million overcharge was sat on for a period of 8 months after they knew about it. Lessels wanted to develop facts on that. He offered to produce the evidence before the July hearing, I think. I don't know, because I wasn't at that hearing.

Thereafter, it was publicly stated—I think he was the financial director—he stated he was being transferred from his job to an examination of utility rates in Haverhill, N.H.

I have nothing against Haverhill, N.H., but it was a public insult to a man who showed some initiative. Anybody that works for the commission today knows better than to develop facts favorable to the ratepayers of the State of New Hampshire.

Senator DURKIN. That sounds like a clear message to any staff person to go slow or go north.

Mr. DANIELL. Perhaps as insurance commissioner you got messages. You didn't listen to them quite right and then got kicked upstairs. Knowing Mel, he probably thinks that is one of his major mistakes. They may even give you back your job if you call off hearings of this nature. I want to say again, if the Governor wants to improve rate regulations in this State he can do nothing better and nothing more effective than to make a statement on behalf of David Lessels. He feels his career in utility work in the State of New Hampshire has been ruined. He is in an extremely difficult position.

I think this condition of frustration on the part of members of the staff is not confined to him. I happen to have talked to him during the recent fuel hearings. I know how he feels. It is common among other members of the staff too. This is the reason why we are in such a bad condition. It is why we are not going to get anywhere, no matter how much they spend on that commission. It is backed up by the reign of terror that the present administration has subjected all State employees that disagree in any way with what the high mucky-muck wants. This has been common. The fish and game man, the gentleman up there opposed to the paper company, that type of thing is all too common. This thing carries down.

When a gentleman such as Lessels is publicly humiliated and the Governor says nothing you don't have to go any further. All you have to do is follow in Lessel's footsteps and you will get worse, in my opinion.

I wish this could be cleared up because nothing can be done to improve our rate regulation in the State of New Hampshire so long as something like that is allowed to take place. To me as a trial lawyer and somebody that has knocked around over quite a few years, I was somewhat shocked by this article. This happened after I appeared before the commission. I am not always too quiet. Perhaps I was a little too loud, but Mr. Stevenson, the last appointed commissioner saw fit to put an editorial in the Concord Monitor. He didn't say much and he didn't say it very accurately but for a man that is supposed to be an unbiased person this is a funny thing to say. It is like having a trial before a judge who says, "I know all about this matter." Then

he added when speaking of the cost of electricity, "the controversial and unpopular fuel adjustment clause becomes a scenario around which office seekers gather as a means of gaining public applause."

I consider that a direct attack on me and every other intervenor there. I wouldn't mind if it came from some of the others. But Stevenson got his job because he was a yes-man to the Governor, he is a politician and knows how to get rewarded.

I am going to ask if I appear at the hearing on the 12th that he disqualify himself as a commissioner, at least for this particular hearing, because I think this type of conduct on the part of somebody who is supposed to be impartial is unforgiveable. I don't mind if he doesn't like me, but not in his official capacity as a commissioner when I am trying to get justice before him. This represents obvious evidence of a complete collapse of the commission as a regulatory body.

Senator DURKIN. It is to bad we can't get someone with a consumer bias once in a while.

Mr. DANIELL. I feel if the public will participate fully in the political life of our State and I think with their judgment as to the candidates they choose and what they know about them, sooner or later we will have somebody there who represents the consumer. But in the final analysis it is up to the voters. There are terrible things happening. I want to go on.

Senator DURKIN. Could you elaborate on the relationship between Conoco and Public Service?

Mr. DANIELL. I will go into that in considerable detail.

Another occasion of the prejudice of the commission, they knew in November 1975 of the first inventory of the coal pile—they knew the results. They concealed those results from the public. I think this amounts to criminal conduct on the part of the commission.

Senator DURKIN. I am wondering myself about that.

Mr. DANIELL. I want to correct one thing on this. In theory they charge when they burn their coal, they haven't paid for the coal that is in the coal pile, but either as a result of faulty weight scales or as a result of an improper density factor they overlooked something like 130,000 tons of coal. That is they say they overlooked it. I can't see how that happened. That is a 29-day supply of coal for them and they like to keep 45 days in their coal pile.

Senator DURKIN. It seems from the record we have seen so far that they knowingly overcharged the consumers in New Hampshire for 7 or 8 more months, when they were hiding the facts of the coal deal and while they were looking for a place to get rid of the coal.

Mr. DANIELL. The official story was it sounded bad and we had to have another audit of the coal pile. They waited until April to do that. Consolidation Coal is a wholly controlled subsidiary of Conoco Oil. I bet it's only a question of time, if you turn over Government manufacture of nuclear fuel to private industry, that they will control nuclear fuel by monopoly as well.

There is no difference between Consolidation Coal and Conoco. Between those two companies they supply close to 90 percent of the fuel used by Public Service Co. To my knowledge there never has been a bid offer or asked for or anything else. They take the price Conoco gives them or Consolidation puppet gives them. It has been a sweet-heart contract.

Their coal contract runs back to—this is a renewal for 10 years and that was a renewal of a contract signed in 1960. This sitting on that report, to my mind again, together with Stevenson's editorial defending Public Service Co., by implication, I think this represents exactly the reason why we have the highest rates in the country.

Of course, in fairness you have to realize that it is hard to transport fuel up here but the fact remains that over the years I think Maine and Vermont who have more effective regulatory bodies have had lower rates than New Hampshire. I would like to say again—

Senator DURKIN. We have the highest rates in New England.

Mr. DANIELL. There are indications that some of Consolidated Edison's rates are as high or higher. Massachusetts hasn't had a regulatory body that amounted to anything. New York is another. They are closely related to Mr. Rockefeller who has some interest in the price of oil, if you recall.

I made the statement that Public Service Co. is the most captive operating station in the country. I have some ground to make that statement.

During my hearings in 1950, Public Service Co. then decided to buy the Schiller plant which was to be a unique plant in that instead of using water they were going to use mercury in the boilers. Mercury has a high specific gravity and they were going to get an extremely economical plant. They paid over \$12 million for that plant. They could have bought one for conventional steam at the same capacity for \$6 million. In the course of the hearing—you were interested in the stockholders of Public Service Co.—I asked Mr. Schiller under oath since he was a president of Public Service Co., "And you are a director of NEPSCO, do you know anything about the stock?"

He said:

No. I knew NEPSCO was held by three blocks of stock. One held by General Electric, one held by Manufacturers Trust, and there was a New England Trust Co. or something.

General Electric, at this time, had control of Public Service Co. General Electric was trying to develop this mercury process at this time. They sold a plant to Public Service Co. of the mercury type. That is a classic case where a captive company is bled for a loss of \$6 million.

Public Service Co. says, "The price of mercury went up since we bought that plant. We made enough on the sale of mercury so that we didn't lose anything."

Be that as it may, the plant was a failure, the process was a failure. After they succeeded in forcing this plant on Public Service Co., they released their patents and took an income tax loss.

Public Service Co. ratepayers paid \$6 million in higher cash and rates. This is why I say even at that time it was severely controlled. It is fair to say under the Holding Company Act, NEPSCO has been broken up. I can't tell you the method of control between Conoco and Public Service Co. I can only say the acts between the sweetheart contracts and the procedures are such that there can be no question about this relationship.

Senator DURKIN. Will you elaborate on that, Gene?

Mr. DANIELL. This has been a long-standing conspiracy. It runs back to 1960 because that is when Consolidation Coal signed a contract

for coal which I consider extremely prejudicial to the ratepayers. I will go into this in more detail.

Conoco—I haven't had a chance to investigate what they are. It is certainly a large company with many interests. I think it is both an operating—both produces and distributes. I know they are a large company. They control Consolidation Coal and they certainly control Public Service Co. as closely as Edgar Bergen controlled his puppet.

I have told you that all of the coal is supplied by Consolidation Coal. They agreed to sell 9 million tons over a certain period. Not less than 9 million tons. The contract says they should have 45 days operating coal in the fuel pile and they carry the cost of that inventory. But because they have failed to fulfill that contract in furnishing all of the coal, the company has been forced to buy spot coal because of a need for coal. The contract speaks of a cause majeure. Now they have been buying spot coal all along. They let Consolidation Coal, in some cases, handle contracts for spot coal as a broker. I don't know how much Consolidation gets out of that. We are going to get the total tonnage that has been bought but that exhibit hasn't come through. It seems to me in 1975, it amounted to something like 150,000 tons of spot coal. That is a fairly sizable amount.

The serious part there is they they get their coal from Consolidation in 100-car trainloads and they have a very good arrangement whereby the train comes up fully loaded and goes back. They get two trainloads a week under normal circumstances. It gives them a low tariff. When they have to buy spot coal they don't have this advantage. The tariff is much higher. The contract calls for penalties if the company doesn't carry through. To my knowledge, they have never attempted to enforce any penalties against Consolidation Coal.

Senator DURKIN. Would the \$4 million worth of coal, would that have triggered them buying spot coal in the market at a higher rate?

Mr. DANIELL. The fact is they had more than enough coal. They ostensibly thought they had less than 45 days so they went out and bought this expensive coal. They say they did not know what coal was in there. My God, as you say, that type of pile is a very substantial pile. I can't conceive of that as being so.

Senator DURKIN. So the ratepayers paid twice. They paid for the coal, the \$4 million worth of coal and then they had to pay unusually high prices to go out and buy coal on the spot market. They paid twice. They paid a higher price for coal they didn't need.

Mr. DANIELL. They paid three times. Because Public Service Co. used the excessive coal charge as a justification for higher rates in their rate hearings. They collected three times so far.

There is another interesting item. That is that Public Service Co., in theory, has had \$4½ million that they weren't entitled to. They say, "You can't charge us for that because we paid it to Consolidation Coal or Conoco."

They are one and the same. It is just a convenience to conceal the conspiracy of which I complain so violently and which I think is so very, very expensive to the State of New Hampshire.

I consider this a sweetheart contract. I could read specifically from it but among other things, they testified that, "We get all of the coal from one mine." Actually the contract says they will deliver coal from

Fairfield, W. Va., Fairchild, or something, coal from their mines in that location, whether it is one mine or several mines I haven't the slightest idea. There is a clause which says if they charge more to Public Service they will have a differential applied to Public Service Co. You read further and it says, "We will pay the differential if this other company gets coal at a lower rate and has delivery by railroad in the New England area."

The mine is on the edge of the southern and central areas of the country. So if they want to deliver 10 miles to the south or west that limitation doesn't hold.

As far as the prices go, I haven't had time to make a study as to just how much their prices are above what the coal should be obtained for through competitive bids. They never have used competitive bids as far as I know. Somewhere in advance the price of 90 percent of the fuel they buy is fixed by negotiation with the big boss.

Senator DURKIN. You have had a lot of experience with the Public Utilities Commission. Why don't they turn down the rate increases until they get competitive bids? Or do they just add up the figures and if the math is correct—

Mr. DANIELL. I think the math is correct. The math isn't too bad that you get from Public Service Co.

Senator DURKIN. Why couldn't they go behind the figures?

Mr. DANIELL. The Public Utilities Commission doesn't know anything about a sweetheart contract. They think Conoco is an honest business concern.

Mobil Oil is not out to extract anything unfair from the ratepayers. They are God's gift to the millionaires as far as I am concerned.

We are on the end of the vine. We die first. If we don't control the situation on oil and fuel we will go out of existence. We are depending on you in Washington to see that this has a stop put to it. I am better prepared on oil than I am on coal, and I think the facts are more revealing. I would like to state here to some of you who don't realize it, that the amount of oil to be delivered originally under the contract to Public Service Co. at their Newington plant was 4½ million barrels. They don't get it at less than \$10 a barrel. Generally it runs to \$11. We are talking about \$45 million a year. When we talk fuel we are talking about fuel, which in their last annual report said they spent \$67 million a year on fuel. There is every indication that they will spend \$85 million this year. We are dealing in big figures.

Senator DURKIN. Do you ever go to a stockholders' meeting?

Mr. DANIELL. I never was invited. I haven't gone. I find little stockholders don't amount to anything when you go to a stockholders' meeting.

Senator DURKIN. You have had a lot of experience with the whole utility question. Doesn't New Hampshire law require and impose a positive duty on the Public Utility Commissioners to go behind the figures and find out if the figures are accurate and not just subject the figures to calculation and if the matter is correct, rubberstamp it.

Mr. DANIELL. I wanted to correct you when you said the rates are set at the brick tower. They are set at the 1000 M Street, Manchester. They are rubberstamped at the brick tower.

I have never seen an attempt by the PUC to go back and investigate the Public Service Co. figures. Public Service Co. is a "deity." If you

attack them or attack their figures, such as David Lessels, you will be publicly humiliated. The thought that Public Service Co. could do anything wrong, well, it is like the three monkeys, "hear no evil, see no evil, do no evil." Public Service Co. is God.

Although there is, in my opinion, a responsibility there, they have never, to my knowledge, done a great deal on it.

Senator DURKIN. Let me ask you another question. The AP has been doing some investigative reporting with respect to oil purchasing practices?

MR. DANIELL. I will get into that. I have three sets of figures here on oil. First you wanted to find out where they are getting 4,500,000 barrels. That is exclusively for the Newington station, which is their big station with one unit.

I wanted to compare how the rates they paid there compare with what the State of New Hampshire pays for fuel bunker 6. It is all the same oil for the State university, State hospital, for the statehouse and, at least, for the State prison. They gave us the price at the Newington station of \$10.81 a barrel for June and July.

It is interesting that the Associated Press article is based on prices to the Schiller station. Now, the Schiller station is supplied under a contract, which I haven't seen but I am going to look at as soon as I get hold of it, by Sprague Oil & Co.

There were bids issued for that oil. Whether they were honest bids and whether they were honestly received, well, I have reason to believe they weren't. They went, however, through the form of bids. I have the bids that came in. There were three bids, in addition to Sprague.

Now, the first thing that convinced me of the criminal conspiracy between Conoco and Public Service Co. was that the rates between the Schiller station—that gets all of its oil by tanker—and the Newington station, which gets all of its oil by tanker—both have storage for 29 days—so, the situation is ideal to compare. But consistently, the rates for oil per barrel at the Newington station, which comes directly from Conoco are higher than those at the Schiller station.

Now, you have the Associated Press article, which says the Schiller station rates are phoney, as well, and that we don't get the advantage of any discount and that they are excessive.

I have no reason not to believe that statement. I want to go over it later.

But I take the next step and if you compare Newington with Schiller then we are getting cheated twice there.

I would like to read you a comparison of the rates between the Schiller plants and the Newington plant. At the top is July of 1974. The Schiller plant was \$11.24 and the Newington plant was \$12.75. Difference of \$1.51.

The next was \$11.24 and \$12.78 at the Newington plant. A difference of \$1.54. \$11.24 at Schiller and the price went down to \$12.75. Difference of \$1.51.

Next month it was \$11.27 at Schiller and \$12.99, a difference of \$1.43. Next difference was \$1.38.

Next, the difference was 61 cents. Then there was a 23-cent—for some reason Newington had a 21-cent advantage on its rate. Out of a period of 22 months they had an advantage on 2 months. They were relatively minor and the difference averages out around 60 cents a barrel. This is

in comparison with the rates of Schiller station, which AP disclosed are fraudulent in and of themselves. So, this thing couldn't happen with honest negotiators, honest representatives of the ratepayers of the State of New Hampshire.

It is on this basis that I have made the allegations that I have here.

Senator DURKIN. Could we have copies of those contracts for the record?

Mr. DANIELL. Copies of the rates for the record. But I would like to have them back.

Senator DURKIN. We have the situation that 2 years ago Sprague allegedly dropped a discount that they were giving to bulk buyers and the FEA turned their back on this and walked away from it, even though there was a formal complaint made to the FEA that Sprague may have been violating the FEA regulations. Of course, that is one of the added frustrations. We see the Public Utility Commission is insensitive to consumer needs.

Then contrast that to the FEA, which is just a half-way house for oil company executives—

Mr. DANIELL. I would like to say that my experience is that regulatory bodies are generally exclusively for the benefit of those who are supposed to be regulated and not those who are supposed to be benefited. The policy of the present administration in Washington has been to appoint only members to those boards that are representative of the industry to be regulated and never to allow anybody close to a job of that nature who represents the consumers.

We are 100 years ahead of Washington with our regulatory bodies. I don't think they are anywhere near as bad.

I think a fair investigation, Common Cause made some investigation, showed this.

We show the world how to get cheated.

Senator DURKIN. We learned late yesterday that the FEA—the regional director of FEA is a refugee from Exxon—the FEA is sitting on an investigative report which they have done which will lay to rest or corroborate the charge that Sprague Oil was guilty of charging rates higher than allowed by FEA regulations and they charged us in New Hampshire those rates.

Mr. DANIELL. As far as New Hampshire goes, I don't think I finished. When I started I contacted the State comptroller and he referred me to Mr. Diesel, who handles oil purchases. At present he is doing business with Union Petroleum, Inc. I have no information on that other than the fact that they are selling oil to the State of New Hampshire. Their consumption is tremendously under what Public Service Co. is getting for the New England plant or Schiller plant. By comparison the Schiller plants use 1.2 million barrels. The Newington plant would use something in the vicinity of 4½ million.

Senator DURKIN. What do you think the answer is? I think the tale is unfolding. I think every ratepayer in the State knows they are being "ripped off" by the electric rates and the insensitivity of the Public Utility Commission. What is the answer?

The answer is not creating a Federal agency such as the FEA, which has an abominable track record.

What do you think the answer is?

MR. DANIELL. I think this hits at the heart of democracies. The big issue is whether the people of this country have enough interest in protecting their best interests and in voting to protect themselves from what is going on today. I hope some of the public who say, "I don't have anything to do with politics," will recognize, if they don't have an interest, there are people who are theoretically dirty who will drive them out of existence. If the public will insist on it, they will get adequate consumer protection. We have an election. It is of extreme importance.

If they vote for the organizations who have continued and produced a regulation system which is at an alltime low, then there is no cure. If they demand a change then we will have something. But you can howl all you want about how crooked they are, when they negotiate between Conoco and Public Service Co., but if the voters of this State are not sufficiently interested to be heard on November 2, then we may have a temporary improvement but sooner or later we will have an absolute dictatorship in the United States. This issue is up to the voters in the final analysis. We came close to it with Mr. Nixon. Thank goodness, we missed it that time, but it will come again unless the public takes interest in who they elect and know something about them and their records.

Senator DURKIN. One of the revelations of the first year in Washington is just the awesome power of the oil industry. It is not just Democrats or Republicans. There are two parties. The oil party and the consumer party, and the oil party has their sweethearts in both parties.

MR. DANIELL. I don't argue with that. It is not totally fair to put the total blame on the Republicans every time. I think King was a good governor. But he helped the utilities. You know I once was a Republican. But after what I learned in my first rate case, I figured I had to get into the Democratic Party.

I'm trying to say the utilities are in both political organizations. They do business when the public isn't interested. If the public isn't interested, the gangsters and utilities and other companies, which you well know are the ones that run your country for the benefit of a limited group.

But these things have been brought out. They are extremely important.

Senator DURKIN. That is one reason we have been pushing divestiture. The oil companies own from the wellhead all the way to your gas tank. If they are allowed to continue to buy corporations like Mobil Oil, they will own your car, and sell you insurance, as well. Oil companies own coal companies, own oil companies, own uranium companies. Now they are buying up those people who suggest alternative sources of energy.

MR. DANIELL. They attempted to take over nuclear fuel production, which you were able to stop recently.

I want to read in some of the facts on this.

Senator DURKIN. I wish you would. Then we have to move on because we have a full slate of witnesses.

MR. DANIELL. I can terminate at any time.

I have further information on this matter of the "sweetheart contracts." On the matter of what the State pays, in July and June,

according to the exhibit of the Public Service Co., they were paying \$10.81 a barrel at the Newington station. Those 2 months, the price that the State was paying was \$10.064 a barrel. \$10 a barrel or 81 cents cheaper than what Public Service Co. can buy when they are buying a volume of 4½ million barrels. In the month of July, the price went up—the price of oil by the State at Newington, they paid \$10.22, plus a small fraction. Whereas, again, Public Service Co. was paying \$10.81. How can this happen? I think the rest of the rates are all substantially the same. If you are a little fellow and you look around a little bit, you can do quite a job on these rates.

I will give you something I have. Some of them come as exhibits. Senator DURKIN. We will copy them and give them back.

Mr. DANIELL. I have the figures for coal and oil produced at a subsequent rate hearing also.

I can cut this as short as you wish but I have information which, I think, is highly material. Particularly on the oil contract. Incidentally, to show you their cooperation, I asked to see this contract and they had it at the Public Utilities Commission, but they said I had to go to the company. They did order the company to make it available. I had to go to Manchester to see it however. Conoco signed this contract in March of 1972. But in 1975, the contract apparently had provisions in it, provisions as to the amount supplied.

Conoco wrote them a letter and said, "We are voiding the contract and we give you the following terms." They were operating under that letter. It is a three-page letter. It is a contract involving \$150 million anyway.

I asked for acknowledgement of their letter suspending the contract. They have no right to do it, as far as I'm concerned. They referred to an oral contract. This is where you run into stuff that is criminal, in my way of thinking.

Senator DURKIN. Why isn't the Public Utilities Commission asking these questions? Why are you asking these questions and not getting any help or answers?

Mr. DANIELL. We have the poorest regulatory agency in the United States.

Senator DURKIN. We had the same trouble with Blue Cross.

Mr. DANIELL. The "we" on the Insurance Commission is different than the "we" on the Utility Commission.

Senator DURKIN. Why haven't more people demanded that the Public Utilities Commission grab a hold on the Public Service Co. wallet until they get answers. Once you have a person's wallet, his heart and mind usually follow.

Mr. DANIELL. The first fellow on the commission who did that sort of thing was humiliated and dispatched to Haverhill, N.H. When I say they have a poor regulatory commission, I'm not exaggerating, by any means.

It may be beyond your belief that they are that but they are. I'm trying to produce the facts that indicate to you why in New Hampshire, we have this deplorable situation.

Senator DURKIN. We have the highest electric rates in New England. That is irrefutable.

Mr. DANIELL. Across the board, that is probably true. New York and Boston Edison have some higher.

Senator DURKIN. New York generally speaking has higher rates than New Hampshire. But in New England, across the board, in every use category, New Hampshire is the highest in New England.

Mr. DANIELL. We may be getting publicity to the effect our rates are lower than some of the other New England States, during this period when they are paying us back what they overcharged us in the past.

They wrote in requirements of Btu per barrel of oil.

The Newington specifications are lower than those required at the Schiller plant. This makes the differential more alarming.

I want to say that this is a contract which ran for 6 or 8 years. In this letter of understanding, they said, "In the future, if there is any hardship, we can cancel in 3 months' time. You can cancel, too," but who is going to cancel when you are getting your oil at 15 cents a barrel more than you ought to.

They said, "We will not be held to specifications as to Btu, sulfur content and things of this nature."

Senator DURKIN. We will leave the record open for anything you want to submit.

Mr. DANIELL. I want to summarize briefly what my estimation is and I haven't been able to check on coal but what I find in coal is as bad as what I found in oil. But I think we are paying something in the vicinity of \$3 to \$6 million more for oil than we should. It is due to the "sweetheart contract." Maybe a fair figure is \$1 million for what the "sweetheart" figure for coal generates.

Senator DURKIN. What happened to the right-to-know law?

Mr. DANIELL. The Public Service Co. is a "deity."

Senator DURKIN. How come somebody hasn't brought suit under the right-to-know law?

Mr. DANIELL. In 1950 when I fought the utilities for a year, my income tax return showed a net income of \$800. I had a wife and child to support. You don't get paid for this stuff. I am living on social security and "rolling in dough." It is marvellously fertile work if you want to show what is wrong in New Hampshire and what is killing off the New England States. We have been partial to utilities. We don't have anything like Muscle Shoals. We have always been able to keep the Federal power project out. We suffer from it. We have other projects that might well do it, but we are suffering from our own representation.

Senator DURKIN. You know, I found it interesting when I was in Alaska during the August recess to learn that Alaska has coal for 800 years. They have an abundance of oil and natural gas, and yet they are trying to develop hydro power. They expect to be able to provide 90 percent of their power through the Devil's Canyon Dam even though they are sitting on more fossil fuels than anyone else in the country.

Mr. DANIELL. When the rate for fuel was standardized way back, I don't think there were many hydro potential projects that could be developed in New Hampshire.

Passamaquoddy could help us a lot.

Senator DURKIN. Dickey Lincoln?

Mr. DANIELL. Yes. This conspiracy between Public Service Co. and Conoco Oil could probably be presented under the Antitrust Act. If we can show we have been sacked for \$20 to \$30 million over a number of years, it would be great.

Senator DURKIN. Going back to the 1960's, when we could have bought Canadian power, why was that not pursued?

Mr. DANIELL. You don't make profit if you buy power from somebody else. Conoco doesn't get anything on power we might buy from Canada. I think logically. I understand Vermont buys power from Canada. But Conoco Oil would not tolerate anything of that nature because they are making a rakeoff here on their oil. When we talk of oil, you should recognize it is not only Public Service Co., but every poor devil that heats by oil is getting the same sacking.

I want to say one more word. What is the control that Conoco has over Public Service Co.? I don't know. I haven't been able to trace the stock. I haven't the means or time. I know today, as a result of their nuclear station, they are desperate for bonds. How they can float bonds, I haven't the slightest idea. I have a feeling through bank directors or other sources of bonding that they have to have—they are going to build a \$2 billion plant by a company with a \$500 million equity. This is broader than electric rates. This is the future of the New England area. We are either going to control energy, to somewhat get a decent rate for all of New England, or the New England States will go out of business, as far as an industrial area.

I have talked to industrial people, one last thing is important. I talked to a Groveton Paper official and he said, back in 1970, we used to have available two to three suppliers. They use a great deal of oil. But we were told we could only get oil from Portland and from nowhere else. But within a year's time of that notification, their oil rates went up 93 percent, I believe. They have gone up ever since. This was before the Arab situation developed. I have reason to believe that the big consumers in New England are distributed among the big companies and there is no competition. You charge what you want. This is one of the things that has led to the situation with Conoco.

I thank you very much for the courtesy of the hearing. I hope I haven't been too long. There is more if you want to dig it out below. There are rich loads of corruption, in the matter of electric rates in the State of New Hampshire.

I propose to find these as long as I can.

Senator DURKIN. Thank you, Gene. I appreciate your taking the time.

Mr. DANIELL. If Public Service Co. wants to come in and cross-examine me, I'm willing to have that done. If I have been unfair I'm more than willing to appear under oath and if they want to bring me before the grand jury, as I did before, I'm tickled pink to go but they better get insurance for their legal fees because some of them may be indicted.

I would like to get those papers back in due time.

Senator DURKIN. We will leave the record open. If you want to add anything else, feel free.

I would also like to add to the record the AP story of yesterday on the oil prices.

[The information follows:]

PSC PAYS PREMIUM PRICES FOR ITS OIL

(By Karl Swanson)

Public Service Co. of New Hampshire, which supplies 90 percent of the state's electricity, is paying considerably more than necessary for oil used to power at least one of its generating stations.

During the past 18 months other wholesale consumers of No. 6 fuel oil in the state have received large discounts for their purchases, while Public Service has continued to pay a premium price for oil supplied by its Schiller generating plant at Portsmouth.

Locked into long-term contracts, the utility apparently has been unable to take advantage of fluctuations in the price of oil.

And although it is one of the largest consumers of No. 6 oil in New England, Public Service has not used that status to command commensurate discounts from its major supplier.

It is difficult to pinpoint precisely what Public Service buying practices have cost New Hampshire consumers because of a maze of discount procedures offered by oil companies and complex accounting practices used by the utility.

But standard business practice dictates that the more oil a customer buys, the larger the discount. But reports filed with the federal government show Public Service, with an annual oil consumption of 1.1 million barrels of oil at Schiller, is not getting discounts offered to other smaller wholesale purchasers of oil.

For example, this July the company which supplies Public Service offered the State of New Hampshire a 35-cent-a-barrel discount for oil. Six months earlier, the company had offered the state a 10-cent discount. All the while, Public Service continued to pay a higher price.

The discounts often vary month to month, and in the last year have fluctuated from 10 cents to 50 cents a barrel.

Public Service buys its fuel for the Schiller plant from C. H. Sprague and Sons Co. of Boston. Sprague, like other oil distributors, periodically "posts" a price for its oil. The posted price is the highest price it would charge its smallest wholesale customers.

Under federal regulations, Public Service is required to file monthly reports with the Federal Power Commission showing the cost and quality of oil it buys.

These reports show that Public Service bought 1.3 million barrels of No. 6 oil for the Schiller plant from January 1975 through June 1976.

According to the FPC reports, Public Service's average fuel cost at Schiller during that 18-month period was \$11.06 per 42-gallon barrel.

During that same period, Sprague's average posted price was \$11.09 per barrel.

That means Public Service, one of Sprague's largest customers in New England, was—and still is—paying a premium price for its oil, while smaller customers, like the State of New Hampshire, continue to receive healthy discounts from other suppliers.

Some of those same suppliers also bid on the Public Service fuel contract in September, 1975. Union Petroleum bid \$10.60 per barrel; New England Petroleum bid \$10.56 per barrel; Northeast Petroleum bid \$10.47 per barrel and Sprague bid \$10.75.

However, because of other factors included in the bids, they are only an indication of the varied prices offered by several different companies.

Henry M. Powers, Sprague president, said his company has provided discounts to Public Service, but would not describe the terms or their value.

"It's a very complicated procedure," he said. "But they are not paying our posted price."

David N. Merrill, vice president of the utility, also said his company was paying below the posted price.

But both men said Public Service in July paid \$10.20 for each barrel of No. 6 delivered to Schiller.

Sprague's posted price in July was \$10.65, less an across-the-board 45-cent per barrel temporary discount issued June 28.

Merrill agreed that during July his company had paid the effective posted price for its Schiller oil.

But he said his company is receiving an unnoticed benefit because it does not pay for the oil until it is burned in the Schiller generators. In other words, Sprague stores the utility's fuel until it is used. Merrill said that benefit could equal as much as 25 cents per barrel.

"The total revenue requirements for the company are less if they don't have to go out and borrow money (to buy a large amount of fuel) and pay interest," he said.

Merrill said the 25-cent saving was included in the utility's basic rates and therefore was not readily apparent to customers. "The rates to the consumer become less because you haven't had to go out and borrow that money," he said.

But Merrill's assertion that the company is getting a healthy benefit in its fuel purchases is disputed by several sources in the State, including Powers.

Sources at the state Public Utilities Commission familiar with the company rates said they knew of no portion of the rate structure that would support Merrill's claims.

"Oil is usually carried for the benefit of all customers. We don't know of any special benefit gained by Public Service. It has some value, but we don't think (Merrill's) figure is right."

A source in the region's oil industry said the major benefit of the Sprague-Public Service arrangement would apply only to the company and its stockholders.

"It makes an advantageous tax write-off. That's great for their annual report and for the dividend paid stockholders. But it doesn't do much for the average consumer. He still has to pay the price of that oil," the source said.

Public Service simply is not taking advantage of its position in the oil marketplace to bargain for a better bargain on behalf of its consumers, the source said. Powers, meanwhile, said his company's holding of oil for Public Service increased the cost of the oil once it was burned by the utility.

He said Public Service's price included markups because Sprague was forced to hold excess oil in its storage tanks while waiting for installment payments for the fuel.

"We have to finance a tremendous sum of oil that's sitting there waiting for their use," Powers said.

Merrill said that was a "trade-off" of the utility business.

Senator DURKIN. Is Mr. Taylor still here?

Ms. TAYLOR. I'm Ms. Taylor. I am from the League of Women Voters and I would like to speak.

Senator DURKIN. We will take the unscheduled witnesses sometime before lunch.

Mr. Taylor.

[No response.]

Senator DURKIN. How about Morgan Hollis?

#### STATEMENT OF MORGAN HOLLIS, ASSISTANT CORPORATION COUNSEL, CITY OF NASHUA, N.H.

MR. HOLLIS. I am representing Nashua for the aldermen and mayor today.

I will give a brief background of why I am appearing before the committee or why the city of Nashua is involved, and then offer comments to the committee.

The aldermen this summer became concerned with the amount of electrical charges being passed on to consumers. The consumers of the city of Nashua expressed alarm at the rates, particularly in March of

1974 when they went up to \$1.54. The aldermen voted to withhold payment of the portion of the fee allocated to the fuel surcharge from the city of Nashua going to the Public Service Co. They felt through the refusal of such a large electrical user to pay their bill, the aldermen hoped to express the concern of the citizens with the rate and makeup of the rate.

That particular area of concern was the fuel surcharge and what made up the fuel surcharge. The mayor of Nashua vetoed the legislation and in the veto said there would be a more effective way of registering concern with the fuel surcharge. He felt the proper method would be to work for better results through the hikes as they were scheduled. The aldermen after considering the veto message overrode the veto.

The consensus was that without a show of strength occasioned by the withholding of the money for the fuel surcharge, any investigation for the hearing might meet with little success.

As the Public Utility Commission is charged with the making of the basic rate and monthly surcharge, my office moved to become an intervenor in the ongoing hearings on the fuel surcharge, which take place every month.

The city also joined in a petition filed by the Citizens Group Voice, which Pauline Anderson has been working with. In that petition we requested an inquiry into the component elements of the fuel surcharge. Since the time of becoming an intervenor and filing a joint petition, the city has appeared at a fuel surcharge hearing in August for the September rate and at September hearings for the October rate.

One of the objectives sought by the consumers previously in hearings dating back through May that have been accomplished since the intervention of the city was No. 1, a prehearing filing of the proposed tari charge to allow appropriate time for study by the intervenors.

Previously that had been requested numerous times in petitions and also at the hearings, that the sheets that have been shown to you be made available to the intervenors.

Senator DURKIN. When are they made available?

Mr. HOLLIS. Prior to the city's intervention they were made available the morning of the hearing. Now they are made available 48 hours before the hearing. That time is adequate to check the figures. There is difficulty expressed by the Public Service Co. in that their figures establishing these rates don't come in until the very last minute.

So they have to rush to prepare them as it is. They are locked in by the legislature, which requires a hearing 10 days before the granting of the rate.

So they all have to be in before the 20th. Apparently, the Public Service Co. figures don't come in much before the 15th.

Senator DURKIN. Sitting here, reviewing the background of getting ready for a hearing, it appears it's almost a conspiracy of silence, that no one is supposed to ask questions. If the questions are voiced, they aren't heard. We are supposed to pay the rates and say nothing.

Mr. HOLLIS. From an intervenor's point of view, it's difficult to review what is going to be discussed at that hearing if you don't have any evidence or prefiled testimony or any idea of what they are going to discuss before you walk in that morning.

August was our first experience. That was when we went to the fuel surcharge hearing for September. The document was filed that morning.

Senator DURKIN. I would like to commend the city of Nashua for speaking out. I wish more people in the State would stand up and speak out and object to the procedures. The way the utility commission and company get together, it makes the Senate Rules look good.

Mr. HOLLIS. Another objective sought was to have a major inquiry into possible overcharges by the Public Service Co. caused by the rumored coal stockpile buildup. At the time of our first intervention, August 20, they opened the floor up for questions into the coal pile inventory. For that reason the August surcharge hearing ran over until the next Monday, which was the 23d. I would have to say I didn't appear before August 20, but the story as explained to me was that it was a quick in-and-out process, review of the figures and everyone was finished after the morning discussion.

Those two hearings in August ran for 2 days. We also were able to achieve a thorough investigation into the methods of data gathering for the proposed tariffs which include lengthy cross-examination of those officers of the Public Service Co. specifically responsible for the setting of the fuel surcharge.

By my reading of previous testimony, some of the officers which should have testified in order to make serious investigation on the stand did not testify.

Another objective was an initial inquiry of public hearing into the reasons behind the unnoticed overaccumulation of the coal pile.

Among those questions discussed were why were there three studies? Why not earlier notice? How to avoid it in the future and who'll get the return of the money?

All of those things were attempted to be discussed. For one reason or another, and it might be the political clout of a municipality, the questions weren't discussed before at a public hearing.

Finally, a scheduled hearing. We managed to get a scheduled hearing specifically set for the purpose of investigating the components of the fuel surcharge and also fold in the fuel surcharge. This had been petitioned for a number of months.

The commission ignored the petition. They stated they would set a hearing date at a time and date in the future when it was convenient. It appears that only when political pressure was brought in, did they set a date for the fuel surcharge hearing.

We have been able to get a reduction in the fuel surcharge. The facts indicate that the reduction has gone from \$1.12 per kilowatt hour to \$1.02 requested in September, reduced to 92 cents, and 51 cents per kilowatt hour in October.

There are other factors such as the coal inventory. It's a shame that it requires that a municipality has to step in before this stuff is investigated on behalf of the consumers.

Senator DURKIN. How much has this cost the city of Nashua to intervene?

Mr. HOLLIS. The city attorney has worked on the case for the most part and I have assisted. There have been quite a few full complete days put in on top of the hours spent at the hearings. Those have been 3 complete days of hearings. Just as a guess, it would be difficult to

say but for myself 7 total man-hour cases and on top of that, buying the transcripts. Since joining the matters before the Public Utility Commission, my office made a thorough investigation of the fuel surcharge, which means background, research, and understanding what is behind the calculations submitted in the tariff pages. We have reached some basic conclusions which I would like to present to the committee this morning.

In my opinion, the purpose of the fuel adjustment clause is to permit the electrical utility company to make recovery for frequent and major changes in the price of fossil fuel without encountering a serious hardship by the necessary rate hearings.

This was for the electric company to match income within expense within a reasonable time period.

The base rate structure established for a utility is supposed to incorporate current and anticipated cost of purchasing power aside from major fluctuations and fuel. As a result of the direct passthrough provision of the fuel surcharge allowance, the electric utility companies have been permitted to enjoy near and immediate recovery of any operational costs incurred, maybe in excess of those considered by the PUC when granting the base rate. Among those costs which were properly the subject of consideration of the PUC only at the time a decision regarding a base rate structure was to be made, but which have been passed on to consumers, because of the fuel surcharge provision are an increase in the use of fossil generated and purchased power in any power production mix established at the base rate hearing.

That is if they change from the allocation to fuel generated in the State of New Hampshire to a greater mix allowing purchased power from outside which may be more expensive that can be passed through on a fuel surcharge.

Two, an increase in the use of less efficient power sources whether inside or outside the electric utility company. There is no reflection of taking the most efficient means of power production or the least expensive power sources. There is no accounting for how they choose where they are going to select any purchases.

Three, the fuel surcharge allows passthrough to the consumers of increase in purchased rather than generated power. The electric utility is granted a monopoly to operate in the State of New Hampshire in exchange for regulation by the PUC. This means the PUC is to act in a manner to artificially create a competitive atmosphere in order to insure operation by the industry. After investigation by the staff, the PUC determined the base rate to be granted the utility company. With the advent of the fuel surcharge clause, the regulating authority's responsibility for insuring efficiency is seriously affected.

By strictly limiting the contents of that fuel surcharge, the Public Service Co. has been forced by the PUC to maintain their business operation in the most commercially efficient manner for the benefit of the customers.

By permitting the fuel surcharge, the law is providing a second avenue for the company to passthrough cost to the consumers. It's forcing the Public Utility Commission to make additional evaluations of costs incurred by the utility company and to decide which costs should be passed through to the customers. With the fuel surcharge

hearings every month, the review of the type and figures of the data becomes a greater burden not only on the regulatory body but particularly on the consumers who might have an interest in seeing whether there is sufficient regulation of this monopoly.

For any consumer to investigate every single month the facts and figures going into that fuel surcharge, to be up on the matters that go into the fuel surcharge as well as the rate base, is quite a demand on anyone. To fully prepare for the base rate requires background research and study. To add to that monthly preparation means time and money for everyone.

Having seen the type of preparation required by the intervenors, and having spent a lot of late nights prior to the fuel surcharge hearings, I can imagine the time and energy devoted to the hearings by the Public Service Co., the cost of which is reflected in rate base and naturally is reflected in the amount of charge passed on to the consumers.

The area I am most concerned with is the fuel charge. I would like to note several problem areas of the fuel charge.

One is the area of difficulty of evaluating the components of rates. You have suggested the possibility of national standards. I would like to recommend that that be investigated. What are to be the elements of the base rate and the fuel charge and what are to be examined?

Two, in the matter of inventory, the coal stockpile is still presenting problems as to who is to make the inventory, how often they should make it; and there hasn't been a decree down from the Public Utilities Commission. This would be a consideration on the national level where inventory analysis is such a closely held matter between the industries that the consumer can't have any effect on what type of inventory analysis is kept. It's only after months and months when they decide we have an overaccumulation or underaccumulation of coal, and then they charge you more.

The Public Service Co. has recently paid back a rebate to the customer. Two years down the line they may decide they have to charge back for it.

Three, in the area of supply, there has been testimony in the hearings before the PUC that less expensive crude oil produced in the United States is not available to the New England region. This has been brought to the attention of the U.S. Senate before, but it obviously has to reflect a direct cost to the consumer. The only oil the Public Service Co. can buy is more expensive foreign oil.

Senator DURKIN. Many people think the FEA has authority to allocate the lower cost domestic fuel to New England. Once again the FEA has not done so. Many people think the only thing the FEA produced after spending millions and millions of dollars is the energy ant. That's the sum total of their accomplishments. Their mistakes have cost us in New England dearly.

Mr. HOLLIS. In the matter of the wholesale fuel surcharge that reflects a cost to the consumers of New Hampshire because a portion of the power and the cost reflected in the monthly surcharge is purchased fuel, whether it's from the New England power pool or from elsewhere. It does reflect the cost of the wholesale surcharge. The New England power pool is regulated by the FPC and there is an agreement between the various power producers in New England that at

certain times when there is a high demand in one area and they need to get hold of some energy they can tie in with New England power pool and get the cheapest supply available. That agreement should be scrutinized again, whether it involves total scrutinization by the FPC or just the Senate looking closely at the New England power pool. It's important to consumers of New Hampshire. The intervenors have been successful in the State of New Hampshire in examining the efficiency of the suppliers going to just the Public Service Co.

But perhaps there should be some sort of investigation in the wholesale suppliers outside of New Hampshire. I don't know what other States are doing and whether they are as successful as we might be. I will give an example of some of the purchased powers that have concerned me.

In the month of June the Public Service Co. purchased fuel from Montaup in Massachusetts at a lower cost than the Schiller production costs, which is in State, and yet the production costs on the sheet which I am looking at, fuel burned actual costs for Schiller was \$858,000. Fuel burned from Montaup was \$484,000. Net output they drew from Schiller ran \$42,000. The net output from Montaup was \$29,000. We questioned why they didn't draw from Montaup more and knock out Schiller. Their answer is in terms of their relationship with outside sources and how they buy and sell.

I think the Senate has the power to investigate that.

Senator DURKIN. That is one of the areas we are very much concerned with. Again, we are like the blind man feeling the elephant. We are not sure what we are up against at this particular stage. No one is very forthcoming with information but we are going to look into that.

The frustrating thing is no matter what figures they use, we pay the long dollar. It's always weighted that no matter what happens the New Hampshire consumer pays the highest price. At every turn in the road. It's frustrating but it's one of the reasons we are here.

Mr. HOLLIS. In the matter of suggestions from investigation of some of the areas that have been raised in the monthly surcharge hearings is a possible check on the relationship between directors, stockholders, suppliers, and all major electric companies, and the controlled stockholders entities including a check into the real beneficiaries and behind that to securities and the real names of the people who own the securities. I think the only real way to get behind the scenes is going back to the old fashioned investigation of interlocking directorships and stockholder-ownership and who is behind the front of the stockholders about the pension fund or other street names.

The question that comes to mind is if it's a public utility, are the benefits supposed to go to the consumer or benefits to the stockholder and salaried employees? A private corporation is one matter, when it's a public utility, you have to wonder.

Finally—and this is just to throw out to consider—you should consider the tax-exempt status of municipal bonds and the benefits derived by municipalities in enjoying that status. If public utility companies are regulated properly, it might be worth considering that one way of reducing the capital costs which they scream about is the tax-exempt status of the public utility bonds.

I realize this involves serious decisions as to who will receive the benefit of the wealth from who buys the stocks and who buys the bond, but it may be one way to reduce the capital costs.

Senator DURKIN. Until we figure out and find out who owns the utility companies and who would get the tax exemption, I don't think it's realistic to give them tax-exempt status.

The flip side of that, of course, is taking advantage of the tax-exempt status that governmental units have already. Michael Harrington who is articulate in his concerns for the whole New England economy, and the question of energy consumers being at the expensive end of the pipe, is advocating that governmental units generate the power. They then would sell it to retail power concerns. That would alleviate one of the problems with respect to accumulation of capital. That is one of the problems today—that generation of electricity is so capital-intensive. Many people think more time and energy and money should be put into solar. They think one of the reasons that the energy companies and utility companies are resisting solar is that it doesn't require a lot of capital to have solar heat collectors. And there is no fuel adjustment surcharge that they have been able to devise for solar energy as of yet.

Mr. HOLLIS. There may be an advantage when in consideration you take the utility company and you divide up the function, certain parts of the functions are more capital-intensive than others. There are advantages for private industry to run certain sections of that public utility company. It may be advantageous to have the government entity to run it. They do it in water companies and other types of utilities.

Senator DURKIN. We don't have the answer yet, but something has to be done. Economically, the small business, senior citizen, average working family, business community, and the municipalities are paying, and that has to show up in your property tax rates. They are not going to pay ever-increasing electric bills. That's reflected by the calls we get in our office day in and day out. That and the GI bill are overwhelmingly the major concerns of the people contacting our office.

Mr. HOLLIS. That's all I have to offer, Senator.

Senator DURKIN. Thank you. We will leave the record open practically indefinitely. This is the first round in what will be extensive hearings. Not all of the hearings will be held in New Hampshire. Senator Moss wants to hold hearings in Utah and other members of the committee want to hold hearings in different parts of the country.

But the whole question of electric rates and electric rate regulation is one that won't go away.

Mr. HOLLIS. It's a long-drawn-out process just in the State of New Hampshire. It calls for a lot of background. They will tell you it's very complex but it's not inconceivable to get to it.

Senator DURKIN. When they say it's too complex for the average citizen, that makes me suspicious. You're supposed to understand to pay the bill on receipt and everything else is too complex. I get nervous and suspicious when things are so complex. Are they unnecessarily complex? Have we devised a system where we receive pounds and pounds of polysyllabic gobbledygook and the only thing you decipher is that your rate is going up?

Thank you. Please stay in touch with the office and if you want to add anything to the record, feel free. If we can help in any way, let us know.

Mr. Peterson?

### STATEMENT OF FRANK PETERSON

MR. PETERSON. I think we are overlooking one thing about public utilities. There has been hullabaloo about the coal pile. The U.S. Government supports the railroads. They know how much coal came up here on those railroads, in those cars. They can't give us a snow job about that. The Public Utility Commissioner, we have talked to him several times. He said I have to get permission from the chairman to get on there.

Senator DURKIN. Mel or Chairman Kalinski?

MR. PETERSON. Mel, because he pulls the strings and they hop. I say in the State of New Hampshire we produce a lot more kilowatts than we use. In Maine they were paying less per kilowatt than we are and it was from the Schiller plant. I said to the legislature, tax every bit of electricity that goes outside the State. If they are putting these huge plants in here, they should pay for it.

Senator DURKIN. The tax bill President Ford signed last week has preempted the right of the States to impose a tax on power generated.

MR. PETERSON. They can bring it up in the next Congress. Ford won't be there, I hope.

The next thing is, we public utilities—this was back in the 1920's—they had the Teapot Dome scandal. We have a monopoly right back in here again. They are interlocked. The antitrust laws should be used to look into the relationships between coal and oil companies. New Hampshire was noted for its industry. We had the biggest textile mill in the world, biggest compressor place and Pacific Mills Manufacturing, they had water power.

Public utilities bought them up right off the bat. They operate but they have to pay taxes. They are taking money from people's electric light bills to pay those taxes. If anything isn't producing they should make them diverse and get rid of it and not hold these things.

The only way I can see that we can ever get anything done, we talk today about dirty politics. I have faith in our Government and politicians. Senator Douglas said first you have principles and integrity and then you're a politician. I think what happened in Watergate, in any other country the Government would have fallen. Our Government isn't going to fall. We get stronger all the time.

One of the greatest improvements there could be would be to have to elect those commissioners.

Senator DURKIN. In some States the public utility commissioners are elected.

MR. PETERSON. Partly, it's you can get rid of them. But the way it's now you can't.

Senator DURKIN. At least they won't approve rate increases during election years.

Mr. PETERSON. They've got the public utilities tied in throughout the country. The secret of the public utilities is like the Schiller plant sells power to Maine and Bow sends it into Vermont.

About the emergency plant Gene was talking about, General Electric experimented and the taxpayers of new Hampshire paid for it.

Did you know the General Electric Co. lost 100 tons in 3 days up there once? These jugs of mercury, they weigh 20 pounds. Some people—

Senator DURKIN. Mercury poisoning is a problem, too. We have seen that mercury poisoning attacks the central nervous system. It gets into the food chain and it takes a long time to get it out.

Mr. PETERSON. Once you get it in your lungs, you can never get it out.

Senator DURKIN. There is something wrong when New Hampshire has the sixth highest cancer rate among women than any State in the Union and the eighth highest cancer rate among men.

Mr. PETERSON. Here is something I can't understand. Down our way they were going coal and they got worked up about it. But the Navy Yard changed to coal.

Senator DURKIN. One of the problems we have seen with coal—shows up in some of the streams in northern New Hampshire. They have an acid content as high as downtown Cleveland, beautiful downtown Detroit, and some of the major metropolitan areas and a lot of that is sulfur.

Mr. PETERSON. They have this new one—what did they spend, about a million and three-quarters.

They have these stacks and prohibiters so that it passes the Federal standards.

Senator DURKIN. Tall stacks just get it in another nice neighborhood.

Thank you, Frank. I appreciate your taking the time to testify.

This afternoon we have Richard Mark, Dr. Richard Bower, Lois Taylor, and Mr. King.

If "Tink" Taylor arrives, we will put him on this afternoon.

Is there anyone who came unannounced that would like to add anything at this time before we break for lunch and not be required to come back if you don't care to after lunch?

If not, we will break and we will pick up again at 2 o'clock.

#### AFTERNOON SESSION

Senator DURKIN. We can begin again.

The next witness I will take out of order because he has a tight schedule and has to get back and he spent the morning here at his own expense so at this time David Hodges will relate some of his first-hand experience and problems and frustrations with the lack of aggressive action on behalf of the Public Utilities Commission.

#### STATEMENT OF DAVID HODGES, MOUNTAIN ROAD, SALISBURY, N.H.

Mr. HODGES. Thank you for having this hearing.

I live in Mountain Road in Salisbury, N.H. I have five children, same wife. I am a part-time farmer and full-time builder. I build single-family homes. I have built over 400 apartments in the State of

New Hampshire and I have built some commercial facilities as well. We have built homes for low-, moderate-income families.

There has been a lot of press about how low-income families are bad tenants. We have about 100, anyway, and we find them excellent.

We intend to build more of these homes under the 515 program.

I am really a product of relief. My parents were on relief during the Depression. I know what it is to be poor and I know what it is to have to scrape to pay high utility rates.

As a matter of fact, I burn wood at home.

But I would like to talk briefly about the impact on housing and especially single-family and multifamily housing.

It is being said across the country that more and more people cannot afford a single home. As the rates of utilities have escalated so rapidly, the banks have discounted what people make and have taken a more severe lending posture because of the amount of disposable income used to pay utility rates.

That means more people can afford less housing every month.

Conventional multifamily construction in this country is virtually at a standstill. There is no multifamily housing of any significance being built anywhere in the country.

By conventional, I mean privately financed, privately built.

Several things have happened because of this. The construction industry is running at 16 to 20 percent unemployment rate. If housing does not lead the construction industry it will run a high unemployment rate.

The reason multifamily units are not being built is because the money isn't there. The numbers don't work. You cannot finance them.

Why? Two major reasons.

One is the tremendous increase in interest rates and the second and I think pertinent to this hearing is the tremendous increase in utility rates everywhere.

It is a very significant thing when American industry cannot build housing through conventional methods in this country.

There is going to be a backlog of demand and probably in many parts of the country there is a backlog.

The result of that backlog is that you are going to hear a human cry from the people about the lack of housing. They will look for massive Government intervention in the housing field.

How that affects every person as a taxpayer should be obvious by the statistics quoted yesterday.

The cost of living went up 4 percent in the last year, but the tax increase to the average working man was 25 percent.

Any time you have a massive program of Government money spent in the form of housing, you have a tremendous tax strain. You have to look at the record of HUD over the last 10 to 15 years. That speaks for itself. It is practically impossible for someone in my position who doesn't have a battery of lawyers to even consider building a HUD program.

Of the 25 or so in the business 10 years ago, there are three of us left in New Hampshire. One is doing a HUD program and he says he will never do it again.

The point is that there aren't multifamily houses being built by private enterprise to speak of in the country.

We are creating a rental shortage. We are going to have a severe rental backlog. In the meantime, many projects have been going bankrupt.

I don't have to tell you people that. You see it everywhere.

A week ago I went to a bankruptcy auction at Fisherville Road.

All of this is reflected by the tremendous increase in utility rates. People in many cases cannot pay the increase we are billed for and I am talking about people who pay their heat and lights like we do, we furnish the utilities.

In many cases you cannot pass it on because economically the marketplace will not accept it.

We haven't had the vacancy problem that some complexes have had, but many, many complexes in New Hampshire and across the country have gone bankrupt because of the increase in utility rates.

In the bankruptcy auction, 60 units, no money down and you could talk any kind of interest rate, and there wasn't a soul there but me and I won't bid on them.

This is happening everywhere. It is a matter of public knowledge.

Senator DURKIN. What you are saying is that the high electric rates are of more than academic interest. The high electric rates in New Hampshire are aggravating the unemployment in the construction industry, aggravating unemployment in the housing industry, causing us to create a lag and a market crunch in rental housing, aggravating the situation with respect to HUD projects and if those HUD projects go down the drain, it is you and I and the people in the room, the taxpayers of New Hampshire and all across the country who will pay again, through tax dollars, to bail out the HUD programs.

Mr. HODGES. As you know, Senator, Congress authorized billions to HUD for the current year. Most of the money they expended had to go to get certain projects out of trouble.

The reason is because the utility rates are so high that housing authorities and people who built 236 programs across the country are in severe financial difficulty.

Another byproduct of these utility rates is that many owners are forced to defer maintenance, to reduce the service to the people who live there. They have seen delinquencies go up significantly.

We have people that we call "skips" in the business. They can't afford the rent and they move. This is a tremendous problem in our industry.

I have been a strong champion of private enterprise. I accepted it as inevitable that rates had to go up. I was led along the primrose path like most people.

A few months ago I attended a hearing at the PUC—I get those two mixed up—

Senator DURKIN. They tend to get mixed up themselves.

Mr. HODGES. Eugene Daniell, Ms. Anderson was there, and myself, and I attempted to speak and I was ruled out of order nine different times.

If I got past my name I was ruled out of order.

I had the impression that the Public Utilities Commission was only interested in getting the whole thing over by lunch so they could adjourn.

That is not a fair observation probably, but that was my observation.

Senator DURKIN. If you take your observation, the observation of others, the testimony of Pauline Anderson this morning, take the fact that the Public Utilities Commission and the Public Service Co. have indicated—and their lawyer who got \$116,000 for his law firm last year—that they cannot attend the hearing and that they did not have time to prepare; it paints a pretty bleak picture of the corporate needs and arrogance and the insensitivity of the Public Utilities Commission.

Mr. HODGES. I feel it as a businessman. There is a tremendous wave of antibusiness feeling. Much of it is justified.

As a businessman you see what appears to be obvious abuse and I think it tends to decay the confidence that people should have in the free enterprise system and the effects long term I think are very disturbing.

At any rate, I went on my own and got a copy of the last 3 years of the Public Service Co. statements and I am not a sophisticated accountant, but I can read earnings per share pretty well.

I have them here, Senator, which I will give to you.

In 1973, Public Service Co. stationery, statement of earnings, it says subject to final audit—I would assume it is more accurate than other things—in 1973 their earnings per share as of the 12-month period December 31, 1973, was \$2.086.

When I got disturbed was when I looked at 1975, that same period, 12 months ending December 31, 1975, their earnings per share went up to \$2.80.

If my arithmetic is accurate, that is close to a 40-percent increase in their earnings per share.

I realize a lot of that probably is justified by the argument that they need the money to float the bonds for the nuclear powerplant.

I am not hung up on the environmental question like a lot of people are, but I am more concerned about the economics of it.

I read that Westinghouse sold reactors to a lot of companies that bought reactors and they guaranteed to furnish them yellow cake, which is nuclear fuel, at a guaranteed price for 20 years.

A short time ago they canceled these contracts because they found now the nuclear fuel was costing them more to buy than they were selling it for.

There will be tremendous litigation over a period of years.

How a company the magnitude of Westinghouse Electric could possibly make such a monumental error is beyond me.

Yellow cake has escalated in the last 3 years.

I wonder, from the time this powerplant was conceived as a nuclear plant, if there has been up-to-date studies on whether the plant is now economically feasible.

If they are wrong, we are going to have an economic albatross around the ratepayers' necks for the next 100 years if it doesn't work.

That was in yesterday's Wall Street Journal.

Senator DURKIN. I don't know the answer. But the Wall Street Journal is hardly the Whole Earth Catalog.

Our scope in this hearing does not include the question of the nuclear plant at Seabrook. I do know the Commerce Committee and my own interest is in natural gas.

Everyone says some of these questions solely turn on the environment. The question of bringing natural gas down from the North Slope in Alaska not only imposes environmental concerns but now a lot of hardnosed businessmen are asking if it is economically feasible, whether the companies can do it without a subsidy, direct or through what they call an all-events tariff.

So you have a situation where some pretty sound businessmen are questioning the economic viability of some of these projects like the natural gas pipeline.

Although this is not the subject of this hearing, I am glad to hear from you as a businessman who has to operate on a balance sheet. You can't pass your increases through. More and more businessmen are looking at the question of utilities, not from the environmental point of view, although many are concerned with the environment, but from a dollars and cents point of view.

The effect on the housing market, the construction market, the economy of New England—some of us are concerned New England is not going to make it economically.

New Hampshire will suffer as the rest of New England does if we don't reverse the trend and somehow eliminate the problems that come out of the expensive end of the energy pipeline.

Mr. HODGES. I read that New England was going to have an outward migration of population in the next 20 years, to the warmer parts of the country, because of the tremendous imbalance in costs on energy.

I heard testimony this morning about interlocking directorships and many of the abuses that have been cited.

I have an awful suspicion of anything that is in a position of a monopoly.

I think that Public Service Co. or any other monopoly should have to take some sort of the same economic punishment that the rest of us do.

We don't have a passthrough clause. The people I rent to don't have a passthrough clause. I have many older people who can't afford to pay the rent and we haven't raised the rent because they couldn't afford to pay it.

I am not owned by a cartel. My wife owns the other half of the stock, so that means I only answer to her. And there is no economic answer for someone like me.

We have all these units. We are trying to provide a service to these people. Every month the Public Utilities Commission raises the fuel adjustment charge. Where do we go?

In many cases the people can't afford to pay it.

I would say naturally what has happened is that vacancy rates went up significantly as soon as the rents were raised.

The reason for that was that people doubled up. They stopped renting units. Young people moved in together.

All of these things are a factor.

We have no place to pass this on.

I find it hard to shed too many tears for Public Service. I think something should be done to equate the economic load more fairly than just passing it on to the consumers.

Senator DURKIN. That is one of the frustrations. If you are a small businessman or woman, there is plenty of competition, plenty of the free enterprise system.

If you get big enough—and the oil companies are the prime example—there is no competition. It is endless corporate collusion.

If a utility or any entity is not going to be subjected to the pressures of competition, then they ought to be subjected to the firm hand of governmental regulation.

I am afraid what has happened with the utility industry is that there is no competition and instead of the firm hand of the Government regulating them, it has been a paternal pat on the wallet for altogether too long.

The Public Utilities Commission ends up as a protective umbrella to the electric companies and utilities they should be regulating.

Mr. HODGES. I would like to make a further point.

You said when you take hold of their wallets you get their minds rapidly. I haven't seen any observations where there has been a mass layoff of Public Service employees or mass consolidation or any great strides of efficiency like the rest of us have had to make.

We have had to make all kinds of cuts to survive. And I don't think in a monopoly situation where you can come in and pass off your biggest costs to the public every month—if we could do that, what would be our incentive to improve our efficiency? There would be none.

Senator DURKIN. That is why we are finding out the problems with their oil contracts, their coal contracts. They have the biggest building in Manchester and they use half the first floor as a display area. It is the primest piece of real estate in the State. They use a huge portion of that first floor advertising their appliances, competing with small businessmen.

There are a lot of whys.

I have a feeling as I sit here today and listen to the witnesses that we are just beginning to scratch the top of that coal pile.

Mr. HODGES. Keep scratching.

Senator DURKIN. Thank you.

Will you give your name and address for the record, please?

#### STATEMENT OF KATHERINE RALPH, LEGISLATOR FROM THE 13TH DISTRICT, FRANKLIN, MERRIMACK COUNTY, N.H.

Ms. RALPH. I live in Franklin, I am a legislator from the 13th District, Merrimack County.

I am not an expert and I have no facts and figures to give you of that sort. But as a legislator I have been approached by constituents who are very upset about the electric rates.

My hairdresser told me last week that in her home her electric bill went up 50 percent last month over the month before. I ran into a friend on the street today that told me that her electric bill has gone up double in less than a year. And I have a cousin who built a new house 3 or 4 years ago, before the energy crisis, and is heating it with electricity. Last winter—God knows what it will cost this winter—last winter during the cold months it cost \$400 a month. This is a man living on Federal retirement. With social security, we have had an increase, if the cost of living goes up 3 months in succession you get an increase. But in those 3 months you are paying additional light charges.

It is really working a hardship on the little people, the people on retirement and social security and things of that sort.

I get it continually from my constituents. I think they are even more upset over the electricity than they are the oil. It seems to be going up faster, if possible.

I thank you very much for allowing me this time. On behalf of myself and the people that I represent, thank you for what you are doing to help us.

Senator DURKIN. Thank you, and I appreciate your testimony. Your neighbors' and friends' figures are not far from the mark.

In 1974 New Hampshire rates rose faster than anywhere else in the United States, almost 53 percent.

Ms. RALPH. There must be a reason.

Senator DURKIN. We are beginning to see the reason unfold here today.

Ms. RALPH. I think your committee will do something about it and we appreciate it.

Senator DURKIN. Thank you. We will do our best.

Is Lois Taylor back?

(No response.)

Senator DURKIN. Is Richard Mark here from Common Cause?

We are more interested in information than protocol. Proceed in whatever fashion you find most comfortable.

#### STATEMENT OF RICHARD MARK, EXECUTIVE DIRECTOR, COMMON CAUSE

Mr. MARK. My name is Richard Mark. Common Cause is a citizens' group concerned with improving the processes of government.

We are concerned with making the government work and making it accountable to the citizens. We have completed a comprehensive study of public utilities commissions throughout the Nation.

It is Common Cause's position that the role of utility regulatory commissions is a vital one in that it touches almost all citizens of the State and Nation. For this reason, the study was completed with the careful eye of:

One, what is the possibility for public input into Public Utility Commissions' decisions?

Two, who does in fact make the decisions on rate increases or decreases if such a thing should ever happen in my lifetime?

Three, is the PUC in this State truly accountable to the citizens of the State as its name, public utility commission, implies?

My written testimony speaks to the problems we see here in New Hampshire. We found, in fact, there are serious problems in the lack of open meetings, in public access to PUC decisionmaking.

We found there is a lack of statutes, polls, prohibiting conflict of interest situations. We found, under existing policies of the PUC, regulated business lobbyists are free to come and go within the commission with no requirement for registration or logging of such contacts.

We discovered through this study that the commissioners and staff are not prohibited in any way from accepting gifts, meals, travel, any gratuities from the business they are going to regulate.

We feel strongly that an overhaul of the existing PUC policies and statutes are called for. In conclusion to my written testimony, I note as Justice Brandeis wrote in 1941 that sunlight is said to be the best of disinfectants.

We ask you to help the citizens of New Hampshire open up the regulatory process. Thank you.

[The statement follows:]

STATEMENT OF RICHARD MARK, EXECUTIVE DIRECTOR, COMMON CAUSE

The voices of New Hampshire residents are being heard more and more as the prices we pay for our electricity, our telephone and other regulated goods, continue to escalate, sometimes at alarming rates. Today, thousands of New Hampshire residents are focused on the substantive impact of public utility commission decisions on their lives. Will my electricity bill increase next month? What will I have to pay to make a phone call? Relatively few citizens, however, pay attention to the processes by which these critical decisions are made. Who are the people who make the decisions? What is the decision making process? Is the Commission accountable to the citizens of the state?

There appears in recent months, to be a growing lack of confidence in NH's Utility Commission. This lack of confidence stems, in substantial part, says a recent Common Cause study of PUC's throughout the nation, from a basic lack of public accountability in the regulatory process. NH's PUC, like many others, have developed intricate rules of procedure and rate making, have closed the doors on PUC decision making meetings and have left themselves open to charges of conflict of interest and deep secrecy in many areas. Citizens in New Hampshire have been locked out of PUC decision making by a wall of secrecy and bureaucratic confusion.

It is our position that the time is now for all regulatory commissions to open themselves to the public as a step to increase their accountability and to build public trust in their actions.

In a study released in August, Common Cause found that New Hampshire, along with its neighbors, Maine and Vermont, failed CC's accountability tests in at least three areas: open meetings, conflict of interest and lobbying disclosure.

I would like to highlight, very briefly, some of those issues here in New Hampshire. It is our feeling that this lack of public openness contributes to unhappiness and trust in the decisions of the PUC.

It is the position of Common Cause that PUC deliberations on rate increases and final decisions should be made in public sessions. We feel there is no sound reason for such secrecy. The only PUC sessions now open to the public are those for hearings on rate increases. The public is then shut out of how decisions are made, what commissioners and staff have to say about such requests, and how the final decisions are made.

Secondly, while NH commissioners are prohibited from owning stocks or bonds in regulated companies, there is no prohibition for PUC staff members. PUC staff, so essential to the commissioner's decision making processes, may be stock holders or sit on the boards of the very companies they are researching and recommending action to the commissioners about.

In another area, previous and future employment of commissioners and top staff also present obvious conflict of interest situations. A regulatory staff that is dominated by former industry employees is not in a good position to serve the public interest or gain the public's trust. The problem worsens when the revolving door between government and industry swings the other way. When companies with vital economic stakes in government regulation bid for the services of outgoing commissioners and staff, it is natural for the public to wonder whether or not there is a *quid pro quo*. Policies have to be established to prohibit such employment practices.

One of the most serious areas that may very well effect rate decisions here in New Hampshire, is the lack of a strong conflict of interest policy for the PUC Commissioners and staff. Neither commissioners nor staff are prohibited from accepting meals, lodging, transportation or other gratuities from regulated businesses or their employees. In the name of public accountability and trust, there must be a policy established to prohibit this possibility.

Finally, the role of a lobbyist is an integral part of our democratic system. Yet, here in New Hampshire, lobbyists do not have to register with the PUC, nor do commissioners and staff have to log any contacts they might have with representatives of regulated businesses.

In conclusion . . . it is imperative that New Hampshire citizens trust their public officials, especially in areas that have such a direct effect on their lives as those areas regulated by our utility commission. Until NH's commission opens itself to public monitoring, clears itself through changing its policies, statutes and practices, to prohibit any possible conflict of interest situations, and makes public record of its contacts with those companies it seeks to regulate, NH citizens will continue to be leery of Commission decisions.

As Justice Brandeis wrote in 1941 . . . sunlight is said to be the best of disinfectants . . ." Common Cause's 1600 New Hampshire members urge you to do whatever is possible to help us open up the utility regulation process. Only then, will we be able to feel confident in the decisions made by our "public" utility commission.

Senator DURKIN. Brandeis was an outstanding jurist. When he said sunlight was the best disinfectant, that may be extended to say sunlight may be the best source of energy as well. I would like to think Brandeis thought of that as well as the other things.

I gather that Common Cause nationally as well as locally has prepared a rating sheet on the various utility commissions.

I gather New Hampshire ranked fairly low on that rating. Could you elaborate?

Mr. MARK. In general, the study was done with all 50 PUC's around the country, including the District of Columbia. What they did was judge them in certain areas of accountability such as open meetings, conflict of interest, lobbying, kinds of policies.

New Hampshire, along with Maine, Vermont, and northern New England, were included in 31 PUC's out of the 50 that filed Common Cause's accountability questions. The study did not rank them particularly.

Our State issues' coordinator in Washington said he thought the New Hampshire commission was as bad as any commission in the country for its openness and willingness to allow public participation.

Senator DURKIN. That is interesting. You begin to see the pattern. It's no excuse. It's not coincidental that we have the highest rates in the country when you equate it with the fact that the PUC is probably the closest thing to a closed shop, a regulatory closed shop that we have.

What do you think is the answer? Where should we go? What should we do? Do you have any suggested activities and what does Common Cause plan to do?

Can we rely on Common Cause to persevere?

Mr. MARK. We are planning to persevere with the help of other groups in the State who are interested in this subject, to talk about how to make legislative changes.

The public utility commissions state a lot of this problem is out of their hands because they are regulated by State statutes. We would like to change statutes and policies within the commission through the legislative process.

It is fairly easy to do given the cooperation we expect from the citizens of New Hampshire anyway.

Senator DURKIN. I haven't seen any of the PUC members resigning out of frustration because they are unable to protect the public.

I haven't heard of any threatening resignation reflecting that frustration. My own experience in the insurance regulatory ranks, Herby

Dennenberg was insurance commissioner of Pennsylvania about the same time I was commissioner here, and he did more than any single commissioner to change insurance regulation all across the country. And he did it without getting one piece of legislation through the Pennsylvania Legislature.

We got a lot of legislation through giving the commissioner in New Hampshire much more authority. But, Dennenberg did it in Pennsylvania with no change in law but with a change of emphasis, a change of consumer bias.

He operated under the administrative law procedures that existed for years in Pennsylvania but he changed the emphasis.

Isn't that the old scapegoat? Saying, "my hands are tied, go see the legislature?"

Mr. MARK. That is true in a sense. There is nothing that prohibits the Public Utility Commission from changing its own in-house policies.

One of the problems is because meetings are so closed that we are not even aware of which commissioners are supporting consumers.

In the final decisionmaking meetings that a commission has, if we are not allowed in, we don't know who is speaking for the consumers.

Senator DURKIN. If there is a commissioner speaking for a consumer that is the best kept secret in State government today. We have seen no evidence of that yet.

This morning is was indicated that the part-time commissioners don't have time to appear today or tomorrow. Perhaps they would be able to find time to appear before this committee or perhaps they would rather testify before a grand jury.

What about Mr. Lessels? If someone speaks out, he is transferred to Haverhill. It would seem the slogan now must be "go slow or go north."

Mr. MARK. I don't have any particular comment on that. But that raises questions of staff aggressiveness in supporting certain positions.

Senator DURKIN. One of my concerns is that the easy solution or easy suggestion is to pass a Federal law and create another Federal agency.

You have seen the recent study that the FPC is at the bottom of the heap as far as regulatory consciousness.

Don't you think regulation lies with the State? Is Common Cause's approach to try to solve this State-by-State and cause the problem to surface in the State so it can be solved in the State? Or, is Common Cause's ultimate concern or desire to have some sort of Federal posture, Federal intervention? Has Common Cause decided that yet?

Mr. MARK. The general policy is we will do it on a State level if we can do it effectively. If that is not true on a wholesale basis, then we might call for Federal-level changes on that.

We expect to make those changes on the State level.

Senator DURKIN. Their arrogance never fails to amaze me. Do you have a legislative package? Have you put a legislative package together yet?

Do you have a bill in hand?

Mr. MARK. No. We are in the process in the next few months of pulling together something if it is needed.

Senator DURKIN. I understand there are 38 seats in the house being contested, as well as all but 1 or 2 of the senate seats. Also, I think there is the responsibility of the Governor's council.

Have you gone out and tried to pin down the candidates for council, senate, and State legislatures to see where their concerns are as far as utility regulatory reform?

Mr. MARK. Not specifically, but we are asking them to make public statements that we will be releasing in the next couple of weeks, about reform in general, including public input and changes in the legislative process.

Senator DURKIN. Everybody is in favor of reform in general. I urge you to divide it up among your 1,624 members and buttonhole each candidate running for office and say, "where do you stand?"

Too bad you couldn't publicize that between now and November 2. I have never met a guy yet who wasn't in favor of reform. It's like economy. That is economy in somebody else's district.

I urge you to buttonhole the candidates for the house, buttonhole the senate candidates and council candidates. If the Governor's council were doing the job, they have the right and responsibility and probably the duty under New Hampshire law. They are supposed to be the omnibus men.

It would be nice if Common Cause could push the council into a more aggressive role rather than just approving out-of-State travel and the number of pencils the various agencies can buy.

We will leave the record open. We are just beginning hearings that will be conducted here and in other parts of the country and will conclude in Washington, hopefully to build a case so that we can proceed with legislation early in the 95th Congress.

The record will be open almost indefinitely. Please stay in touch. If my office of the Commerce Committee can do anything, please contact us or our staff.

Mr. MARK. Thank you.

Senator DURKIN. Ms. Taylor?

#### STATEMENT OF LOIS TAYLOR, ON BEHALF OF THE LEAGUE OF WOMEN VOTERS OF NEW HAMPSHIRE

Ms. TAYLOR. I will be very brief.

I'm Lois Taylor from Nashua and I'm speaking on behalf of the League of Women Voters of New Hampshire.

The league, as you are no doubt aware, is a citizen based organization taking action on issues after member study and agreement on those issues.

Two of the positions under which we act, which are of concern to this committee, are the natural resources position, under which we stress the need for energy conservation, and the human resources position, under which we take action to combat poverty and provide equal rights and equal opportunity for all.

Acting under these two positions, the New Hampshire league has worked for a consumer advocate to represent the public in utility matters and for reform in utility rate structures. We believe that utility rates can and should be restructured to encourage the conservation of energy and to distribute the burden of costs more equitably so that those on limited or fixed incomes do not face undue hardship.

We believe that the current rate structure in New Hampshire tends to encourage irresponsible use of electricity and discriminates against the small residential user.

We feel that over the years the New Hampshire Public Utilities Commission has not been responsive to the needs and concerns of the ordinary citizens of the State. In all fairness to the commission, this was perhaps somewhat understandable when energy was less expensive, the average consumer only grumbled slightly about costs and the unfairness of rates, and the only significant input the commission had regarding rates was from the utilities themselves.

But all that has changed.

For some time the commission has been receiving expert input from citizen representatives and citizens have been protesting loudly in organized groups about costs and the unfairness of the rate structure. Still the commission seems unresponsive to a large degree. A rate structure case has been pending before our public utilities commission for 20 months now, with no decision in sight. Meanwhile, the small residential user continues to pay a disproportionate share of the costs for electric energy, and there is no incentive for anyone to conserve.

It seems obvious that energy conservation is a necessity and should be a top priority at all levels of government. We are pleased to note that conservation is being stressed in the updated national plan for energy R. & D. But we feel that State governments and agencies should use their authorities also, to foster and encourage energy conservation—particularly in New England where all fuel is imported and costs are higher than in other areas.

We also question the validity of fuel adjustment clauses. They seem to have been too easily a vehicle for rate increases rather than a true reflection of the fluctuating costs of fuel.

Also, they tend to make utilities indifferent to the costs of the fuel they purchase, since the whole burden of extra or excessive costs is passed on to the consumer. This was written before I heard about the latest AP report.

It could even have a tendency to cause the fuel supplier to overprice his product. We wonder if significant rate reform would be achieved without the elimination of the fuel adjustment provision. It seems fuel costs should be part of the rate structure, since fuel costs seem to have stabilized sufficiently and contracts are generally made well enough in advance so that reasonable projections of costs can be made.

In short, we feel a restructuring of rates is necessary for both energy conservation and to provide the basic necessities at a minimum price for everyone. We believe the advisability of fuel adjustment clauses should be reexamined and we believe the records of public utilities regulators should be investigated to determine if they are, in fact, discharging their duties to the public properly.

In deliberating on the bills before your committee, we urge you to consider the plight of the average utility consumer in this State and elsewhere, which I assume you fully intend to do, and consider the inability or unwillingness of State agencies to rule in the public's favor rather than consistently in the favor of the utilities, as has been the pattern in the past.

We also urge you to consider your responsibilities toward making energy conservation a top priority throughout the Nation.

Thank you for this opportunity to express our views.

Senator DURKIN. Thank you. I appreciate your taking the time and being so patient.

It is true, what you say in the last paragraph of your statement touches upon what has to be a major frustration to everyone concerned with energy. Conservation would save more than what the Alaska oil pipeline is going to bring to the lower 48.

The Alaska pipeline has already cost us \$12 billion. That will be passed on to the consuming public. There is no way around it, aside from the fact there will be more and more pressure to export that oil to Japan rather than bringing it to the east coast.

We sell arms to Iran and to pay for the arms they want to increase the price of OPEC oil by 25 percent before the end of the year. Many of us think it is time to create a Federal agency to negotiate with the OPEC countries, not let the oil companies negotiate with the OPEC producers but have a Federal agency to negotiate and use the full economic clout of the United States to force down the price of OPEC oil. It's really got to be a comprehensive attack, to force back the price of oil.

In 1974, more money was spent on WIN buttons than on solar energy. We have at best an unresponsive Public Utilities Commission. I hope that Common Cause will continue to pressure, not just here in the State but through your effective lobby in Washington, for those changes.

I remember filling out a sheet a couple of years ago, answering a whole host of questions that was printed as an insert in some of the newspapers. I can't encourage you enough to pin down the candidates for the legislature and State senate and the council candidates to see what they are going to do.

My experience in Concord is that if the legislature leans on the PUC and if the Governor's Council began to lean on the PUC we would begin to see some changes. I can't urge you enough to try to exert the influence that the league has on the candidates for local office this year and keep up the good work you are doing in Washington.

Ms. TAYLOR. We attempt to do that at the State and national level. Your idea about the solar energy, the money that has been put into solar energy or other alternative forms of energy, it seems that in the State and Nation the money is going into conventional exploration for conventional types of fuel. If there is really a serious commitment on the Government's part toward conservation it seems the money ought to follow where that commitment is.

If it is top priority to conserve then a great deal of money ought to be put into programs for energy conservation. The Federal Government should do its part.

Senator DURKIN. Going to radial tires, standard transmission again. Getting rid of automatic transmission would increase gas mileage by 10 percent. The Engelhart catalytic converter would increase fuel mileage 10 to 15 percent and it would meet all of the clean air standards without relaxing the Clean Air Act. It will take more aroused citizens to demand these things. The equipment is there and feasible.

In Alaska, the Alaska natural gas pipeline may not be built unless there is a Federal subsidy of some sort for it. We are putting our money in the wrong direction.

Ms. TAYLOR. I agree.

There are lots of ways that energy can be saved and I think the Government is trying. Unfortunately, enough information isn't reach-

ing enough people. This is what is lacking. The league is trying to help, to disseminate information.

I just received a little blurb from a group yesterday on the possibilities for recycling crankcase and industrial oil. There is a tremendous savings to be made.

For instance, not filling our fuel tanks will help conserve on gasoline consumption, not topping them off. All of these ways are small. Added up they contribute significantly. We could reduce significantly the barrels of oil imported into this country if we used conservation techniques.

The Federal and State governments should stress this.

Senator DURKIN. We are just getting more and more people thinking about conservation. There is no known source of oil that can equal the amount of savings coming from conservation—the Prudhoe Bay, Beaufort Sea, Mexico.

Ms. TAYLOR. You have to ask the States to do more than reduce their consumption by 5 percent by 1980. That is a drop in the bucket and yet some States say, “Can we cut 5 percent by 1980 in our energy use?” They should be asked to do more than that.

Senator DURKIN. Mass transit. We don’t have a balanced transportation system. These things would produce jobs.

Ms. TAYLOR. We have plenty of good highways, though.

Senator DURKIN. If we started building transit systems in the city and intercity transit systems, and started conservation programs, it would provide new jobs.

Ms. TAYLOR. That has been my feeling for a long while. If people prepared the railroads, making railroad cars, and working on the various environmental problems there would be no unemployment problem. The problem seems to be where we are putting our money. If you put your money into one area, that is where the jobs will be. If we put money into social programs for the benefit of people and the country and the future, for the benefit of natural and human resources we may be in a better position.

Senator DURKIN. It always lead back to divestiture. You can’t have that economic power. They own not only the pipeline—but they are buying the vertical integration and horizontal integration. They own the oil, coal, uranium and they want us to use that before we go to alternative sources.

If I were president of one of the oil companies I would probably be doing the same thing. We have to break the stranglehold the oil companies have on governmental policy.

Ms. TAYLOR. I have been distressed by various things I have read in the newspaper recently. This is a personal opinion. I have been upset about monopolies in many areas which really have the public over a barrel and they govern us. The monopolies are the people who are doing the governing, it appears. It’s becoming more and more that way. Communication systems as well as oil companies and a great many organizations and companies of this sort.

It is just incredible where our money is going and what the public is forced to do because of monopolies.

Senator DURKIN. We have made a step forward.

The antitrust bill that President Ford signed, although it got watered down on the way through the Senate after a long filibuster,

does give authority to the States' attorneys general to bring antitrust actions and hopefully we will see a revival of antitrust actions in this country.

I don't know what you had for breakfast this morning, but I know if it was cereal four companies decided what it was and what it was frosted with, or what have you, but that is another hearing.

Ms. TAYLOR. Thank you very much.

Senator DURKIN. Thank you.

Mr. King?

#### STATEMENT OF SAMUEL M. KING

Mr. KING. I do not have a prepared statement.

I am Samuel M. King. I live on the Francestown Turnpike, in Mt. Vernon, N.H. I have lived in this State for about 8 years.

Starting last spring I became interested in the utility rate structures because I saw my own bill going up and have had a general interest in ratemaking, although I have never participated in that process.

So, I volunteered my time and my volunteer offer was accepted.

I have been working as "leg man" or resource assistant for Attorney Brown, who is connected with Voice. This has given me an introduction to the problems of the electric rate users here in New Hampshire. I have seen some of the frustrations of David Lessels in his attempts to probe in front of the public utility commissioners.

I have looked at what some of the other States have done about this. The Rhode Island Public Utilities Commission in February of this year, on their own initiative, declared that it was not proper to have an automatic passalong fuel adjustment clause. However, they did recognize the fact that there was a volatile nature in fuel costs and set out a specific procedure which called for public hearings, called for an abbreviated rate structure proceeding, if you will.

Vermont, on the other hand, has done some experimental work with alternative rates, with offpeak pricing, with utilizing storage electric heaters, peakload limiters and things like this, which are devices which give the consumer himself some choice as to how he might effect economies in his own use of electricity.

You will hear from Dr. Bower in considerably more detail and with more erudition than I can bring to it, these rate structures.

One of the frustrating things here is that it has been obvious in all of these hearings and public statements and so on, that the Public Utilities Commission—the Public Service Company and this is our universal problem, keeping the two straight, has been reluctant to consider any other rate structure, other than the oldfashioned, outmoded, declining block rate. It came into being many, many years ago, long before the average household had the level of usage that we are used to today, and when electricity was cheap and getting cheaper all of the time. When that reversed that rate structure being antiquarian, there are other structures which can more efficiently use the energy that is burned in the State.

Here in New Hampshire the Public Service Co. must keep available generating power on the order of 1,000 megawatts to take care of a peak a year. During the rest of the year, particularly during the late night hours that equipment is sitting there doing nothing except idling along. When you face the future of having nuclear generating plants,

it takes weeks to shut them down and weeks to bring them back. You can't adjust their levels to account for diurnal changes such as day to night, morning to evening and things like this. What is needed here and I would like to state this as a proposal, I agree that the needs of one part of the country are certainly unique and different from other parts of the country. Therefore, to have another Federal regulatory agency is probably impractical and undesirable.

I think that these things can and probably should be handled on a statewide basis or at least a regional basis. But I do think there is need to have an incentive for them to do a responsible job. There has to be an incentive to look at the alternatives and take into account conservation, economy, freedom of choice of users as to how they use this power and how they are able to pay for it.

The fact that it costs three times as much to do a load of laundry at 10 o'clock in the morning Monday as opposed to 9:30 at night doesn't show up in your bill. If it did many housewives might decide that it would be perfectly easy to postpone that laundry until the evening hours.

That is what I mean by freedom of choice. I think there should be a set of Federal guidelines as to the proficiency, and the area of responsibility for utility commissions, whatever they are called. I think there needs to be guidelines and research supported by the Federal Government as to the types of rates that are available with the alternatives clearly stated through research as to their effect on conservation, and their effect on the economics of generation of power.

I think there should be some prohibition against the setting of rates that are aimed at blocking the use of alternative sources of power. This, as a matter of fact, recently happened in Colorado where the Public Utilities Commission has allowed a rate asked for by the local utility which makes it virtually impossible to take advantage of any kind of solar heating whatsoever. And I think that is much against the public interest. I think that is what we are trying to address here, what is in the public interest.

The Public Service Co., by virtue of its name, is a company that does serve the public interest or should serve the public interest. The Public Utilities Commission is supposed to regulate it to make sure it does serve that purpose. Just as it does the telephone company.

I think they have done an excellent job in making available lower rates at different times of the day when the equipment is open, just enough to cover the cost of the operation of those systems during the offpeak hours. They have informed the public of the availability of these rates to the point that anybody knows you can call long distance after 5 o'clock and save 35 percent on your call. Weekend calls are cheap. The general public knows it. It is not a complicated situation.

I feel the same thing can and should be done with electric rates. So as a citizen, as one interested in conservation and in economic use of power, because the power we are using today, by and large, is generated by nonrenewable resources—Pauline Anderson mentioned becoming energy independent. I think we ought to buy all of the oil we can from the Arabs and thereby preserve our nonrenewable resources.

Uranium used in nuclear plants is nonrenewable. Once that supply is gone and now we don't know what the supply is—the provable sources are much less than what has been estimated so far.

You mentioned Alaska has enough coal for the next 800 years.

Senator DURKIN. But there are problems in getting it.

Mr. KING. But whatever, those resources are no longer going to be there. Anything we do that is not in the way of conserving these resources is not in our best interest.

Senator DURKIN. People think Project Independence is a drain America first program. That is my own view. If we forced OPEC to be more reasonable and buy the oil from overseas it would be a savings to us. Coal may be there but to convert it to gas I understand takes an awful lot of water, just like shale. They say in the Western States there is not water enough to commit to agriculture and yet at the same time to commit it to the processing of shale.

Shale, I understand, is sort of like the Biblical story of the loaves and fishes. You have more when you are through than when you began.

Mr. KING. You do and you can't stuff more back into that same old hole. One of the points you are making is that there are no easy answers. We have the attempts at easy answers—one, the Alaskan Pipeline. The costs of that have skyrocketed. The problems of quality control in the welding of the line has created a potential delay of possibly a year. Now that we see the fact that soon there may be oil coming through that line, all of a sudden it looks like we may not be able to use it. The only economical use of it is to ship it to Japan.

Senator DURKIN. First, I think we ought to stop producing the Elk Hills Reserve.

Mr. KING. That is totally irresponsible.

Senator DURKIN. I was fortunate enough to go to Alaska in August. Some of the scuttlebutt there is that the oil company is going to hold it in the ground until the price goes up and they are not going to pump the 1.2 million barrels a day that it was originally designed for. And as for natural gas, they are liquefying that and putting it back in the ground.

There are billions of dollars at stake with the gas pipeline, if it is economically or environmentally sound. But you are right, there are no easy answers and a lot of tough questions.

Mr. KING. You have made the point several times that we must stress conservation. I couldn't agree with you more. We have done a few things, mostly lip service, set a 55-mile-an-hour speed limit that is virtually unenforced. Nobody pays any attention to it.

We talk about insulating our homes. Yet there is not much push on that except by high pressure salesmen. There is no educational program going on that gives people responsible answers.

I picked up in the Public Service Co. office a set of their recommended standards for houses heated with electricity. I'm sure it was outdated but the insulation values they were recommending were far below what should be used and could be used today economically with the current price of oil or electricity or any heating fuel, heating energy.

Senator DURKIN. I bet people in the southern part of the State, if they fell for the electric heating ads, are paying more for their electricity than mortgage payments. There are no easy answers as you say. But it is becoming apparent that the electric company gets too many easy answers from the Public Utilities Commission.

Mr. KING. That is why I suggest that, since various States have not been able to establish effective regulatory commissions, that certain

guidelines should be set up as you have under the LEAA program for law enforcement. There are minimum standards. There is assistance given where it is needed to meet those minimum standards. There is uniformity of effort throughout the country to meet these standards and they are known and understandable.

I think things like this need to be done in the form of guidelines and standards set for the State regulatory bodies. I'm talking about utility regulatory bodies.

Senator DURKIN. We have to realize that the lesson in the last 20 years is if there is not sentiment in the local community to correct a deficiency it will not be corrected by sending it to Washington. The lobbies in Washington are more powerful than on the local level. If you can't generate influence or agitation for change on the local level, the further away from the local level and the closer to Washington you get, the more that energy dissipates.

Thank you, Mr. King. I appreciate your taking your time.

Mr. KING. I appreciate the time you gave me to make my little statement.

Senator DURKIN. The record will stay open.

Mr. Gross?

#### STATEMENT OF ROBERT GROSS, ACTING DIRECTOR OF NEW HAMPSHIRE LEGAL ASSISTANCE

Mr. GROSS. I am Robert Gross, acting director of New Hampshire Legal Assistance, which is a nonprofit corporation which provides free legal service to low-income residents of New Hampshire. We have offices in 7 locations around the State and serve some 6,000 to 8,000 individuals each year.

Our geographical coverage provides us perspective on the impact of soaring electric bills on the consumers of New Hampshire. You are aware of the crippling effect the skyrocketing cost of electricity has had on the citizens throughout the country. I have heard statistics that indicate that electric rates in New Hampshire have risen as much, if not more than any other State in the country. With the result that New Hampshire pays bills for in excess of those paid by most Americans. Statistics, however, do not really measure the human impact or depict the misery which continues to befall those whose incomes do not keep pace with the rising costs of electricity.

Electricity has become a necessity. It not only provides amenities, but it provides our lights, refrigeration, and our heat. It is, thus, a terrifying prospect for an individual to receive a shutoff notice. It is even more frightening to have electric service terminated.

Sadly, this dismal prospect confronts thousands of New Hampshire citizens. Take the family on welfare. Approximately 23,000 New Hampshire residents receive aid to families with dependent children. The division of welfare which provides approximately 28 cents per meal per person for an AFD recipient allocates \$17.27 per month for utilities for a family of four. That is \$17.27 for all utilities. Now, I did a little reading, and the average residential customer in New Hampshire uses about 577 kilowatt-hours of electricity each month. With a typical fuel surcharge of \$1 per 100 kilowatt-hours, the average customer's bill is nearly \$28 a month. That is just for electricity.

The welfare recipient receives \$17.27 for all utilities. It is no wonder that persons daily come into our offices with problems with utility offices, because they have received shutoff notices. Our clients are all low-income citizens. They don't have electric can openers, electric pencil sharpeners; they don't have clocks in every room; they don't have air-conditioners. They cannot reduce their electric bills by cutting back on appliances, because they don't have the appliances to cut back on. Electricity is a necessity for them and it is used only when necessary.

As it is now, they can only buy it at luxury prices. Even if consumers could cut back on their electricity, there is no incentive to do so. I'm sure you will hear informed testimony on the effect of the present declining block rate structure and what it does to people. The declining block rate, the more you use it, the less you pay. The customer who uses 300 kilowatt-hours per month pays an average cost of 4.6 cents per kilowatt-hour. The customer who uses 2,000 kilowatt-hours pays 2.8 cents per kilowatt-hour. Consumer groups have opposed this inequity for 5 years. Yet, the investigation of rates which the PUC undertook under pressure, has dragged on for 20 months and the end is not yet in sight. It seems in this period of inflation and unemployment that it is particularly inappropriate to perpetuate the declining block-rate structure for its effect is to discriminate against low-income, low-volume consumers and to threaten this person's very ability to obtain the electricity necessary to run his home.

As the large-volume user demands more, rates increase. The low-volume user, trying to save, cuts back on electricity and he finds he is paying more for the electricity he is using. Reform of the electricity pricing policies must be initiated. Consumers must not be forced to choose between heat, lights, refrigeration or food. The defenders of skyrocketing electric bills remind us costs are up everywhere.

It seems this reminder is unavailable where the defense is made by companies which discover they have overcharged consumers \$4.5 million because their coal was too wet or companies which pass on to consumers costs occasioned by unscheduled breakdowns in plant equipment. Nor can the defense be made by an industry which ignores economic doctrine and charges consumers on a declining block rate by encouraging people to squander energy and penalizes those who conserve. The cries for relief from electric bills are nothing new. I want to assure you that those cries are very real and our experience shows to us that they are very real, that there are, in fact, tears when the electric bills come and people cannot pay them. This sad situation must not be allowed to continue.

Utility companies must be compelled to alter their rate structures. Fuel surcharge must not be permitted to be utilized as a reward for mismanagement. The Public Utilities Commission and all commissions must institute procedures to make sure that when people, because of misfortune, layoff or illness, cannot pay their bills, they must make sure those people are not terminated from electric service.

Electricity is a necessity. We should take steps to insure it is readily available to all who need it at a price they can afford.

I thank you for this opportunity to testify.

Senator DURKIN. Thank you. I appreciate your taking the time to testify. I realize your time has been restricted lately. I'm glad to see

you are here and glad to see the first amendment still flickers among the changing foliage in New Hampshire.

One problem. How do you face the problem of changing the declining block rate structure on a State-by-State basis? Aren't we going to end up in a situation, if we do it on a State-by-State basis, that we have competition between the States to attract industry again on the basis of which State has not modified or rectified the rate structure?

Mr. GROSS. Professor Bower is more informed about that, but I recall reading testimony by the utilities in the Michigan case where the Commission did adopt reforms. The testimony of the companies was that we can't change anything now because all of our business will flee the State. Of course, they haven't. Until Congress is ready to act, I think we have to move ahead in the States and adopt those reforms which—as Professor Bower will tell us—the economic theories tell us are correct and will not have adverse impact on business or in creating competition.

Senator DURKIN. In selling it to a legislature or even to an open public utilities commission, I'm wondering if that is an argument being used. I think it is being used in Massachusetts.

Mr. GROSS. I hear the slick radio ads, too. It is not until the ADFR end of it that you find out the ads are produced by the electric utility companies.

Senator DURKIN. I'm not saying I have fallen for it. It is my own internal problem maybe. I instinctively shy away from another set of Federal regulations because I'm afraid they will be perverted to benefit those which are supposed to be regulated. I wonder if there may not be something to the State-by-State argument.

Mr. GROSS. You understated yourself a little earlier when you were talking about the insurance industry and the regulations that you put through. I think what you did is an example of what this commission should do. Not only did you get legislation. I reviewed the credit insurance regulations. I think ours are the best, compared to those I reviewed from the other States. That attests to the fact that a commissioner or commission can take action with the present laws on the books and with the present regulations and do what is necessary to protect consumers' interests. My clients are appreciative of what you did.

Senator DURKIN. Thank you. I wasn't fishing for a compliment. It reminded me, when I was campaigning, I was at a paper in Massachusetts and the editor said, "What will you do about all of those companies moving to New Hampshire? He forgot that he was talking to somebody from New Hampshire. I said I would be over there helping to cut the ribbon. If there is a problem, maybe Congress will have to rectify that along the lines Sam King suggested, that is, Federal standards implemented by the States and enforced by the State commission. Thank you.

The record will be left open for 3 or 4 months. Feel free to add anything. If any cases come up that you think would help in our making our case, please send them along and please stay in touch with the office, if we can help in any way.

Mr. GROSS. Thank you.

Senator DURKIN. Dr. Bower?

## STATEMENT OF DR. RICHARD BOWER, HANOVER, N.H.

Dr. BOWER. I am Richard Bower, Hanover, N.H., I teach at the Amos Tuck School of Business Administration at Dartmouth College.

I appreciate the opportunity to appear at this hearing.

I must remark that since two witnesses have referred to what I might say that I may be the greatest anticlimax in history since the suggestion that after God and country came Yale.

I would make one more self-serving remark and that relates to the Alaska pipeline and the implications for the advice of professionals.

It is worth noting that Charlie Cichetti, who testified extensively on that subject, said repeatedly that the oil that came out of Alaska would never go to California because it would not be needed.

That was the economist's statement at that time.

The issue was that the pipeline should not go to the coast but come to Chicago.

That economist's prediction in that case seemed to be well-founded.

That is no reason for vesting faith in anything I might say.

I appreciate the opportunity to talk on the issue of rate structure because I think it is an important issue. It is important because the shape of rate structure affects the performance of the electric utility industry, it affects the cost of each electric utility company and, finally, it affects the total bill that the customer will have to pay.

The rate structure not only affects electricity directly, but it also affects how well we use the resources available to the Nation.

It is not a trivial topic.

However, improvement in rate structure and other regulatory reforms are no panacea for the problems we face.

The basic problems in high electric bills relate to conditions affecting the cost of inputs into electricity, the fuel sources, the capital—things of that sort.

There is nothing that is going to be done very, very quickly to change those conditions and there is nothing that is going to be done to make rates a great deal lower for ratepayers in general than they are today.

I think it is worth remembering that the same companies and commissions that may be being vilified today were the companies and commissions that gave you a steady stream of relative decreases in electricity prices over 3 decades and that it wasn't very, very long ago—the mid-1960's—when the electric utility industry and its regulators were being applauded for the wondrous things they were achieving.

This didn't make them good performers then and it doesn't make them good performers now, but it provides a little perspective on the situation.

I would like to apologize for the disorganization of some of my remarks, but I have provided a written discussion done by myself and Robert Rohr of Brown University for the record.

What I would like to talk about on rate structure is, first, the objectives to consider in setting rate structure.

Second, how current rate structures relate to those objectives and why they are no longer consistent with achieving the objectives.

Third, what the alternative is—and it has been introduced already by others.

Fourth, the evidence that the alternative is practical, that it is being recognized, and that it is in the process of being implemented.

Let me talk about the objectives to consider first.

I believe that no one deserves low electric rates if low means rates less than the cost of providing the service to the particular customer.

I do not believe that the family that now pays a \$400 or \$500 bill for heating their electric home should have a decrease. The costs of serving that home are probably in excess of what they are paying.

I do not believe that a family that is very poor should pay less than what it costs to provide them electricity.

I think they deserve much in the way of redistribution of income, but I don't think the way to do it is through lower electric rates.

I do not believe anyone deserves low electric rates if low means rates lower than the cost of providing the service.

I think people deserve rates that reflect the incremental costs associated with the service they call for. People should pay for what they get, not less, and not more.

Rates of this type, that reflect incremental costs, are rates that can achieve the three basic objectives of rate structure.

Those objectives are efficiency, equity, and adequacy.

The objective of efficiency means that prices or rate structures should be set in such a way that the type of service that you call for is priced in accordance with its costs.

That means that you make decisions, and, by you, I mean not only residential consumers but business firms, not-for-profit institutions and others, that you make a decision on whether or not to use the particular service and to use it in a particular way, considering what it costs society to bring that service to you and its benefits to you.

If you do that, our resources will be used well. We will conserve in a true sense, not the sense that I think conservation is used in today, to mean less.

Less is not what you want. More is what you want. You want more of the right kind of things, the things that can be used more effectively to increase our level of well-being.

Efficiency is an important objective. It is achieved by having prices consistent with incremental costs. It is achieved by seeing that your resources are used in the best way you can use them.

Equity, the second objective, simply means people pay for what they get.

When there are cross-subsidiaries, when somebody pays more than it costs so that somebody else can pay less, that in an economist's view is not equitable.

Let me use an example.

Lifeline rates have been recommended in a number of places. Lifeline rates are usually associated with the fact that people who use 300 or less kilowatt hours in a month will receive some subsidy in their rate structure. They will not pay the full cost of providing them electricity.

If they are subsidized, somebody else pays.

It may be true that a great many of those people who use only 300 kWh a month are very poor people who you would like to see have a greater share of the wealth of the Nation. But it is also true in the New England States that a great many of the people who take 300 kWh a month or less are second homeowners who are not wealthy.

Those second homeowners are going to be subsidized by people taking 500, 600, 700 kWh a month and who may be poor.

Equity in my view is difficult to achieve through a rate structure. It is best achieved if people pay for what they get.

Adequacy, the last objective of a rate structure, means that the rates should provide enough total revenue to cover the cost of providing electricity were it efficiently produced.

That means not only covering the out-of-pocket costs, but it means providing a fair return on investment.

It may be true that the earnings per share of the electric utilities have been going up in recent days. They have, and in fact the stock price indexes show that electric utilities in the last 12 months have done better than any other group of stocks. That means their situation has improved considerably.

It is also true that today, and during the last 4 or 5 years, most electric utility shareowners have held stocks where the price of a share was below the book value.

They had something worth less than they originally put in.

A rate structure should be adequate to provide them a fair return.

Having talked about these objectives of efficiency, equity, and adequacy let me say something about current rate structures.

Current rate structures are what are called declining block rate structures. They do not reflect the time of use, when electricity is called for, even for many of the large customers. What they do is charge more for the first 100, 200, 300 kWh taken in a month, a little less for the next 300, 400, 500, 600, 700 kWh taken in a month, and so on down the line.

These declining block rate structures which charge less per kilowatt hour as your usage increases did make sense at one time. They made sense when there were significant scale economies to be realized because each electric subsystem was too small to support the most efficient plants.

They did make sense when technology was improving rapidly so that tomorrow's cost of generating electricity would be less than today's.

They did make sense when inflation was a very limited factor and they did make sense primarily for residential customers because greater use was consistent with greater diversity.

Diversity in electric production when applied to customers is a term suggesting the relationship between the amount of kilowatt hours they consume in a period and their peak demand or their contribution to system peak.

There was a day when as individuals added to their consumption of electricity, what they were doing was taking electricity off the peak.

When they went to refrigerators, freezers, and water heaters, the chances are they were going off the peak.

So those customers were less expensive to serve and there was a justification for a declining block. The incentive in it was not totally misplaced.

That was true in 1930, 1940, and perhaps in 1960.

The system of declining blocks was justified during that period but never ideal.

It was never ideal because it always encouraged you to take electricity on the peak, if that was your desire.

It never told you that if you took electricity during peak hours, midafternoon or midmorning, that that caused new plants to be required, that the new plants would be extremely expensive and would add to the cost for everyone else to cover.

The system was never consistent with efficiency because of this failure to warn people of the cost of putting demand on the peak.

It was never fully equitable.

In one of the recent Vermont cases we were presented with data for 10 customers on the central Vermont system. The data showed the contribution of each customer to the peak of the system and to the requirements for capacity and it showed the customers' demand for kilowatt hours over the year.

There were customers in that group of 10 that had identical bills but that varied tremendously in terms of the amount of demand they made on the peak.

There were customers there who had the same kilowatt usage over the year but one called for a peak capacity of 10 kW and another for a peak capacity of 2 kW.

That meant that the one customer cost the system about five times as much as the other, yet their bills were the same.

That is not fair.

And the declining block rate structures do nothing to bring fairness to that situation.

If the declining block rate structures once made sense, by the late 1960's they did not. They make even less sense today.

The cost of added capacity is much, much higher than it has ever been. Technology is making a smaller contribution to lower costs. Inflation is a significant factor that cannot be ignored.

Diversity has turned completely around.

Because electric rates have declining blocks there was an incentive to go into things like electric heating.

Nobody told you when you went into electric heating that your demand for electric heating would create the peak because all of the people who take electric heat are there on the peak at midmorning on the coldest day in December and January. The people calling for electricity at the top levels are electrically heated people. They are the people who are putting the signal through that says more capacity is required.

They are not customers that are giving the system more diversity, giving the system less need for capacity relative to total output.

They are the customers requiring more capacity. They are the most expensive customers to deal with now because of that.

This is clearly borne out by the Vermont load study.

Now, any justification for declining blocks, at least in the residential class, is gone.

Quite the reverse is true.

There is one more point that has changed that is very, very important. In the 1930's and 1940's when people talked about metering electricity in a way that would permit time of day rates or incremental cost rates rather than these declining blocks, the verdict was that the cost of doing the metering was so high relative to the cost of the product that it wasn't worthwhile.

The electric companies failed to continue to make those studies during the 1950's and 1960's and they failed to realize that that cost relationship had reversed.

The cost of measuring and metering has fallen relative to the cost of the electricity being measured.

Any objection to moving from the declining block structure because of metering costs has become less significant.

If the existing structure had a justification, that justification never made the structure perfect.

Now, that justification is gone and the imperfections of that structure are too much to be borne.

There is an alternative. The alternative structure reflects incremental costs that would cause charges for electricity to vary with the conditions of use, with the time of day.

That structure is possible, is usable, and would give the kind of conservation that I think we really need.

It would make people recognize the costs that are really associated with serving them.

Certainly, even if you don't go as far as a time-of-day structure, a structure based completely on incremental costs, there can be no justification for maintaining declining blocks in place of a flat rate structure.

The real gains to be made for the medium use consumer is by going to flat rates and they should have that kind of a break because the rates they now pay are above costs.

Flat rates I think are unavoidable. We must go to those if we do nothing else.

As I suggest, we should go further to time-of-day rates, rates consistent with efficiency, equity, adequacy; rates that say if you put demand on the peak you pay for the cost of capacity for providing that peak.

Let me put this in terms of a personal observation.

My wife is acutely aware of the fact we built an all-electric home. We like the home. It is a lovely home. We do not like the bills that come in midwinter. They are very large and she is not at all happy about the size of those bills.

I have convinced her I think that as large as those bills are that we are being subsidized by the median use ratepayers of New Hampshire who are on the same system that we are on.

She is not happy taking advantage of others, either.

The one thing I think she asks is that if she is going to be charged for the full cost of the electricity we use to heat our home, that she be given a chance to do something about the way she uses it. That the company should come forward with a rate structure that says when you use electricity off the peak, we will charge you less. Then she can discipline her use and do something about it, pay what it costs given her preferences and not take advantage of anyone else.

I think that is what a lot of people would like to see come to pass.

There is a good deal of evidence that rate structures of the sort I have described and that have been described previously are practical. They are being recognized and they are in the process of being implemented.

The evidence is in the fact that the Europeans have been using systems like this for a long time and they have worked very, very well in many countries.

The evidence is not so far away as Europe. There is a bit of it in Vermont where rate structures of the sort we have been talking about have also been introduced.

The evidence is also in the tremendous advantages that have occurred in metering costs and technology.

As soon as rate structures, time-of-day rate structures, rate structures requiring more involved meters began to be used and began to be a real alternative, the metering companies moved into the area and their technology is improving daily. And the cost of the metering is decreasing.

There is evidence it is practical even in the response of people in Vermont.

The additional response to strange and different rates was one of shock. There was much confusion. A little more in the company than among the clientele.

But people have learned those rates. They appreciate what the system involves and they have adjusted to the rates.

It is amazing how consumers can learn to do things when you tell them what the prices are and what the story is.

So there is evidence that this is a practical alternative.

There is an indication that the alternative is being recognized. Economists in and out of academia endorse this kind of rate structure. It is hard to find an expert witness to go on the other side.

The commissions are going the same way. The New York Commission has ordered a move to incremental cost-rate structures. The Wisconsin Commission is moving the same way. The California Commission is implementing such a structure at this very moment with an industrial class of customers and is moving through the other classes as well.

So there is an endorsement of this sort of thing, not only by academics and theoreticians but by the practical men of affairs, if you want.

A final point, and that is that I think the move is on. The endorsement is more than verbal. It involves some action. We are moving to rate structures that more closely reflect incremental costs and we will gain the advantage of those rate structures.

I am not pleased with the length of time that the New Hampshire Commission has taken to consider this issue. I think that the arguments in its favor are clear cut and that we now are concerned about the implementation which is not a simple problem.

That requires thought.

I am not pleased with the time it has taken the New Hampshire Commission to move, but I am impressed with the fact that when the New Hampshire Public Utility Commission hearings first started I didn't believe there would ever be a second day of hearings.

It would have appeared when the hearings started that the commission was not ready to listen to anything on this subject and that there was a good chance that the verdict was already in.

I don't think that is the case and I would be very surprised myself if rate structures of the sort that we are describing would not be a fact of life in New Hampshire within the next 3 or 4 years.

I just don't think the commission will be able to resist the logic and the pressure of people who recognize that there is an advantage to be gained by changing to a more sensible rate structure.

Thank you.

Senator DURKIN. Thank you.

I have a couple of questions.

With the time-of-day rating provision, could not your wife decide that you would heat your house at the offpeak hours?

Dr. BOWER. That is what she would do. She would turn up the heat during the offpeak and turn it down during the onpeak.

One of the things that happened in Vermont is people use wood and electricity as a joint source. You use wood during the peak and go back to electricity offpeak. You get the benefits of both worlds.

Once you have a structure like this there is a great advantage as new construction and new houses are built to begin to use storage heating devices.

Senator DURKIN. Heating water.

Dr. BOWER. Heating your whole home by devices which have become common and well used in Germany, which heat up bricks and release the heat in the peak hours.

Senator DURKIN. Is solar technology predicated on heating and storing?

Dr. BOWER. My knowledge of solar is limited. I don't think anybody is proposing solar systems that won't have to be supplemented.

With offpeak rates the match becomes a sensible one.

The solar heating system becomes that much more economic if there is an offpeak electric source to be hit in conjunction with it.

Senator DURKIN. The declining block is an impediment to adopting a solar supplement?

Mr. BOWER. Absolutely.

The point that is implicit and worth emphasizing is that if you use basically solar, and you are on a declining block, you would hit the electricity system for the highest price electricity because you won't be using much.

It is a direct impediment. You are pricing it absolutely backwards. It doesn't fit at all.

Senator DURKIN. What about the business problem. You know, the migration of business shopping for the State that still has not modified its ratemaking structure; is that a real problem?

Dr. BOWER. I don't think it is. It is a major issue in Massachusetts as I guess people are aware because of the fair share referendum and it was an issue in New York.

The commission in New York was concerned about this.

I don't consider it much of an issue.

It boils down to the fact that if a company can't pay the full cost of the electricity it uses, then I am not sure you want it in the State.

If you do want it in the State you will have to subsidize it to keep it.

If you subsidize it directly, the company will be able to use the subsidy funds better than if you simply make electricity the item for subsidy.

If I were advising State government I would say make the electricity rates right and we will find another device to attract industry.

I would say the State that did that would make out better than the one that said we will put pressure on the commission to provide the subsidy through electric rates.

I don't think that is a significant factor.

Senator DURKIN. Your argument is whether it is lifeline rates or declining block, you charge what the service costs and if you are going

to redistribute income or subsidize, you do that as well in the most efficient manner?

Dr. BOWER. That's right. I think that doing it through electric rates is a very poor way to do it because I don't believe that you can identify by use of electricity where people stand on the income scale.

You are working with a very dull knife.

Senator DURKIN. And you are increasing the amount of paperwork to police such a job or implement this job.

Dr. BOWER. If I can throw in something on the side, the Massachusetts referendum not only talks about flat rates, but it talks about a flat rate across all classes. And what that would do in essence would be to charge more to industrial customers than in point of fact is the cost of providing electricity.

They are somewhat less expensive customers in actuality.

That would put an extra penalty on industry and they would make a choice of leaving the State.

You would reverse what you tried to take care of to begin with, so that, I think, is a poor idea.

Senator DURKIN. I suspect in New England we can't have any further inequitable taxes on industry or we will drive them further south and west.

Time of day pricing, how would that affect the average household?

Dr. BOWER. Mr. Gross talked about the average customer and his perhaps 700 or 800 kWh per month. That is not the average customer, really. It is the average bill.

There are a whole lot of customers down at the low end and then a very few way up in the upper end. They are distributed in a strange way. The customers in the midrange in a cost base rate would benefit. They are, I think, very clearly doing the subsidizing today. They would benefit.

The customer in the top range would pay more, and I have a feeling that the customers on the very bottom might end up paying more, too.

There is a cost of connecting to the system that is real and that exists. It may not be fully reflected in the current rate structure.

The current rate structure may be taking a 100 kWh customer and giving him a bit of a benefit. Maybe he is paying a little less than cost but part of that is because there are a lot of customers who take next to nothing, who are not costing enough also.

Senator DURKIN. How about the electric home? They probably would pay more unless they supplemented it with a fireplace or something.

Dr. BOWER. They pay more unless they control their own use. If knowing what it cost you chose to heat your home at 72° that is your affair.

I would depend on the fact that people have some small self-interest to mean that you don't keep your heat up during the day if it is going to cost a great, great deal to do so.

Senator DURKIN. You see the impact of the energy crisis. The Washington cab driver many times becomes a traffic hazard because of the slow speed and they don't use their air-conditioner because they are taking steps to conserve gas.

Dr. BOWER. I have been very impressed. The issue of how people respond has come up frequently. In the arguments about this, particularly when it comes to applying this type of rate structure to commercial structures, and so forth, it is often said they can't do anything or they won't.

The evidence is all on the other side.

Most of the larger users, as soon as there was any measuring of electricity by demand, began to use computers to keep their loads even. They did that immediately for substantial savings.

The responsiveness is rapid. It is just amazing what can be done.

Let me give you an example of how much difference rate structure can make. One of the bits of evidence provided in the New York hearings was provided by the large real estate interests, either Rockefeller Center or Empire State. They claimed they would be in trouble if a rate structure charged by time of day came in because their customers, their tenants would not change their habits and they would just have to bear these extra peak load bills and that would hurt badly.

The evidence they provided was the increasing use of electricity by their customers. And their counter evidence was that their own use for maintenance and such things went down.

The owners of the buildings had to pay electric bills for their own use and they disciplined their people and conserved in running their own activities.

The tenants did not have to worry about those electric bills. They did not worry and they did not conserve.

So the rate structure had an effect.

Those tenants, I am sure, will begin to be billed by the real estate interests in keeping with their electric use. Those tenants will conserve in the best sense. They will recognize the cost and do something about it.

Senator DURKIN. All of the conservation we hear, or a lot of it, overlooks the fact that we are not anywhere near the degree of conservation in our industrial process that there should be and would be with a time of day and flat rate.

The controller has an incentive to start adopting a process which conserves energy.

Dr. BOWER. That's right. There is a lot said about business inefficiency. But I think the observation of industry in general shows if there is a buck to be made, they will go out and make the buck.

If they can save money by changing their electric use, given the signal that that is possible, they do so.

Senator DURKIN. Why are they so strongly resisting the flat rate?

Dr. BOWER. The resistance on the part of industry is not so much flat rate as going to a peak load or time of day rate.

There are certain groups who will get hurt.

You are not going to change the total for many of these people. Some people benefit and some will be hurt. The people who will be hurt are acutely aware of that fact and are very vocal. The people on the other side are less vocal.

Senator DURKIN. What sort of groups will be hurt?

Dr. BOWER. The groups that will be hurt are the people who must use the peak and have no control of it. I give you an example from California. One of the customers on the Southern California Edison System is a pump manufacturer. If I understand their activities, when

they produce a major pump, they must test it. Test it means they must run it for 72 consecutive hours. The nature of their business, according to them, is that when that pump is ready for delivery, they test and use that 72 hours. That means that the bulk of their use comes at a certain point in time and goes right through the peak and they will pay a tremendous amount. They know they are going to be hurt. Another user, one of the Government Air Force installations out there, has use that is quite even and on top of that can generate their own supplemental source.

They think it is super. They will use their own power source on the peak and take from the utility offpeak. They will gain an advantage. In fact, in those hearings, you can sort of, if you listen, hear the Government people saying, "Yes, yes, let's go," and the people for this pump manufacturer saying, "No, no, no, it would be devastating."

Senator DURKIN. You can't say electronics industry, textile, shoe industry—that one will be penalized?

Dr. BOWER. It is hard to do. Not only that, but I think we have limited imaginations. That pump manufacturer has been going through life saying, "When that pump is ready for testing, I test." Faced with this unpleasant rate structure, I have a feeling he may be calling the electric company saying, "I will delay my test, if you will tell me when I can go offpeak."

Senator DURKIN. Start Friday night.

Dr. BOWER. Right. And the electric company will say, "You better wait another weekend, because this will be a tremendously hot weekend. Wait a weekend and you won't put pressure on the peak." That's what will happen. It will be natural. The pump company will be saying, "My heavens, how will I live with this?" and they will seek an accommodation which will be advantageous to everyone.

Senator DURKIN. You said the last 21 months the utility stocks have done better than any other group.

Dr. BOWER. In truth, if you held this hearing 18 or 24 months ago, the sickest group would be the utilities. The Vermont utilities were not in a very good position. Any thought that utility company executives didn't earn their money might have been offset, if you sat in the offices of central Vermont during that period from, perhaps 24 to 18 months ago, when they were worried about whether or how they were going to cover operating costs and where they were going to raise equity. They did really lay off people. They cut back. They were in a difficult situation. I think that day has gone.

The utilities are now coming back. Their returns are rising. The fact that costs were rising and rate increases were not coming has passed, in part because of the adjustment clauses you were talking about.

Senator DURKIN. The fuel adjustment clauses helped them react?

Dr. BOWER. Right; and their costs have not been increasing as rapidly. The first response to the boycott was to cut back and people did cut back; companies cut back, but that is a temporary thing. The response to those kind of vocal pleas lasts 6 months and then is gone. It is gone now. So utility outputs have generally gone up. And with capacity not expanding very rapidly and output up, that works in

their favor. Right now, things have been going nicely for electric utilities.

Senator DURKIN. If switching to the flat rate and time of day pricing were accomplished, would that impact on the need for additional generating capacity?

Dr. BOWER. When you tell people it costs a lot to take electricity on the peak, they begin to spread their use somewhat. That means you get the same energy, but you get it more efficiently and with less of an investment in total plant.

Senator DURKIN. Some of the projects for increased generating capacity are based on a rising peak. It would be, then, in the national interest to proceed to an offpeak time of day, flat rate approach, as opposed to the declining block?

Dr. BOWER. I would, too. The only caveat I have is that I prefer seeing each of these State commissions competing. I would prefer to see them devise their own ways of doing these things even if it doesn't come quite as fast and perhaps with the advantage that it doesn't come as uniformly. There is a lot to be discovered in how to implement this structure. I think it will move through the States. I think that is a proper way to do it. I think the Federal Government, the FEA, has a substantial educational role to play and I think intervention by Federal agencies in public utility hearings on State levels is very worthwhile.

I would not prefer Federal legislation that would require a particular rate structure.

Senator DURKIN. You would be reluctant to see the Federal Government propose minimum standards because it would lock us in concrete for too long in the future?

Dr. BOWER. Yes; I would. I picture the next generation of economists coming in and finding that this rate structure was substantially imperfect. I would not want them to run up against State commissions constrained by Federal legislation that made it difficult to change.

Senator DURKIN. With insurance regulations, you have among the consumer oriented commissioners a feeling of, "Can you top this?" Each commissioner was looking for more and different ways to protect the consumer. Instead of having one agency promulgating rules, you had half dozen or more commissioners. If Frank Hogerty in Maine would do something, then somebody in Concord would say, "Why aren't you doing what Hogerty is doing in Maine?" The classic example is the seniority system, the congressional reform. Now, we are wearing it around our necks. It is harder to rectify the situation. You think it is better off if Congress just breathes down the neck of the utility commissions but does not get into legislating of any particular rate structure?

Dr. BOWER. Yes.

Senator DURKIN. Does Congress have a role in your view at all, other than pressure?

Dr. BOWER. I have a peculiar view of the advantage of intervention that can be relatively irresponsible. When the Anti-Trust Division intervenes in the proceedings of the FCC, it can be relatively irresponsible. It is presenting a view, but, ultimately, the FCC will have to

make the choice. When the FEA intervenes in California, it can be irresponsible. That irresponsibility has advantages. I would like to see it continue.

Senator DURKIN. Congress can do the same.

Dr. BOWER. Congress should see to it that the agencies do this sort of thing.

Senator DURKIN. You think Congress should provide oversight, but not overreact.

Dr. BOWER. That is correct. That would be my view.

Senator DURKIN. You testified about the problem of State-by-State migration, that you feel substantial business interests are not going to move for a slight benefit that may be eliminated by a rate commission by the time they get to second base?

Dr. BOWER. That is right. I don't think that is an issue.

Senator DURKIN. What happens if the homemaker of America decides that 10 o'clock is the ideal time to cook supper. Can you shift the peak?

Dr. BOWER. Yes. Everytime we have talked about this structure we emphasize that you do not tell people that the peak will stay the same. You are telling them you are providing information on a peak that exists. Not that the peak will necessarily continue at that. You want people warned about making investments in things that require specific peak hours. They will move. A relatively ideal structure would have the peaks spread. You would get to the point of having your capacity extremely well distributed. Instead of having 8 hours peak a day, you would be going to 14 or 16.

Senator DURKIN. Lower peak.

Dr. BOWER. Lower peak and lower cost.

Senator DURKIN. What is the peak consumption time in the winter in New Hampshire—5 or 6 o'clock in the afternoon?

Dr. BOWER. There are morning and afternoon peaks. The morning peaks tend to dominate in New Hampshire. Not all of the New Hampshire systems are identical.

Senator DURKIN. There is no chance of the peak becoming midnight. You still have all of the peak generating capacity problems.

Dr. BOWER. No, I guess I would say I don't think there is any economic possibility of storage heating coming in so fast in New Hampshire in the next decade, that you would shift the peak to midnight. It is not going to happen.

Senator DURKIN. Even if it did, that is no reason to postpone innovating during the next decade.

Dr. BOWER. That is right. At least, I would say so.

Senator DURKIN. What about the time-of-day rates? Would it affect the New England power pool and the relationships they have moving power across New England?

Dr. BOWER. The time-of-day rates should relate to pool costs. The New England power pool arrangements are not ideal, in my view.

Senator DURKIN. Why is that?

Dr. BOWER. If I understand them correctly, the companies have capacity requirements based on their own peak as opposed to the system, the whole New England peak. That is not totally so. There is some balance. In part, that is the case. That means again, in my view, that Vermont implemented a structure that made great sense for them;

a winter peaking structure. It was appropriate for Vermont, given the New England power pool and given the prices they pay. I'm not sure it is appropriate for New England, as a totality. In my view, the changes should be made in the arrangements of the New England power pool. That is under study, I think. There has been one substantial consulting report that described the workings of the pool. It is my understanding there is a second going forward to provide a recommendation.

The pool is less than perfect in that it tempts individual companies and systems to do things which are not advantageous. What they are doing in the pool is like telling an individual customer, "We will charge you for your personal peak even though it happens to come at 11 o'clock at night, when nobody else is on." That customer would be discouraged from using electricity at 11 o'clock at night and it would benefit no one and hurt everyone. There is a little of that going on in the New England power pool.

Senator DURKIN. The water heater quit in Manchester in my home after the 10-year guarantee expired. My wife had untold redtape with the Public Service Co. trying to figure out if you could get a water heater that was not quick-recovery. You could get one but, conservatively speaking, it would have taken her a couple of weeks just chopping through the redtape. Then you had to get a different size. There were so many restrictions that we threw up our hands and said, "Cold showers are fine, but we have to get a water heater." In your experience, have you found that to be true throughout New England—that there is a reluctance on behalf of the utilities to move to more innovative rate structures and procedures?

Dr. BOWER. I don't think that Public Service of New Hampshire is different from most utilities. I think change for any utility is somewhat frightening. It is a strange type of business that you are in and your exposure to the public and the public reaction is great. In spite of the comments of Common Cause and others, I think the responsiveness to the public is substantial.

Bill Gilbert, the commissioner in Vermont was replaced, I would say, in response to a public outcry that in my view was not justified. Nevertheless, he was replaced. The pressures are strong. The companies feel them and commissions feel them. When you make changes, there are people who have to be hurt. Many will benefit, but some will be hurt. The some that are hurt will shout about it. That means the executives of the company will find living unpleasant and the commissioners will find living unpleasant. So, I think, innovation comes only reluctantly or slowly. That is true for most companies. I don't think Public Service of New Hampshire is peculiar in that regard. That doesn't mean, I wouldn't like to keep pushing them and get them to do a good deal more in the way of innovation than they have yet done. I don't think they are a unique case in the world of electric utilities.

Senator DURKIN. It is sort of like tax reform. What is an incentive to one is a loophole to others. My feeling is that is why you either have competition which overcomes the disinclination to respond to change or you have an aggressive regulatory body. No one likes to change. I don't think any human being likes to change, instinctively.

Speaking of disincentives, or disinclination, isn't the fuel adjustment surcharge and the automatic passthrough and the situation where you

have no accountability or at least little public accountability, a disincentive to aggressively seeking the lowest cost fuel?

Dr. BOWER. I would not disagree with the statement. Yes, I think that is right. I think the fuel and purchase power adjustment clauses are very, very difficult to implement properly. We were involved in those in Vermont and we thought that we had designed a clause that would work appropriately, that would provide proper incentives. I would say we were totally incorrect. Not by lack of trying to figure it out. It is very difficult. They create strange incentives. In Vermont the clause tempts a company to switch sources toward more fuel expensive sources and away from capital expensive sources because they can pass it on. Some of the companies were able to make gains on that. They were able to play the clause not in the interests of efficiency, but in the interests of their own profitability. I think clauses are difficult to design.

Certainly, any clause that permits you to pass on not only a change in the price but also a change in your efficiency in using the fuel is a disincentive. You would like to design something that passes on the change of price in the input and that is all. That would give you plenty of incentive to choose the right input. But, I think it is hard to design clauses. I think it is hard to do without them because the cost of successive rate cases is not trivial matter, either. By the time you have run three overlapping cases for a company in an 18-month period, I think you have used a lot of dollars which must be changed to the ratepayers.

Senator DURKIN. What about fuel adjustment charge, once they exceed a certain level?

Dr. BOWER. That is appropriate. I think the Commission has no reason not to review the efficiency of the company. The Commission should make sure the company is using the most efficient manner of providing electricity. The Commission can throw out expenses that are unjustified. That suggests reviewing.

Senator DURKIN. What seems to be unfolding here, and I guess we won't know for awhile because Public Service and PUC are not going to appear right now—today or tomorrow—is that a reasonably advanced high school freshman with a calculator could perform the service that the utilities commission is doing. They don't go behind any of the figures. The IRS wouldn't collect anything if they adopted that approach. But, that may be personality as much as the law.

Let me ask one more question. I do appreciate your taking the time to come down here. It has been advocated here and there across the country that to solve the capital expenditure problem and what have you and other problems that may or may not exist, the Government should generate the power and sell that power to retail units.

From your experience, do you think that offers any solution or are we just going to have a similar situation as we have with the Post Office Department?

Dr. BOWER. I would say that is no solution at all. The capital still has to be directed in the economy to those uses and if any particularly privileged status of the Government with regard to risk or tax is involved, it simply means you are favoring this particular thing over something else. There is no reason to do that, as far as I can see. I would have no reason to believe that the Government would operate the plants anymore efficiently than private interests. There are a number of econ-

omists today who feel that if anything things should move in the other direction. As far as production of electricity, it should come out from under regulation, it should be deregulated. The plants should sell electricity, in competition, to the dispatching units and only the delivery systems should be regulated. It is just the reverse. It says, "Let anybody who wants to build a powerplant. If four banks want to get together and sponsor an entity that would build an atomic plant, fine, and let them sell into a pool." You are close to that now. The New York pool will buy electricity from wherever it is cheapest. If you owned a plant yourself, you should be able to sell into that system; it should be possible to integrate it that way. Although that is not an area where I consider myself an expert, I haven't found anything to persuade me that the economists who think that is the proper direction are wrong. I would not go the other way toward Government.

Senator DURKIN. In Alaska, I was surprised that one of the hydro projects was originally proposed by private industry—one of the aluminum companies. It had arranged the financing in the private sector to put up the financing for the construction of a gigantic dam on the Susitna River. And it wasn't going to go the Corps of Army Engineers or that route at all.

Dr. BOWER. Right and I think those things are possible. That is a way we may be able to go.

Senator DURKIN. That would solve a lot of problems; it would be in a regulated environment.

Dr. BOWER. Regulation where it is appropriate, which is in the distribution end and no regulation where it is inappropriate, at the production end.

Senator DURKIN. It is a rare regulator who doesn't get seduced by the people he or she is supposed to be regulating. We, the people, pay. The Washington regulatory agencies are a perfect example.

Dr. BOWER. It is also from personal experience, a rare witness that doesn't get somewhat seduced. When we entered the Vermont hearings as experts, we hated the companies. It was easy to do and you could justify your feeling in that you were fighting in a good cause. As you get more and more involved, you learn that the people on the other side are nice, human beings and they have similar concerns to yours. Before you get completely through, you have grown to respect and like the opposition. Hopefully, you maintain your integrity and you have a position which is based on analysis and you hold to it. But, there is an element of seduction in just dealing with an industry.

That is a threat to every regulator, no matter how pure he is in the soul. It is difficult to avoid getting to know people and thinking that those people must be doing proper things, because they are nice people and forgetting that the system may work badly. They may do very bad things, not intentionally, but in the context of the situation they find themselves in.

Senator DURKIN. Like our health care delivery system. I want to thank you very much. The record will be left open. I hope you stay in touch. If we can do anything in the committee or my office or we should be doing things or we are doing things wrong, I would appreciate hearing from you.

Dr. BOWER. Thank you.

[The material referred to follows:]

PRICE STRUCTURE—THE PROPER CONCERN OF REGULATION

(By Richard S. Bower and Robert J. Rohr<sup>1</sup>)

If Consolidated Edison has its way, New Yorkers will pay more for each kilowatt hour of electricity in summer than in winter. This summer premium just reverses the situation in neighboring Vermont where, this year, consumers began to get discount rates on summer consumption of electricity. The paradox does more than encourage metropolitan families to spend summers in New England. It illustrates the tentative acceptance of peak loading pricing as a partial remedy for runaway advances in electricity price and serves early notice that there is something to be learned about administering this remedy.

The logic behind peak load pricing may seem obscure to customers who find premium prices a strange accompaniment for brownouts and other service deficiencies that occur when demand for electricity is at its maximum. But the logic, which may still echo in the memory of those who have suffered through a course in economics, does help to explain why both price should be higher and why service suffers at the peak. Demand tends to be at its highest in New York on muggy summer afternoons when residential, commercial, and industrial users call for large amounts of electricity. To provide the electricity asked for at these times generating equipment, that at other times would sit idle, is put into service. The capacity that serves as reserve for this and other bursts in demand is sitting idle precisely because its operating cost is higher than all other generating units in the system. Any customer who calls for, or is likely to call for, electricity from this capacity is responsible for the high operating cost incurred by the system and for the annual carrying and maintenance cost of the lines and equipment involved. He is also responsible both for the brownouts and service deficiencies that occur when the electricity supply system approaches its limit, making it impossible to cope with any chance problem in generation or transmission and/or for the ever idle excess capacity built into the supply system to protect against these deficiencies. Peak load pricing simply recognizes that it costs more to provide electricity during some hours of the year than others. Its logic is conventional: Match prices with costs so that customers can keep down total bills by asking for less high cost services they can do without and more low cost service they could put to use.

Failure to price this way is one reason utility requests for rate increases have become so frequent and one explanation for the rapid rise in kilowatt hour charges. What happens is this. An electricity user, a residential customer in particular, is charged less for additional kilowatt hours of use as monthly consumption increases and is charged no more in one hour of the year than in another. Faced with this declining block structure, the customer buys an air conditioner, gets an electric dryer, and switches to electric cooking. When those sultry summer days come along the air conditioner is turned up and, at the usual hours, perhaps at the same hour, the dryer and stove are put to work. Other customers behave the same way. Because weather, work day schedules, and conventional habits of life limit diversity in consumption patterns and there are no price incentives to alter these patterns, new peaks are hit. The peaks bring the less efficient operating units on line and call for additions to capacity that cost far more than the capacity in place. Each customer acts quite sensibly considering that no matter when consumption takes place added kilowatt hours carry the lowest price. The problem is that the summer day's use which the customer considers worth the five cent kilowatt hour charge costs the system supplying his electricity four or five times that. The chase to catch up with those costs has deprived utility commissioners of their leisure, companies of their fair return, and customers of their dollars. If a change in rate structure could help provide a remedy, then it certainly deserves careful attention.

Hearings on rate design in progress at the New York State Public Service Commission will direct careful attention to the subject. The hearings can be expected to produce rather general agreement that electricity prices should reflect incremental cost. Incremental cost is the addition to cost associated with some

<sup>1</sup> Both of the authors are on the faculty of the Amos Tuck School of Business Administration at Dartmouth College. Professor Rohr has his primary appointment at Brown University. Both will be testifying for the Federal Energy Administration in the New York hearings on rate structure.

action such as calling for an added kilowatt hour of electricity during peak hours. It includes delayed additions to cost involving new capacity as well as immediate additions associated with fuel, and it is the concept implied by all of our references to cost. General agreement will probably end with the principle of incremental cost. How to calculate incremental cost, its degree of dominance or subordination in designing a rate structure, and what transitional steps are required in changing to which peak load pricing system will all be matters of some controversy. The controversy may delay dramatic action to reform electricity pricing structure, but it cannot obscure the fact that regulatory commissions are concerned and reform is on the way.

#### CRITERIA FOR RATE STRUCTURE

Reform will have to consider three criteria that have dominated discussions of rate making since James Bonbright of Columbia University and a former Commissioner of the Power Authority, State of New York began to emphasize them more than 40 years ago.<sup>2</sup> A rate structure should be adequate, fair, and efficient. A structure is adequate if it provides sufficient revenue for a fair return to utility company investors. It is fair if it charges each customer for what he uses and no more. It is efficient if it discourages the wasteful use of resources.

In unregulated, sectors of the economy, the market functions to satisfy these criteria. Should a firm in a competitive market pursue profits at the expense of fairness or efficiency, another firm would respond to the opportunity for excess profits by courting customers being overcharged or adjusting product prices more closely to incremental cost. Were revenues more or less than adequate firms would enter or leave the market. It is a glorious system that diffuses power, permits independence and coordinates decisions. When the market fails because monopoly is its natural state or social costs are high, or when it succeeds too well and firms seek a refuge from its disciplinary power, regulation is often the substitute. Since regulation has no automatic mechanism working for the criteria, it often fails to achieve them.

Adequacy would seem to be the easiest criteria to satisfy. All that should be required is for a regulatory commission to permit prices to be raised. This does not always work, however, for three reasons. The first is that costs also go up. The second is that customers respond to price increases in a particular service by buying less of it and more of other services. Both of these reasons help to explain why electric utilities have failed to achieve the return on investment allowed by their commissions and why, for example, the postal service continues to run large deficits. The postal service provides a particularly good illustration of why, for the third reason, adequacy is not always achieved. The third reason is that commissions often try to satisfy costly social or political goals through service and pricing requirements. As Richard Posner describes it, this forces the commissions to practice taxation by regulation and the tax is not always collectable.<sup>3</sup>

Because of social and political pressures, the postal service is required to offer third class mail services below cost and is expected to make up the revenue by charging well above cost for other services. Unhappily, for the postal service and its commission, pricing above cost leaves a cream of profit to be skimmed, and there are always independent parcel and delivery companies anxious to skim it by offering substitute services. The outcome is either inadequate revenue, direct public subsidy, or the oppressive restrictions guarding the boundaries of regulation that emphasize how unfair and inefficient regulation can be.

It may seem inconceivable that a regulatory commission, charged with protecting the public interest, would permit rates that are unfair for some individuals or groups. But the commissions face a problem in that the appearance and the fact of fairness may well be different. Cable television in a state like Vermont provides an example. The nature of this industry, which requires a receiver to capture distant signals and transmission lines from the receiver to all customers, is such that it costs much less to provide service in areas where customers are highly concentrated. Fairness, as economists use the term, and as we take it to apply here, requires that customers in rural, less densely populated, areas pay more or receive poorer quality service than customers in cities such

<sup>2</sup> Bonbright's views are fully developed in *Principles of Public Utility Rates*, Columbia University Press, 1961. This book is the most widely cited reference on price structure in public utility rate hearings.

<sup>3</sup> One of Posner's articles on this point, "Theories of Economic Regulation," appears in *The Bell Journal of Economics*. That Journal is probably the best single source of current academic and utility industry thought on regulation.

as Burlington. Permitting pricing or quality differentials would be the only way to insure that customers in the more concentrated cable areas are not unfairly required to subsidize customers in less dense regions. To the public, not aware of cost differences, a higher price for poorer service seems obviously unfair. The commission, unable to explain that a service available at one time and/or place is not the same as at another, may conform to the public's impression of fairness and, paradoxically, may not only approve, but require prices that are unfair.

Unfairness and inefficiency are closely related. Inefficiency arises when resources are consumed in less productive ways than they might be. This occurs when the cost of labor and capital in a product exceeds the product's price and some of the buyers only consume the product because of the low price. The result is inefficiency; the labor and capital is diverted from a use worth more to society to a use worth less. Water consumption in the city of New York may be an example. Without metering, customers will use water as if the price is zero while the cost is clearly greater than zero. As a result, there must be some waste of water in the city of New York. The cost of metering water might exceed the value of any waste, so that in terms of the total resources involved, a free delivery system may not be inefficient. However, as the cost of providing water increases due to rising reservoir land values, pipe construction, and other factors, metering will be essential for efficiency. When the time arrives, it will not be easy for the regulatory authority to introduce a new pricing system and charge for what was once free. Historical inertia is only one factor that works to prevent commissions from requiring prices that reflect incremental cost and are consistent with the efficiency criteria.

The three criteria of adequacy, fairness, and efficiency are not easy to achieve in practice. As we have argued, political and educational problems prevent commissions from requiring changes that make the most economic sense. Commissions are forced to approve price structures that reflect compromises.

#### EXISTING ELECTRIC PRICE STRUCTURE

The structure that now dominates residential electricity pricing in the United States is a practical compromise that reflects prevailing conditions that existed between the two world wars and continued into the 1960's. Consolidated Edison's rate structure for residential and religious service is typical:

	<i>Cents per [kilowatt- hour]</i>
First 10 kWh.....	3.12
Next 990 kWh.....	4.97
Over 1,000 kWh.....	4.58

Under prevailing conditions of the period, structures of this sort were not totally inconsistent with the criteria outlined above and were generally acceptable to utilities, regulators and customers as well.

In a world where continually expanding operations lead to lower unit costs and where technological advances are reducing unit costs at every level of operation, it made perfect sense to price electricity in a manner to promote its use. Expanding use meant capital intensive plant expansion, with the associated reduction in costs, while revenues increased. New investment opportunities justified profit growth and resulted in a more than adequate rate of return.

The clearest evidence that this was a happy circumstance for utility stockholders was the level of stock price. In the early 1960's electric utility stocks generally sold at more than twice book value.

Even with stockholders enjoying exceptional returns, rate payers found no obvious reason to protest. With the entire price structure falling absolutely and even more dramatically relative to the price of other goods and services and with expanded consumption of electricity by each household placing a larger percentage of consumption in the lowest priced final block, customers viewed electricity as a bargain. If fairness was considered, arguments for the equity of the system were available. The costs associated with just being a customer of the system, metering, accounting, and connection, did not vary with the amount of consumption and were reasonably recovered in the first block of service. Since there were fewer applications of electricity than there are today, monthly kilowatt hour consumption was a good predictor of a customer's pattern of use. Larger users spread their volume over many hours and thus used the high cost plant more intensively. This behavioral characteristic was further justification

for reducing the price per kilowatt hour with increasing volume. In its time, the declining block price structure was not a source of customer dissatisfaction.

Because the rate structure satisfied both utility companies and their customers, it also appealed to regulators. There was none of the unpleasant friction that develops when one or another of the parties to regulation is unhappy. Rate cases were infrequent, making leisure an additional reward for service as a commissioner. Appointments to a commission were riskless rewards a governor could provide without fear of subsequent embarrassment. Careful scrutiny by legislators was unlikely. Expanding electric utility operations meant greater prestige and power for regulators and increased the opportunity, as well as the likelihood, of employment in the industry when the term as commissioner ended.

With all parties satisfied, prices declining, quality improving, and new uses of electricity appearing, it is no wonder that the electric utility industry was a source of pride for Americans until the middle 1960's.

#### CURRENT PROBLEMS

In spite of the euphoria, the existing declining block rate structure for residential customers does not and never did fully satisfy the three criteria.

It does not assure adequacy. Because prices charged for services are not determined by the cost of providing them, a contraction in sales or change in hourly use patterns may cause revenue to drop by more than costs. The result is an inadequate return to equity capital. Electric utilities experienced this problem when customers responded to the energy crisis. Conservation meant fewer kilowatt hour sales and less revenue. However, costs fell less than in proportion to the fall in revenue, leading to a revenue deficiency and pressure to petition for higher rates.

It is not fair. Since typical rate structure do not follow costs closely as to time and place of use, consumption at costly times and places tends to be underpriced relative to consumption at less costly times and places. Thus, some customers require service that is expensive and pay as if it cost much less to provide, while others demand service that costs much less than the price they are asked to pay. This situation amounts to one customer subsidizing another and is grossly unfair.

Information on the hourly use of two residential customers suggests how unfair the system may be. The first customer used 3344 KWH during the year and paid a bill of \$116.97. The second customer used 3292 KWH and paid \$115.69. This appears to be fair since the customer who used more kilowatt hours paid more. It is not because the first customer's usage was concentrated in hours when the system was at peak use; while the second customer demanded very little during peak periods. The first customer's use pattern burdened the system with a 5.66 KW capacity requirement, while the second customer burden was only 1.93 KW. Because capacity is much more expensive than energy, the cost to the electric utility of serving the first customer is more than twice that of serving the second customer. A rate structure that charges both customers approximately the same amount is clearly unfair.

It is also inefficient. Inequity resulted from failure of rates to reflect differences in cost to the utility for supplying electricity in different hours of the year. The same defect in rate structure encourages the waste of resources. Suppose a residential customer has three appliances, each requiring two kilowatts, that run for an hour. Since he is only billed for kilowatt hour use, no matter when it occurs, there is no difference in his bill if all three are run at once, placing a load of six KW on the system, or turned on sequentially placing a maximum load of only two KW on the system. However, the resources that the utility must have available obviously cost much more if the customer draws six KW rather than two KW during peak periods. A price structure that fails to communicate this to customers encourages inefficiency.

These inadequacies were small and difficult to correct in the past and, because of that, they were acceptable. But conditions have changed. The change is significant for the utilities. Industry expansion has now realized all the savings to be found in larger, more efficient generation units. Inflation has made new capacity more expensive than capacity in place. Technology has ceased to provide advances that compensate for inflation and has begun to make the peak production load particularly costly. The oil embargo and forced exploitation of expensive alternative energy sources has increased the price of fuel. Demands on security markets and the wariness of investors have raised rates on new financing. Population growth and affluence have created concern for the environment and placed

constraints on utility operations. Under these conditions, a rate structure that encourages unnecessary construction of capacity and that wastes available capacity may no longer be appropriate.

The change in consumer conditions are not so obvious and dramatic but are equally important. When the current declining block structure was introduced more than a half century ago, residential customers had a very limited set of appliances and electricity applications to consider. The opportunities to differ in ways of using electricity were small, and total electricity consumption provided a valid estimate of the pattern and timing of a customer's demand for electricity. Alternatives for deferring, storing or interrupting electricity use simply did not exist for residential customers, and, as a result, any metering and educational costs incurred to permit peak load pricing would have been pointless. Now electricity consumption in the average home is many times larger, a great variety of appliances are available, heating and cooling are both done electrically, and residential customers vary greatly in how and when they use electricity.

Total volume no longer indicates the pattern of a customer's demand. Uses, such as running a dryer or cleaning a stove can be deferred easily, heat can be stored effectively as Europeans discovered, and freezers, hot water heaters and other devices can be interrupted by an attached timer or remotely originated signal. In today's world, the continuing use of a declining block rate structure is not only unfair to off peak customers who provide a subsidy but also is inconsistent with the cost saving opportunities to control timing of use already available.

The currently common declining block rate structure was introduced a long time ago. A great deal has changed. In recent years the changes have been particularly significant. It is not surprising that a rate structure conceived to fit conditions that have changed, however well it worked in its time, should no longer make sense. But is there a better structure?

#### A BETTER STRUCTURE

An appropriate rate structure now must recognize that cost differs among hours of the year as well as with customer use characteristics. A peak load pricing structure based on incremental cost does this. It comes very close to satisfying completely the three essential criteria of rate design. Recognizing the varied nature of electricity use, the structure would provide a variety of billing and use options, enabling a customer to minimize his bill given his use characteristics and his own sense of what is important.

One option in the structure would charge more for use during peak periods than off peak periods. This option requires time of day metering and would suit large users who have the opportunity to control time of use. This structure, new to residential electricity, is not uncommon. Long distance telephone service, for example, is available at a discount during hours when phone lines are not being fully utilized.

A second alternative in the peak load pricing structure would be deferrable service. It would allow customers to reduce their bills by investing in equipment to defer part of their load to off-peak periods. Like the oil user who chooses to install a large storage tank to take advantage of low summer prices, the customer of electric utilities should have the option of investing in storage devices for water or space heating that build up energy in low cost periods and later discharge it. Electric utilities now provide this option to customers only for water heating and often not even for that. Instead they defer use within their own operating system by doing things such as building units that pump water into reservoirs and run it out for energy on peak. Given the chance, customers may be able to defer use more efficiently than can utilities themselves.

A third element of the structure would suit customers for which the cost of curtailment is not high. That element is an interruptible service contract. In this option, already available from some electric utilities, the customer would serve as a reserve for the system and other customers by giving up autonomy of use in exchange for a lower price. In the same manner as the student who was able to buy an airline ticket on an "as available" basis at a reduction in price, the interruptible service customer would receive a substantial discount by agreeing to be bumped off the system.

The options, while not exhaustive, illustrate the peak load pricing structure. The structure provides customers the opportunity to get off the electricity price

escalator by sending them proper signals on costs. Unlike the situation that exists with present rate structures, customers will know that the cost of service depends on the time they call for it. This is the information they need to choose appliances wisely and plan their use effectively. This structure not only offers fairness, efficiency and adequacy, but also provides more freedom of choice and more opportunity for innovation to users than has ever been available from the regulated electric utility industry.

#### CHANGING TO THE NEW STRUCTURE

A basic change in residential rate structure cannot be made without some problems of transition and some opposition from utilities and commissions; but it will occur because the conditions under which electricity is produced and used require it. Change has occurred before. The present, declining block structure was a change from earlier structures that imputed use and charges from fixtures and footage wired. Change is occurring now. A number of states already have seasonal differentials, and Vermont has an optional hourly peak load rate for some residential customers. The customers who have tried that rate have made changes in their consumption patterns and seem pleased with their savings.<sup>4</sup> Other Vermont customers are pressing to have the peak load option made available generally. The pressure for change may still be small, but it is being felt.

There is no reason to delay the discard of the current structure. There is good reason to control the transition to the new one. Although a peak load pricing system, once in place, will do a better job of assuring that revenues adequately cover costs, the shift from the old to the new system will make initial revenue forecasts very uncertain. The transition plan can and should provide for adjustments that guarantee utilities their required revenues during the learning period. This insurance commits customers as a group to pay no more than under the old structure and protects utility stockholders against a risk they could not have anticipated. There are peak period customers who are being highly subsidized now. Their bills would jump by a very large amount if they were to bear the fair share of cost that peak load pricing would assign them. In transition the increase should be in steps so that peak users have a warning and opportunity to change their electricity use patterns. Meters, storage units and other devices that go with peak load pricing are expensive (an installed meter distinguishing peak and off peak use would cost \$50 to \$200), although much less expensive relative to the cost of electricity than was the case even five years ago.

In transition, and probably beyond transition, the option to have these devices for measurement and control should be the customer's. This would place the cost of transition on those who benefit most and make change a matter of personal initiative.

Transition can be managed efficiently, but there is opposition to change. Some opposition is simply inertia and nostalgia for a pleasant era of electric utility regulation that is now over. Much of it is associated with the concerns utilities and commissioners have for their own self interest. Customers who benefit are unlikely to speak up, while those who were subsidized and will be hurt are certain to complain. This is attractive neither to utilities nor commissions. Peak load pricing not only means complaints to commissions but also less flexibility for them. With a clear incremental cost standard as the basis for pricing, it will be much more difficult to respond to political and social pressures in distributing the revenue burden among and within classes of customers. For the utility the change is a step into the unknown that invalidates old rules of thumb and may embarrass managers stronger in institutional lore than analytic understanding. More than that, it is a step to slower growth in capacity and a smaller, although more certain and equally adequate, total dollar return to stockholders.

In spite of opposition a change in the structure of electric utility rates is in progress. Unlike so many changes that have taken place recently in energy areas, this one is clearly a change for the better.

Senator DURKIN, Mr. Malcolm Taylor.

<sup>4</sup> *New York Sunday Times*, Business Section, June 29, 1975.

**STATEMENT OF MALCOLM TAYLOR, VICE CHAIRMAN OF THE  
LEGISLATIVE UTILITIES CONSUMERS COUNCIL**

Mr. TAYLOR. I'm Malcolm Taylor, vice chairman of the Legislative Utility Consumers Council trying to take a somewhat different tack here. We have heard much about rate structures, capital investments, fuel adjustments, and company management. But I have this thing about communications between the groups, organization, and agencies involved, both State and Federal, who are trying to get a handle on electric rates. I'm a little bothered by the sudden proliferation of agencies, at least here in State government.

The Legislative Utility Consumers Council was created in the last special session. Senate Bill 44 was hotly contested. It was supported by Mrs. Anderson from Voice, Common Cause, New Hampshire Legal Assistance, and numerous other citizen organizations which came forward. It was the only piece of legislation of the many vetoed by Governor Thompson, that was overridden. I think this speaks to the fact that public furor and frustration was at a point where the members of the house and senate were just able to do anything but override the veto.

The legislation passed and the council was set up consisting of four members of the State senate, four members of the house, with a \$40,000 appropriation to hire a consumer advocate. We are in the process of hiring this person.

The council is charged by RSA 363 (c) :8 to conduct or contract for studies, surveys, research, or expert testimony in all matters affecting utilities and consumers interests. The council is also mandated to concern itself with the promotion of consumer education.

Third, the council must concern itself with petitioning for, initiating, appearing, or intervening in any proceeding before any board, commission, agency, court, or regulatory body in which the interests of the utility consumers are involved, and to represent the interests of that consumer. You can see that the council is charged with a consumer bias.

There are other groups and agencies ahead of us on this and we hope to catch up. With a full-time consumer advocate and other support staff, as much as you can buy for \$40,000, we will try to serve out our mandate.

One other thing the council can do is to receive grants for furthering its end. This may be an area where the Federal Government can assist. Are there grants through FEA, ERDA, and other energy organizations? There are, of course, other foundations as well. We would be open to any grants that may be available and request your assistance in this matter.

The council doesn't need the approval of Governor and council to receive Federal grants so we may have greater latitude in this area. The legislative branch is getting into energy and consumer protection mainly because of the pressure being brought by our constituents.

Senator DURKIN. Whose function is it to appoint the consumer advocate?

Mr. TAYLOR. The consumer advocate is hired by the eight members of the council.

As I said earlier, I'm a little concerned about the proliferation of agencies, committees, and councils which are getting into this sort of thing. The Governor's Council on Energy has recently been charged with the carrying out of the Energy Policy and Conservation Act which the Congress passed last winter. That council is in the process of preparing an energy conservation plan for New Hampshire. Roger Aubin is in charge of that task. He is on schedule, having just received the guidelines from FEA.

Aside from that fact, we have a number of other committees and commissions working on energy. I don't know if the Federal Government through the Congress could help organize or at least be a clearinghouse for much of the information that these groups are in search of. An expansion of the ERDA functions, if you will.

In New Hampshire there is a standing committee on energy and consumer affairs of the senate. Then we have a thing called the Committee To Study Restructuring of the Public Utilities Commission. Senator Alan Rock of Nashua is chairman of that. Then there is the Electrical Energy Review Committee. Some of its members may have already testified here today. Next there is the New Hampshire Governor's Council on Energy as we switch to the executive branch. There is a group called Voice. There is a group called the Citizens Utility Conference. There is an organization called Project Listen. Finally, there is the New Hampshire Voice of Energy.

Within the last few days I received a letter from the American Association of University Women and they are setting up a committee. We have heard from the League of Women Voters. If I scratched my head hard enough I could think of a half dozen more organizations. I'm concerned that there is no pulling together of all of this effort and talent. I think we may be more devoted to creating energy committees rather than getting at the real problem. This is a continuing concern I have.

Senator DURKIN. I share your concern. That is why we are trying to do this now when Congress is out of session. Hopefully if there is a congressional role, we will be prepared to move in that direction when the Congress begins to unfold in February or March. We hope to move consistent with the philosophy that the lowest level of government that can get the job done should be the highest one to get the responsibility. To the extent you can accomplish it here in the legislative level in the State legislature. I think everyone is better served by having what can be done here, done here.

Mr. TAYLOR. The public is sometimes lulled into thinking the job is being adequately taken care of because there are all these committees and commissions. But we mustn't be lulled into thinking that all of these committees are getting things done.

Senator DURKIN. My mother said if two people have responsibility, both people think the other is doing it and no one gets it done.

Mr. TAYLOR. We would like to keep in touch with the Federal agencies, including the Congress, especially the subcommittees concerned with energy and electric utility rates.

Senator DURKIN. There are many reasons why we have the highest rates in New England. We have to get to the bottom of it. We will

leave the record open and if you want feel free to contact my office or the committee if there is anything you need.

Paul Ryan has expressed frustration with his efforts to get more information from the oil industry. But if we can help please don't hesitate to contact either the Commerce Committee or my office. We will do our best.

Mr. TAYLOR. Fine.

Senator DURKIN. Even though we are having trouble getting Public Service and the PUC to show their heads in the room, we will try to help you if we can help you. Thank you.

Mr. TAYLOR. Thank you.

[The following information was subsequently received for the record:]

COMMITTEE TO STUDY RESTRUCTURING OF THE PUBLIC UTILITIES COMMISSION

(Chapter 368, Laws of 1975)

Senator D. Alan Rock, 25 Woodland Drive, Nashua, N.H. 03060 (R xxxxxxxx),  
(B xxxxxxxx).

Senator Thomas J. Claveau, 117 Highland St., Hudson, N.H. 03051 (R xxxxx  
xxxx), (B xxxxxxxx).

Senator James A. Saggiotes, 23 Summit Road, Newport, N.H. 03773 (R xxxxx  
xxxx), (B xxxxxxxx).

Roy Parsons<sup>1</sup> RFD 2, Concord, N.H. 03301 (R xxxxxxxx).

Charles F. Zell<sup>1</sup> 5 Driftwood Road, Derry, N.H. 03038 (R xxxxxxxx).

Representative Peter E. Ramsey, 31 Dunbar St., Keene, N.H. 03431 (R xxxxx  
xxxx).

Representative Michael R. Cornelius, 44 Lebanon St., Hanover, N.H. 03755  
(R xxxxx).

Representative James F. Hollard, 62 New Searles Road, Nashua, N.H. 03060  
(R xxxxxxxx).

Arthur P. Ferlan<sup>1</sup> 6 Glendale Drive, Nashua, N.H. 03060 (R xxxxxxxx).

PURPOSE

To investigate the feasibility of restructuring the Public Utilities Commission in order to make it more responsive to the public including a look at the commission's responsibilities relating to meeting the state's energy needs, available energy resources and the possibility of electing commission members. Final report due on January 31, 1977. Five-hundred dollars was appropriated to carry out this mandate.

ELECTRICAL ENERGY REVIEW COMMITTEE

(Chapter 408, Laws of 1975)

Senator Delbert F. Downing, Chairman, 112 North Policy St., Salem, N.H.  
(xxxxxxx).

Representative Nancy J. Proctor, 187 North St., Keene, N.H. 03431 (xxxxxxx).

Representative Leonard A. Smith, 3 Leslie St., Hudson, N.H. 03051 (xxxxxxx).

Stanley Clark, Public Service Co. of N.H., 1000 Elm St., Manchester, N.H. 03105  
(xxxxxxx).

Richard L. Mills, Assoc. Prof., University of New Hampshire, McConnell Hall  
407, Durham, N.H. 03824 (xxxxxxx).

Professor Joseph Ermenc, Dartmouth College, Hanover, N.H. 03755 (xxxxxxx).

Mrs. Natalie Brown, RFD 2, Concord, N.H. 03301 (xxxxxxx).

John Pillsbury, President, N.H. Electric Co-Op Inc., Tenney Mountain Highway,  
West Plymouth, N.H. 03264 (xxxxxxx).

Dort S. Bigg, Attorney, Wiggin & Nourie, 875 Elm St., Manchester, N.H. 03101  
(xxxxxxx).

David Gosselin, Wheelabrator-Frye Inc., Towle Farm Road, Hampton, N.H.  
03842 (xxxxxxx).

<sup>1</sup> Appointed by Governor and Council.

## PURPOSE

To examine electrical production and pricing policies in New Hampshire and the NEPOOL area. To review the projected needs, to examine the feasibility of fuller use of regional and national grid systems, to reexamine the rate structures with a view to helping the small consumer and helping to level off peak demands. To examine the laws and regulations relative to public utilities. Membership of the committee shall be comprised of a macro-economist, one engineer or technologist, a member appointed by Public Service Company, one appointed by the president of N.H. Electric Cooperative, two Senators, two state representatives, two by the Governor and one consumer representative appointed by the committee.

## V.O.I.C.E. (VOLUNTEERS ORGANIZED IN COMMUNITY EDUCATION)

Lorraine Sakowicz, Director Tacy House, Shattuck St., Nashua, N.H. 03060.  
 Pauline Anderson, Energy Project Director, 177 Main St., Nashua, N.H. 03060,  
 Tel. : [REDACTED]  
 Citizens' Utility Conference, Jeff Brummer, 83 Hanover St., Manchester, N.H. 03101, Tel. : [REDACTED]  
 Project L.I.S.T.E.N. (Lebanon In Service To Each Neighbor), Marcia Boutin, Box 469, Lebanon, N.H. 03766.  
 New Hampshire Voice of Energy, 740 Howe St., Manchester, N.H. 03103.

## NEW HAMPSHIRE SENATE COMMITTEE ON ENERGY AND CONSUMER AFFAIRS

Senator Robert F. Bossie, Chairman, 188 Oneida Street, Manchester, N.H. 03102, (R [REDACTED]), (B [REDACTED]).  
 Senator Thomas J. Claveau, 117 Highland St., Hudson, N.H. 03051 (R [REDACTED] [REDACTED]), (B [REDACTED] [REDACTED]).  
 Senator James A. Saggiotes, Vice Chairman, 23 Summit Road, Newport, N.H. 03773 (R [REDACTED] [REDACTED]), (B [REDACTED] [REDACTED]).  
 Senator Robert Fennelly, 10 Portland Ave., Dover, N.H. 03820 (R [REDACTED] [REDACTED]), (B [REDACTED] [REDACTED]).  
 Senator Alf E. Jacobson, Box 188, New London, N.H. 03257 (R [REDACTED] [REDACTED]), (B 526-2010 Ext. 339).

## PURPOSE

To hear and evaluate legislation pertaining to energy and related consumer affairs.

## THE NEW HAMPSHIRE GOVERNOR'S COUNCIL ON ENERGY

(Established Pursuant to Executive Order 73-12)<sup>1</sup>

Toll Free: 1-800-562-1115/1116

Hon. Lane Dwinell, Chairman, Home: 94 Bank St. [REDACTED]; Office: 20 West Park St. (448-4410), Lebanon, N.H. 03766.

Marshall Cobleigh, Executive Vice-Chairman, Home: 42 Sherri-Ann Ave., Nashua, N.H. 03060 [REDACTED]; Office: 3 Capitol St., Room 302, Concord, N.H. 03301 (271-2711/2712/2713).

Stacy Cole, Vice Chairman, Home: Red Crow Farm, West Swanzey, N.H. 03469 [REDACTED]; Office: 23 School St., Concord, N.H. 03301 (224-4097).

Mrs. Roger Barnes, Sanborn Road., Hampton Falls, N.H. 03844 [REDACTED].  
 Richard Boyd, Home: Spring St. [REDACTED]; Office: Main St. (746-4151) Contoocook, N.H. 03229

Catherine "Pat" Caouette, Maple St., Contoocook, N.H. 03229 [REDACTED].

Hon. Howard C. Dickinson, Jr., P.O. Box 162, Center Conway, N.H. 03813 [REDACTED].

Philip Robertson, West Side Road, North Conway, N.H. 03860 [REDACTED].

<sup>1</sup> Whereas there is an energy crisis facing the United States with a shortage of fuel oil, gasoline and natural gas, which is bringing on a need to inventory the energy sources of the state; and because there is an urgent necessity to develop consumer programs for the conservation of all sources of energy; and whereas there is no foreseeable long-range solution to the energy crisis except through the production of new sources of energy such as oil refineries, nuclear power plants, (sic), etc., Governor Thomson, Jr., establishes a Council on Energy to use the talents of the private and public sectors to develop proposals and programs regarding distribution and consumption of energy, to make funds available, engage an executive director and supporting personnel and appoint a council all to serve at the Governor's pleasure.

(Authority: Part Second, Article 41, Constitution of New Hampshire.)

Hon. Philip D. Moran, 103 Winchester St., Keene, N.H. 03431 (XXXXXXX).  
 Henry Powers, President, Office: Sprague & Son Co., 125 High St., Boston, Mass. 02110 (617-542-7807); Home: 845 South St., Portsmouth, N.H. 03801 (XXXX XXXXXXXX).

Malcolm J. Stevenson, Commissioner, Office: Public Utilities Commission, 26 Pleasant St., Concord, N.H. 03301 (271-2442); Home: Box 352, Bethlehem, N.H. 03574.

Hon. Dennis Sullivan, Mayor, Office: City Hall (883-3341); Home: 12 Gillis St. (XXXXXXX), Nashua, N.H. 03060.

John H. Sununu, Office: Tufts University, Medford, Me. 02155 (617-623-3130 Ext. 268); Home: 24 Samoset Drive, Salem, N.H. 03079 (XXXXXXX).

William Tallman, President, Office: Public Service Company of New Hampshire, 1000 Elm St., Manchester, N.H. 03105 (669-4000); Home: 4 Ministerial Road, Bedford, N.H. 03102 (XXXXXXX).

Office: 3 Capitol Street, Concord, N.H. 03301.

Staff: Peter Weeks—Allocations; Phillip Weymouth—Research; David Rines—Conservation; Judy Stahl—Public Education; Norman Vandernoot—Car and Van Pooling.

#### N.H. LEGISLATIVE UTILITY CONSUMERS COUNCIL (SB 44)

Representative Leonard A. Smith, 3 Leslie St., Hudson, N.H. 03051, (XXXXXXX).

Representative Leo E. Lessard, 61 Old Madbury Lane Apts., Dover, N.H. 03820, (XXXXXXX).

Representative John B. Morgan, 11 High St., Box 237, Peterborough, N.H. 03458, (XXXXXXX).

Representative Malcolm "Tink" Taylor, Holderness, N.H. 03245, (XXXXXXX) (nights), (XXXXXXX) (days).

Senator Robert F. Bossie, 188 Oneida St., Manchester, N.H. 03102, (XXXXXXX) (Residence), (XXXXXXX) (Business).

Senator Clesson J. Blaisdell, 72 Ridgewood Ave., Keene, N.H. 03431, (XXXXXXX) (Residence), (XXXXXXX) (Business).

Senator D. Alan Rock, 25 Woodland Drive, Nashua, N.H. 03060, (XXXXXXX) (Residence), (XXXXXXX) (Business).

Senator Ward B. Brown, Box 404, East Hampstead, N.H. 03826, (XXXXXXX) (Residence).

Senator DURKIN. Is there anyone else?

#### STATEMENT OF SAMUEL HAYS, CONCORD, N.H.

Mr. HAYS. Samuel Hays of Concord, N.H. I want to talk about the Connecticut Valley Electric System. They had an offpeak system which was good for us for heating hot water. I tried to let them—the meter was hooked up so that it cut off electricity. No one could use it during the peak hours. I tried to get my electric clothes drier hooked up to it, no way. Tried to get the washing machine hooked up to it, no way. These were my two big electric users. I think that opens up one way that we can keep the price of electricity down to the consumer.

Another thing that irked me with the Connecticut Valley Electric System was that I built a law office there, a remodeled beautiful old blacksmith shop. I insulated that thing to the maximum and hooked up electric heat to it. It kept me warm. It was a capital savings of \$800 for the electric and maybe \$3,000-\$4,000 for oil. However, like most lawyers, if my clients did things that I did I would be irked with them. The minimum rate for my electricity was set once a year by the 15 minutes of greatest use. That was on the 30-degree-below-zero mornings.

My secretary, a nice girl from Lyme Center, would come to work at 7. She would come to work and hit the thermostat controls. I'm sure that meter rocked itself off the wall. Except I didn't know way

back in the fine part of my contract was just a little agreement, that my minimum rate would be set by the peak period of use, of any 15-minute period during the 13 preceding months. I thought I would get even with them with my high bills because in the summer I have two electric typewriters for two secretaries, one copying machine and one adding machine plus the lights.

My minimum rate during June, July, August, and September was way up there.

Senator DURKIN. It's like a fire insurance contract. No one reads it until the firetruck leaves. Do you still have that?

Mr. HAYS. I sold the place. I presume the fellow who bought it still has it. As someone said, those provisions and options should have been spelled out. I should not have had to ask. It should have been put in great big letters an inch high about how my minimum rate was determined and what I could do about it.

Senator DURKIN. The whole rating structure has not been subjected to much change since the days of the Salem witch trials. Now we are facing accumulated delays of altogether too many years compounded by a Public Utilities Commission which, according to the record compiled today, is totally insensitive, if not totally deaf, to the real concerns of the average ratepayer.

Mr. HAYS. I asked the Connecticut Valley Electric Co. to give me a rationale of the basis for my July and August rates being determined by the coldest day in January. The fellow I talked to didn't know and I haven't found a good explanation yet.

Senator DURKIN. If you are selling it that is not a bad business.

Mr. HAYS. Mr. John Parmi has a great complaint against Connecticut Valley Electric Co.

Senator DURKIN. How do you spell that?

Mr. HAYS. P-a-r-m-i. I have talked to Greg about it and he will hopefully send someone up to talk with John. He can't get down here because of a physical disability. Hopefully somebody can talk to him or listen to his complaint.

Senator DURKIN. He can call us on the hotline. Here's the number.

Mr. HAYS. Lyme was near two utilities but served over Plymouth. You didn't have your option as to which utility you could join. You had to take the one in New Hampshire or the one over the mountains.

Senator DURKIN. Thank you, Sam.

Mr. HAYS. Thank you.

#### STATEMENT OF KEVIN HOPKINS

Mr. HOPKINS. My name is Kevin Hopkins and I live in Loudon. I am speaking as a consumer and worker. I work in the printing business. I am speaking as somebody who had a direct experience with Public Service Co. in that I got thrown in jail for a week for taking part in an antinuclear demonstration.

But realizing you don't want to get into the issue of whether or not the nuclear plant should be built, I have some other observations.

Senator DURKIN. It's just that the committee has no jurisdiction. That is presently before the NRC and in the Federal court.

I spoke out on lack of bail and the excessive sentence.

Mr. HOPKINS. I appreciate the statement you made. One of the things we are talking about is the collusion between Public Service Co. and the Government. That came out very strongly in the trial.

Under direct testimony, you could see that during the whole event of August 22, which had John Harris from Public Service Co. on the stand and it was just very clear—

Senator DURKIN. I am afraid if we start taking testimony regarding that trial, we are exceeding the scope of the Commerce Committee. Even though I realize it's something that is of major concern to you and you have had a very significant experience as a result of your belief, I don't want to seem insensitive. But that is not the scope of this hearing.

Mr. HOPKINS. There are some things that affect the rates that have come to my attention. Any New Hampshire high school student can tell you that Public Service Co. provides a lot of films and presumably from the rate paid by the consumers' pocket. They are pretty biased films politically.

I suppose you can say they are providing an educational service but you have to kind of go deeper than that. I kind of get tired of when my electric bill comes, all sorts of other printed material comes in explaining why they are ripping us off more. We are paying for that printed material.

Senator DURKIN. Whatever they call it, lifelines, lightliness, somebody has to pay to print that propaganda. The ratepayer pays in the long run. That is my experience. If I want to pay for information on electric rates, I would just as soon directly pay my own money rather than paying for advertising that comes through the mail in the electric bill.

Most States limit the advertising to energy conservation measures. NHPUC ought to be more aggressive in restricting the advertising to conservation measures.

Mr. HOPKINS. Another thing, I have been trying to think of what can be done on the Federal level because I think from my standpoint, a lot of it has to do with control and direct control by the people, making these commissions more responsive for one thing.

On a smaller scale, why not hold the hearings in the evening when more working people can come to them. Also—

Senator DURKIN. We tried that at the insurance department. Tried holding them on Saturdays too. Unfortunately not many more people came.

Mr. HOPKINS. I appreciate that. It's just the only times I have been able to make a hearing is when I am in between jobs or I have the afternoon off or something.

Senator DURKIN. I know it's a real problem.

Mr. HOPKINS. One avenue we have to get back into is hydroelectric power and why did Public Service Co. shut down something like 23 hydroplants. Why can't municipal governments take over those hydroplants? I think there is also a nice connection between alternative technology, like solar, wind, and water power, and jobs.

I think those are very labor intensive industries as compared to a fuel-burning plant or say nuclear plant. I am wondering if—I haven't heard any Senator or any politician who is against alternative tech-

nology. But I would like to see some kind of programs on the Federal level where the small businessman who is experimenting with these technologies is encouraged and programs alternative technology is being reserved, where you can create jobs too.

Senator DURKIN. Tom McIntyre was the prime mover in legislation which was adopted on alternative energy. He indicated that the solar energy and some of the alternative technology, 40 percent of it should go to small business in an effort to get more imagination and innovation in the alternative energies area.

Less than 2 percent of the ERDA budget has gone to solar. It is interesting to see that France, which has heretofore gone along the conventional route, is moving to solar. I think part of the problem in this country is that the oil industry owns coal, oil, uranium resources in this country.

We have to face up to that. Right now, I think the oil companies are winning and the consumer is losing.

Mr. HOPKINS. But they can't buy the Sun. They can own a monopoly on the technology and stuff like that, but that is one of the things that is very encouraging about solar energy and wind energy.

Senator DURKIN. There are a lot of sources; wind, tides. Unfortunately we are not pursuing them.

Mr. HOPKINS. Another point I would like to bring up, I don't know what could be done on a Federal level with this, but you're probably very much aware that a lot of appliances today are designed to use more electricity. My brother is an electrician. He has a fan hooked up in his house. It's an old 1940 fan.

It uses about one-third the amount of electricity that these big window fans that you go down to J. M. Fields and buy. Also it puts out more power. There should be some kind of incentive.

Senator DURKIN. Federal legislation now requires products to be labeled. You have seen this year's air-conditioners have the energy efficiency rating. The Federal Government is moving in that direction. It's not without problems too.

Mr. HOPKINS. I guess as far as the Federal Government goes, we have a lot of work to do as far as trying to make some things a lot more responsive and investigating municipal power and public control, local control.

But, I think, it's really a problem or—it's not a problem but there is a consciousness, changing consciousness and it started with the fact that our electricity was getting a lot more expensive and we as consumers were just out of survival thinking of ways to conserve electricity.

I think people are doing that. But it's—

Senator DURKIN. It will be accelerated if we can make the rates reflect the costs.

Mr. HOPKINS. But I think that there has to be a move toward alternative technology, renewable sources, and something that is a lot more positive because a lot of what we are doing now is kind of draining. It's fighting. It's a hard fight. We are getting after public service in a lot of ways. But what gives a lot of inspiration is the fact that there is this new technology and I would like to see the Federal Government really get into it and not just do it in terms of subsidizing corporations to develop that.

There is a lot of ingenuity in New Hampshire alone. I know a lot of people who are tinkering around.

Senator DURKIN. There should be incentives for those people to continue.

Mr. HOPKINS. Those people are living hand to mouth. They are trying to develop something. They need encouragement. I would like to see some kind of innovative type of Federal thing happen.

Senator DURKIN. When you get to Federal intervention, the whole post office scenario looms up to cause second thoughts and nightmares.

We have to wrap it up for the night. I don't know what time they are going to throw us out. I do thank you for your patience and your interest.

We will leave the record open. As things come to mind if you want to jot them down and send them to us, we will include them in the record. I am sure you are familiar with the hotline. If there is something the office is doing, should be doing, is not doing, pick up the phone and give us a call.

Mr. HOPKINS. Thank you.

Senator DURKIN. We will stand adjourned until 9:30 tomorrow.

[Whereupon, at 5:30 p.m., the hearing was adjourned to reconvene at 9:30 a.m., October 8, 1976.]

There is a lot of ingenuity in New Hampshire alone. I know a lot of people who are entering around. Senator Durkin. There should be incentives for those people to continue.

Mr. Horvitz: Those people are living hand to mouth. They are trying to develop something. They need some money. I would like to see some kind of innovative type of Federal thing happen.

Senator Durkin: When you get to Federal universities, the whole post office scenario looks up to some second thoughts and might have. He has a wrap it up for the night. I don't know what that they are going to know as and I do thank you for your patience and your interest.

We will have the record open. As things come to mind if you want to let him down and send them to us, we will include them in the record. I am sure you are familiar with the bottle. If there is some thing the office is doing, should be doing, isn't doing, pick up the phone and give us a call.

Mr. Horvitz: Thank you.

Senator Durkin: We will stand adjourned until 3:30 tomorrow. [We adjourned at 2:30 pm. The hearing was adjourned to reconvene at 3:30 pm, October 2, 1970.]

## HIGH COST OF ELECTRICITY

FRIDAY, OCTOBER 8, 1976

UNITED STATES SENATE,  
COMMITTEE ON COMMERCE,  
*Concord, N.H.*

The committee met at 9:40 a.m. in the Concord Library, Concord, N.H., Hon. John A. Durkin, presiding.

### OPENING STATEMENT BY SENATOR DURKIN

Senator DURKIN. I think we should begin.

I should point out now that I am going to have to break about 11:15 and then we will come back at 2 o'clock. They are dedicating the new Federal building in Manchester today to Norris Cotton. I have to go to Manchester for the noon hour dedication ceremony.

I think those of you here realize why we are holding these hearings. As I said yesterday, it would appear that we are just beginning to scratch the top of the coal pile with respect to why New Hampshire has the highest electric rates in New England, why the New Hampshire electric rates are among the highest in the country, what the average citizen can do to rectify that situation, what the New Hampshire Legislature can do, what the council can do, what all of the State officials can do, what the Public Utilities Commission can do, what the public service company can do, and what the Federal Power Commission can do, if anything. What is the role of Congress?

What do we have to do to control or get a handle on electric rates? Is the problem in New Hampshire "sweetheart" dealing between some of the suppliers, whether it is coal suppliers or oil suppliers? Is it the fact that the Public Utilities Commission has been, putting this most charitably, unresponsive to the demands of the consumers? Is it the fact that the public service company has been given a blank check with the fuel adjustment surcharge and then exceeded the blank check?

Rates in 1974—the latest official figures—went up almost 53 percent in New Hampshire. We heard yesterday from people—from elderly citizens, from small business people, and from the business community. The record painted yesterday shows that the high cost of electricity is a concern that hits the entire economic spectrum in New Hampshire. It hits the business community, the small business community, the average citizen; it hits those on fixed incomes, it hits hardest those who can afford it the least.

Yesterday we had a couple of people from the Public Utilities Commission staff here. I would like to identify them for the record.

Mr. TRAUN. Kenneth Traun from the finance department.

Senator DURKIN. There were gentlemen here with you yesterday. Who were they?

Mr. TRAUN. In the morning, David Lessels and Gene Solomon in the afternoon.

Senator DURKIN. You haven't seen the commissioners around anywhere, have you?

Mr. TRAUN. No, sir.

Senator DURKIN. Is there a hearing today?

Mr. TRAUN. Not to the best of my knowledge.

Senator DURKIN. Public service company and the Public Utilities Commission are not meeting today, to the best of your knowledge?

Mr. TRAUN. Correct.

Senator DURKIN. Do you know when yesterday's meeting was scheduled?

Mr. TRAUN. Scheduled at 9 o'clock.

Senator DURKIN. Was it scheduled before or after we announced these hearings?

Mr. TRAUN. I don't know.

Senator DURKIN. I don't want to get you in trouble. I realize staff members who speak out are apt to be transferred to the northern part of the State.

I want the record to show that you did not volunteer that information, that I noticed you sitting in the back of the room and asked of my own initiative for you to answer. I hope it doesn't get you in trouble.

Is there anyone here from the Public Utilities Commission, anyone authorized to speak?

Anyone here today from the Public Service Co. incognito or otherwise?

You will have to pardon me, I sometimes interchange Public Utilities Commission with the Public Service Co. It is a normal difficulty with the titles but as the record unfolds, you will see in altogether too many instances, they have been interchangeable and that may be the reason we have the highest electric rates in New England. I would like to proceed at this time.

Again I would like to note for the record the monumental arrogance of the Public Utilities Commission and the monumental arrogance of the Public Service Co. in not attending today's hearing. As I said yesterday, I think it hastens the day that citizens are going to rise up. It hastens the day that Congress will legislate some backbone into the utility commissioners all across the country.

One brief aside. With some of the statements I have seen, and some of the statements made here yesterday, and reading the press accounts between the relationship between Sprague Oil and Public Service, I can see why they do not want to testify out in the open. I can see why they run closed meetings and I can see why they have exhibited a strong reluctance to appear and testify in open session.

I think there is a query here for the press. I'm amazed at what has happened to the right-to-know law.

Speaking of the Governor—is the Governor's watchdog on energy here today?

Let the record show the Governor's watchdog on energy is just as silent today as he was yesterday.

Senator DURKIN. Now, I would like to proceed.

Peter, would you start off? Introduce yourself for the record. The format is informal.

**STATEMENT OF PETER ESPIEFS, ATTORNEY AND MEMBER OF THE CITY COUNCIL, KEENE, N.H.**

Mr. ESPIEFS. I'm Peter Espiefs from Keene, N.H. I'm on the Keene City Council and I'm an attorney.

I have been making a "career" lately of looking into the fuel adjustment charge that has affected our city. As a result of various inquiries, and information that has come to me, the city of Keene is getting involved with the issue of the fuel adjustment charge.

And for the record, I would like to introduce to this committee, a resolution relating to the fuel adjustment charge passed by the city of Keene last night, to which is attached the petition of the city of Keene, N.H., intervening in the fuel adjustment charge hearings that are going to be held before the Public Utility Commission, starting next week. Without reading this, Senator, I will just give it to you as part of the record. It states substantially the entire position of the city of Keene and reflects its concerns and questions about the whole surcharge issue.

Mr. ESPIEFS. I have nothing further to say about that particular petition. I was authorized by the city council to present that to your committee this morning for your information.

Senator DURKIN. Thank you and it will be made part of the record.

I might add now that we will leave the record open for a substantial period of time.

Mr. ESPIEFS. I would like to say a few things about this whole thing, as a private citizen. I think the problem surrounding the surcharge has probably been pretty well aired before your committee. We know that the charge, as far as fuel prices is concerned, fuel prices have stabilized and there is a question as to whether or not there ought to be an automatic allowance for an increase in fuel costs. We know that the surcharges cause a loss of incentive on behalf of utility management in being efficient, being cost-conscious, being circumspect with respect to their fuel contracts and enforcement of those contracts.

We are aware in this State at least, that the Public Service Co. of New Hampshire is purchasing 85 percent of their fuel oil and coal needs from Conoco without bid. This is a very strange situation, especially in view of their advertisement, which appeared in the Keene Sentinel, in which they advertised to our community about the good job they were doing and how hard they were working to keep the cost of fuel down; and to keep the cost of electricity down. We have this ad, which appeared in the Keene Sentinel shortly after the question of the surcharge came before the Keene City Council. We have to pay for their advertising—this brainwashing—in our rates. This is another thing that disturbs us greatly, Senator. It seems that the more you fight the more you pay.

Senator DURKIN. They fight you with your money.

Mr. ESPIEFS. I wonder what kind of a Frankenstein we have created here and what the consequences are.

In the city of Keene, like every other community in New Hampshire, the taxpayers not only pay the surcharge for their own home use but they also pay the surcharge that the city pays for its use of electricity. That is in terms of higher taxes. In the city of Keene alone, we have an electricity budget of around \$100,000 a year. We have a population of 20,000 people. We pay on our largest electric accounts, from the period of July 1975 to the period of July 1976, \$20,000 on surcharge alone, which is approximately one-fourth of our electric bill. When you start paying one-fourth of your electric bill strictly on a pass-through basis, like the surcharge, I think it becomes a very serious problem.

Now, that the city of Keene is intervening, by the way, in this public utilities commission hearings, the city of Keene again is going to have to go to expense because we will have to have the city attorney there, we will have to file things and the city council will be concerned with what is going on and we will have to have business relating to this matter. This creates additional expense. Again, the taxpayers have to pay to fight a continually losing battle. We are at the point here where it seems we are fighting a war of attrition as to who can last the longest, and how far the public sector will have to sacrifice in order to square things away, in order to get disclosures on the things they are entitled to know. We have to have a greater emphasis on the right-to-know process so that the public will have access to information without going to great expense to get this information and the whole regulatory process has to be looked at from a completely new point of view.

The powerlessness of the taxpayer and ratepayer has become a national disgrace.

What are the answers to these things? I don't know. There are numerous answers. One of the problems is we have a monopolistic system. It supposedly is being regulated. The regulation not only has created the monopoly, but has guaranteed a profit to the monopoly interests that are involved. It protects them from the risks and misfortunes of competition. At the same time, it has become sort of a protective shield, which the monopoly can operate to the public detriment. We have at present an unresponsive regulatory scheme in New Hampshire. What regulation means in a practical sense to the people in New Hampshire is that the monopoly is not being regulated, but the public is being regulated to accept it.

Now, we have tremendous water resources in the Northeast. Historically, one of the great sources of power in the Northeast was hydroelectric power. Hydroelectric power has, more or less, been put to sleep, especially in the State of New Hampshire. We find that hydroelectric developments have been retired by the public utilities that exist in this State.

We think there should be some kind of State or Federal interest shown in this program. We think there could be a resurgence of hydroelectric power developments in the Northeast.

We think the Congress of the United States should look at the Passamaquoddy Project in northern Maine.

We think the Government should consider making funds available for municipalities and districts to have feasibility studies made that would encourage municipalities to go into the question of public power. Perhaps public power is something that we have to have. There has to be some kind of a competitive spur to the private utilities so that we can have a sensible rate structure. For instance, in the city of Keene we have considered a limited hydroelectric project but the city of Keene lacks the funds to conduct the feasibility study. These studies cost many thousands of dollars. The city of Keene isn't about to appropriate funds for that particular project because we are hard-pressed financially. But there should be funds available so municipalities can be encouraged to do something with the hydroelectric potential that they have.

As far as national energy policies are concerned, I don't think I'm qualified to speak on this. But I think there should be serious concern shown by the Congress in this area. Perhaps regional districts and areas could be considered. Perhaps we could have a regional or national hearing process before rate increases are allowed.

At the present time, all of the States have their own commissions and it becomes a chaotic situation with a fight for the consumer in every one of the States.

We should have consumer representatives on the Federal level. There should be a national energy policy and estimate what the demand for electricity is.

The question about the demand of electricity is a serious part of the whole process. We have to investigate the figures of the public utilities. They can tell us anything about demand. They have artificially stimulated demand and so forth. We have to have some kind of national thinking on this subject. And there should be, of course, as there presently is, considerable stress on conservation. That is about all of the remarks I have to make at this point.

SENATOR DURKIN. Thank you, Peter. The resolution of the Keene City Council will be submitted for the record.

I would say that this is the second municipality that has appeared.

As you may know, yesterday Nashua appeared.

It is encouraging to see that communities across the State are speaking out.

The tragedy is that the Public Utilities Commission has been so silent.

The record shows they won't let consumer groups participate. They won't let them have access to copies of the transcript except at exorbitant rates. It is a sorry record of locking out anyone who might ask a disturbing question. They will have trouble locking out the city of Nashua; trouble locking out the city of Keene. Hopefully, more cities and towns across the State will join in.

Some of that is because the Public Utilities Commission has not acted in the public interest and has not acted as an aggressive regulator. I hope more cities and more towns across the State will rise up and speak out as Keene and Nashua have.

FEA and ERDA should be providing money for studies, feasibility studies such as you have outlined in Keene.

Again, I think the record shows the only positive accomplishment of the FEA, since its creation, was the Energy Act.

Again, we run into the problem that it is dominated by the oil industry. The regional manager in Boston is a refugee of Exxon. Many people think Frank Zarb is Nixon's revenge on America.

The FPC in a recent study by the House Commerce Committee indicates that the FPC has the worst record of all the Federal regulatory agencies. As bad as the public utilities commission is, the record of the FPC is worse.

I don't know what the answer is, except more communities, more people, speaking out. Yesterday we urged Common Cause and the League of Women Voters to buttonhole the candidates for Senate seats and council seats to see what they are going to do about regulatory reform.

Right now, I don't know—maybe the CIA knows but outside the CIA and the Texas Railroad Commission, very few people in America know—what are the available sources of energy, especially oil and gas. We don't know whether the wells are capped. We don't know whether they are producing wells or dead wells. The Texas Railroad Commission won't give the information to the grand jury in New York. Maybe the CIA knows but it is an indictment of present policy that the Senate doesn't know and the House doesn't know. I doubt if the executive department knows.

I can only urge that Keene and those communities across the State will keep putting on the pressure.

Mr. ESPIEFS. Feasibility studies would not be limited to studying hydroelectric potential, but in areas where there isn't hydroelectric potential, they could determine whether or not it would be feasible for municipalities to establish their own electric systems and purchase power at wholesale rates. Power purchased at wholesale rates is regulated by the Federal Power Commission. As I understand it, there is no fuel surcharge allowed by the FPC, as there is by the local public utilities commissions.

Furthermore, the wholesale rate for the sale of electricity would be much lower to the communities. Of course, the stockholders' interest would be built in. It would probably result in a more efficient and better-managed electric system and bring the competition we need in order to get the private utilities in line.

I'm sorry to say the city of Keene has had to get involved in these things because it does reflect on the sad situation we have when cities have to stand up and say, "What are you doing to us, public utilities commission?"

Senator DURKIN. That is why it is so important that you join in this fight. We have seen municipalities in these 2 days of hearings come in and testify. Yesterday we had Mr. Hodges, a businessman and homebuilder. We have heard about the problems of unemployment in the construction trades.

In every article you pick up there is a comment on the fact that the housing industry is hurting. That causes ripples in the real estate market. I think the record is being clearly established that one of the major problems is the outrageously high cost of electricity in New Hampshire and New England. Seventy-three percent of your fuel

charge has been approved without any review—through the fuel adjustment surcharge without cross-examination, without tough questions being asked.

Yesterday Pauline Anderson was kind enough to give us the computation sheets. The PUC 48 hours ahead of time hands a sheet to the commission and they check the math. You don't need three commissioners to do that. You need a high school freshman with reasonable intelligence and a calculator and he can check the math.

It is a case where they are given a blank check, an unlimited expense account. They have exceeded it and we pick up the tab.

Mr. ESPIEFS. There are serious due process questions raised by the whole fuel adjustment clause procedure. First of all, the notice that is given isn't sufficient notice, as you pointed out, for there to be meaningful inquiry and investigation.

Second, the burden of proof shifts to the ratepayer. All the utility has to do is come in with their figures and they say, "This is what it costs us, bingo." If the figures add up, they give it to them.

The ratepayer has to say, "This is not a reasonable allowance." For the ratepayer to come in with this kind of burden is hopeless. The ratepayers don't have the economic power and resources to do this. It means it is a blanket gift to the utilities that they can come in and get this.

I think this seriously reflects on due process.

Senator DURKIN. You almost get a feeling that if an average citizen can guess accurately the weight of a pile of coal, wet or dry, then they are allowed to sit in the hearing but they are not allowed to meaningfully participate in a PUC hearing.

If you can't challenge the assumptions that go into the figures, you can't make a meaningful appearance.

Mr. ESPIEFS. Thank you, sir.

Senator DURKIN. Thank you, Peter.

I point out that the Congress is still wrestling with the Dickey-Lincoln Dam project. Hopefully that will offer some relief.

Nancy Proctor will testify next.

I would like to introduce Tim Nulty of the Commerce Committee staff.

And I would like to introduce part two of Karl Swanson's story, which appeared yesterday in the "Monitor" and I will leave the record open for today's chapter.

[The following information was subsequently received for the record:]

[From the Concord Monitor, Oct. 7, 1976]

FEA PROBES PSC-SPRAGUE OIL TIES

(By Karl Swanson)

The Federal Energy Administration is investigating what it considers a "questionable" relationship between the Public Service Co. of N.H. (PSC) and its major fuel oil supplier.

The utility's critics—including consumer groups and state officials—long have complained about "sweetheart" deals between the state's largest utility and C. H. Sprague and Sons of Boston.

In addition, officials of other utilities and firms competing with Sprague claim Sprague's contracts to supply oil to PSC have been negotiated under questionable circumstances.

The FEA in Washington is conducting an extensive audit of the business relationship between Sprague and its fuel customers.

And one FEA source said there is "a great deal of interest in the somewhat unique business relationship between Sprague and Public Service.

"We know that Sprague has overcharged Public Service by a considerable amount and we also know that Public Service isn't doing anything to rectify the situation."

PSC officials have been unwilling to talk about the audit, but say they are aware of it. They say they have not been notified of any conclusions, and that PSC always has negotiated the best possible contracts with oil suppliers.

An Associated Press study of Public Service records filed with the federal government, and contracts between the utility and Sprague has disclosed that PSC is paying top dollar for oil to power at least one of its generating stations.

While other users of No. 6 oil in the state are getting healthy discounts from their suppliers—and have been offered significant discounts by Sprague—PSC is paying a top price for oil supplied its Schiller plant at Portsmouth.

The FEA, sources said, believes overcharges are rampant in the business dealings between the two companies.

"Even our early investigations showed that this is a situation that Public Service should have been aware of and, in fact was aware of, but has done nothing about," an FEA source said.

"We're talking about a large sum of money and therefore, we must question why Public Service has made no attempt to clear this up themselves or come to FEA and let us do it for them."

FEA officials said they could not disclose the exact amount of the overcharges.

Aside from price and contract structures, officials said they are curious about circumstances surrounding the appearance last year of David N. Merrill, PSC vice president, in oil magazine ads promoting Sprague.

Merrill said he appeared in the ads as a "courtesy" to Sprague and got no financial benefit from the ads.

And the state Public Utilities Commission (PUC) is looking into accusations that the latest fuel contract for the Schiller station was back-dated.

Invitations to bid on the contract were issued Aug. 7, 1975, with the contract terms to begin Oct. 1, 1975. The three-year contract between Sprague and PSC is dated Nov. 1, 1975.

But sources in the oil industry and the PUC say they believe details of the contract may not have been worked out and signed until May, 1976.

Asked when the contract was signed, Merrill said only that it "was not signed before Nov. 1," that it sometimes takes several months for lawyers to agree on contract language.

An internal FEA memo stresses that the agency is interested in the contractual relationship and bidding procedures of the two companies.

"Information uncovered by Region One audit of (Sprague) has developed numerous points of questionable occurrences in the areas of purchasing and specifically bidding practices involving (Sprague) and Public Service Co. of New Hampshire," the memo states.

"While these possible irregularities may or may not be counter to or in violation of FEA regulations, they do appear to establish an atmosphere conducive to the prevalence of highly unusual business arrangements."

Critics of arrangements between the two companies also question the fact that contracts with Sprague allow it to store some of its oil in PSC tanks at the Schiller station.

That gives Sprague the benefit of extra storage tanks without having to build new tanks.

PSC also owns the docks at which Sprague unloads its oil from tankers arriving in New Hampshire via the Piscataqua River. Under terms of a contract signed about 1948—due to expire in 1988—Sprague pays PSC for the privilege of using the docks.

Sprague pays PSC a fixed fee each month if no fuel is unloaded, or one cent for each barrel of oil that crosses the dock.

Critics say PSC should increase the dock fees to a level commensurate with other East Coast ports, ranging from between 5 and more than 10 cents a barrel.

It should be noted, however, that the dock arrangements are beneficial to consumers. Any increase in the charge to Sprague undoubtedly would be passed on to fuel buyers and, eventually, to customers.

Another irregularity of concern to PUC officials is that at least on one work sheet supplied the commission, Public Service has provided inaccurate information.

The utility agreed to provide rough details of its Schiller fuel contract. The outline filed with the PUC listed the price at \$10.75 per barrel of No. 6 oil, with a standard price fluctuation arrangement based on the average of Exxon's and Sprague's base prices.

But the contract eventually signed by the two firms lists the price as an average of Sprague's base price and the New York harbor price of Asiatic Petroleum Corp.; plus seven cents per barrel.

Merrill said the terms were changed because the Exxon price was not listed in "Oil Buyers Guide," an industry magazine which posts many oil prices. The magazine often is used as a guide in contracts.

Merrill did not say why the PUC was given the incorrect terms of the contract.

#### CITY OF KEENE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

A resolution relating to fuel adjustment charge.

*Resolved* by the City Council of the City of Keene, as follows:

Whereas, the fuel adjustment charge on electric bills is a substantial burden on city government and the taxpayers of Keene; and

Whereas, there is considerable doubt about the criteria and equities upon which such charge is based, and as to whether such charge is justifiable at all; and

Whereas, on September 16, 1976, the City Council defeated a resolution calling for nonpayment of the charge but indicated its concern with the regulatory process in setting and allowing said charge; now, therefore,

In order to make the concerns of the City of Keene known and to obtain action thereon, the Council hereby directs the City Manager to have the City Attorney intervene in the hearings presently scheduled before the Public Utilities Commission by filing the attached Petition with said Commission as soon as possible.

GEORGE M. ROSSITER,  
*Mayor.*

Passed October 7, 1976.  
A true copy; attest:

FRANCES D. PITCHER,  
*City Clerk.*

#### THE STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Case No.

In the Matter of Public Service Company of New Hampshire

#### PETITION OF CITY OF KEENE, N.H.

Now comes the City of Keene, New Hampshire, and says as follows:

1. It is a municipal corporation in the State of New Hampshire, and is a major user of electricity furnished by Public Service Company of New Hampshire.

2. It has in the past and will in the future be required to pay substantial sums of money to the Public Service Company of New Hampshire if the Company is allowed to include in its billings a fuel adjustment charge for the use of electricity.

3. The fuel adjustment charge which has been allowed the Company by this Commission in the past is improper by reason of the following:

(a) Fuel prices have stabilized to the point where the charge should be eliminated as a surcharge and should be included in the Company's overall rate structure.

(b) The collection of the revenues accruing to the Company from the charge cannot be properly monitored by this Commission.

(c) The charge includes charges properly attributable to the cost of power purchased from other power sources, which costs themselves are not the proper subject of a fuel adjustment charge.

(d) Any increased costs of purchased power attributable to fuel costs of supplies other than the Company are not subject to monitoring by this Com-

mission, and are therefore improper allowances in the Company under the fuel adjustment charge.

(e) Certain costs of purchased power are attributable to maintenance problems of the Company, which costs should properly be eliminated or amortized over the life of the failed equipments.

(f) The base year utilized for computing the increased cost of fuel should be recomputed.

(g) The continued allowance of a fuel adjustment charge on a monthly basis solely on the strength of proof of compliance with the existing fuel adjustment charge model, which model is improper, serves as a disincentive to the Company to seek various economies or the elimination or reduction of the charge.

(h) The Commission does not monitor, on a monthly basis, the fuel procurement practices of the Company, and petitioner alleges that such monitoring would result in a reduction or elimination of the fuel adjustment charge.

4. There are currently pending before this Commission the following cases, which deal with the issues indicated:

(a) 75-20—involving the overall rate structure of the Company.

(b) 76-46—involving the monthly computation of the fuel adjustment charge.

(c) 76-67—involving the Petition of V.O.I.C.E. relative to the fuel adjustment charge.

Wherefore, the City of Keene prays:

1. That it be allowed to enter Cases 75-20, 76-46, and 76-67 as a party in interest.

2. That these proceedings be expanded to include a full review and investigation of the fuel adjustment clause of the Public Service Company of New Hampshire.

3. That public hearings be held in several places throughout the state to permit all interested parties to be heard.

4. That the following questions should be addressed and answered in this proceeding:

(a) Should there be any fuel adjustment clause at all, or have fuel prices so stabilized that there is no necessity for the clause?

(b) Should there be any fuel adjustment clause at all if this Commission cannot effectively monitor the activities of the Company in collecting revenues under this clause?

(c) In view of the limited purpose of the fuel adjustment clause to permit the Company to recover immediately increased costs of fuel it burns to generate electricity, should fuel costs attributed to power purchased from or interchanged with other companies be included and automatically passed on to customers?

(d) In view of the impossibility of this Commission and the Public Service Company monitoring the fuel procurement practices and procedures for other companies from which or with which Public Service purchases or interchanges power, should the fuel costs attributed to purchases and interchanges of power be recovered from the rate payers by use of this clause?

(e) Should the fuel adjustment charge be permitted to pass on extraordinary expense items to rate payers when generally accepted principles of public utility regulation would require, at the least, amortization of such an expense over a period of years and may require disallowance of the item altogether?

(f) Should the base cost of fuel which was computed as of the twelve-month period ending August 31, 1971, be reexamined and recomputed?

(g) Does a fuel adjustment clause create disincentives to efficiency to such a degree to warrant disallowance of the clause altogether or, at the very least, to require that only a portion of fuel cost increases be recovered under the clause?

(h) What are the fossil fuel procurement practices of Public Service? Do they purchase fuel on the spot market? Do they require competitive bids for fuel contracts? Are the terms of the contracts the best possible under the circumstances for the Company? Have they renegotiated terms of contracts and claims under contracts with suppliers aggressively and in the best interests of the rate payers?

(i) Does the Company now have an effective and regular sampling procedure to assure that it is not paying excessive amounts for moisture content in coal purchased? Does it effectively sample coal to determine if contract specifications are met?

(j) What costs to the suppliers are included in per ton or per barrel prices of fossil fuel under the fuel supply contracts? Are all of these costs properly included and passed on through the fuel adjustment clause?

(k) Should the Company aggressively intervene in proceedings before the ICC to minimize freight rate increases, to stabilize freight rates? If the Company has not intervened to protect the rate payers from increased freight costs, should it be allowed to pass the full freight increases along to the rate payers by use of the fuel adjustment clause?

5. That such other and further relief be granted as is appropriate under the circumstances.

CITY OF KEENE,  
CHARLES H. MORANG,  
*City Attorney.*

A true copy ; attest :

FRANCES D. PITCHER,  
*City Clerk.*

### STATEMENT OF NANCY PROCTOR

Ms. PROCTOR. I'm Nancy Proctor. I'm a representative from Ward 3 in Keene. I'm pleased to have you back in New Hampshire, needless to say. I'm glad the Senate Commerce Committee is getting involved in our high electric rates in New Hampshire.

Senator DURKIN. I would like to point out for the record that it was over 2½ years ago that you and two friends and others really turned Cheshire County around. You got some 6,000 people to sign a petition asking the Public Utilities Commission to look into the fuel adjustment surcharge and to eliminate the inequities of the surcharge. I remember meeting in the amphitheater in Keene. I think the electric company turned off the heat that night. It was a cold night trying to get the State officials there. The record should show that no responsible official in the State of New Hampshire can claim that they didn't have knowledge of strong consumer protest from at least early 1974 in the southwestern and southern part of the State. The record should show you were instrumental in generating public opinion there. I can understand your frustration now, 2½ years later.

Ms. PROCTOR. Continuing along with that, we asked you to appear with us. We felt intimidated at that time. We were just a group of housewives in Keene. After the different things that we have read, we were concerned about it. We called the hearing mainly to have the Public Utilities Commission come down to Keene and to give us some indication of what they were doing about it, but also to answer questions from the people that attended. There were about 185 people who came. That is sort of a record for Keene. As you remember, Mr. Kalinski, the chairman of the commission was there. He got up and was introduced and talked for about 5 minutes about the tip of the iceberg and then turned the meeting over to the Public Service Company which left us sitting there with our mouths open.

Senator DURKIN. That is the way they handle rate requests.

Ms. PROCTOR. That was my first impression of the PUC, the insensitivity they showed and lack of response to the consumer in the area. My opinion was born then and I'm afraid it hasn't changed much over the years. I have appeared at some of the PUC hearings. Luckily enough, we have a consumer group going in New Hampshire which we started. We felt if we could get enough people rallied together we could exert some pressure on the PUC, perhaps the Governor's office or anyone else for that matter.

With the help of New Hampshire legal assistance, that seemed to be the only voice in New Hampshire that could help us. We did appear and presented a motion.

In January 1974 through the consumer group and with the help of New Hampshire legal assistance I presented a motion to the PUC to ask for an investigation. That was before the rate increase they were considering at that time. We wanted an investigation before the rate increase was granted, we wanted them to look into the fuel adjustment charge and a lot of other things in this motion. I think it wasn't a week that went by that the PUC granted the rate increase and then 2 weeks later I got notice from the PUC that they were going to carry out an investigation.

That was back in 1974, and I haven't heard too much about that investigation since. I guess it is still ongoing. I haven't received anything from the PUC which leads me to believe otherwise.

Senator DURKIN. You asked for an investigation into the fuel adjustment surcharge. In response they approved the rate increase and put the investigation on the back burner.

Ms. PROCTOR. That is how they operate. They always put the cart before the horse and in this case they granted the rate increase first. So there are a lot of things wrong in the State. We all know this, and a lot of people have testified about it already.

I'm not as colorful as Eugene Daniell or as eloquent, but he has given us help in the legislature and gave us when new representatives, encouragement. I ran for the legislature, because I figured that is where all of the action would take place. We came in with two pieces of legislation, one the consumer advocate bill. We attended the senate hearings that summer. We got the three senators who chaired these hearings to sponsor the bill in the senate and when that bill came up, it was very heavily lobbied, first of all by the Governor's office—

Senator DURKIN. The Governor's office I assume was lobbying in favor of it?

Ms. PROCTOR. He was lobbying against the bill and the Governor's energy office was lobbying against the bill. The PUC was lobbying against the bill.

Senator DURKIN. This is the same PUC that doesn't have enough staff to adequately go behind and challenge assumptions? They had staff enough to lobby against the bill.

Ms. PROCTOR. Apparently, they had enough people there. Malcolm Stevenson was over there. Don D'Ambrusco. Mr. Broker appeared at our committee hearings lobbying against pieces of legislation. They always seemed to be available. Their office was next door, but they were around. As I say, they lobbied heavily against the bill. It was killed in the senate. It was indefinitely postponed in fact.

So we came back with another piece of legislation later on called the "lifeline proposal."

Senator DURKIN. This is outrageous. I want to get it straight. Are you talking about the senate bill 44 which had the consumer advocate and monthly public hearings?

Ms. PROCTOR. No, but that was lobbied against too. This was the original senate bill 1. This was introduced in the middle of the 1975 session. We cooled our heels for awhile on that. We had ideas on what we wanted to do about it.

Senator DURKIN. Senate bill 1 was lobbied against by the PUC and by the Governor's energy office. At that time he didn't have an energy watchdog.

Ms. PROCTOR. Marshall Cobleigh was there in the energy office at that time.

Senator DURKIN. And senate bill 1 was killed?

Ms. PROCTOR. Yes.

Senator DURKIN. For the record, what would senate bill 1 have done or what was it designed to do? What were the major points of Senate Bill 1?

Ms. PROCTOR. It would have set up a consumer council in the State of New Hampshire to hire a public advocate and staff to adequately represent the consumer at all of the rate hearings. They could also investigate any other area that was necessary for the people of New Hampshire. Say, rate structure or anything else for that matter. It was set up so that every time there was a hearing there would have been someone there representing the consumer.

Senator DURKIN. It could have investigated the fuel surcharge.

Ms. PROCTOR. Anything to do with the rates or anything else. We brought the lifeline proposal in. Representative Dave Bradley and I introduced that. I'm certainly not qualified to say one way or the other what rate structure is best for the State of New Hampshire. To us that seemed to be the logical first step to that.

We felt that perhaps the legislature was ready to listen to this type of proposal. The leadership put off the hearing on the lifeline until the end of the session, when the main crunch was on. We did have a very good hearing that day. The consumers came out of the woodwork and appeared. We had three people from the PUC there. We had Mr. Barker, Mr. D'Ambrusco, and Commissioner Riordan. He didn't testify for or against the bill.

Senator DURKIN. Which one?

Ms. PROCTOR. Riordan appeared that day. Mr. Barker testified against it and Mr. D'Ambrusco testified against it. We had the three from the PUC. We had the usual people from the Public Service Co. They always come out in droves. I'm not sure whether anybody appeared from the Governor's office or not, as coming from the Governor's office.

I'm sure somebody was sent there in another capacity. Anyway, the bill was voted down by the Republican majority of the committee and the Democrats managed to get it sent to interim study. That seemed to be a way that a lot of the utility legislation was voted on, strictly along partisan lines. We have had tough fights in the legislature this year on almost all of the utility legislation that came through.

Senator DURKIN. I realize you were a prime mover for senate bill 44. Would you outline for the record the journey of senate bill 44?

Ms. PROCTOR. It started out being introduced by Senators Rock and Monier. They stood in the senate and spoke against senate bill 1. They introduced 44, because they had so many telephone calls from so many people in their areas screaming about the fuel surcharge. At that time they had a plant shut down. The fuel surcharge shot up to \$1.54 that month. People were outraged. They had this pressure brought on them and they had to do something. They brought in senate bill 44. It described the surcharge and then the second section of it went into setting up a hearing for the surcharge each month before the PUC, and the third section of it stated that they could not pass along any cost from outages that occurred.

In other words, if a plant shut down they couldn't pass that cost of purchase power along to the consumer. We realized there would be a lot of battle against this third section in the house, but we managed to get it through our committee. The day it was to be heard on the floor of the house two of our committee members decided they were going to put in an amendment to take out section 3. In the meantime, I had gotten together with Mr. Bruno of New Hampshire Legal Assistance and we decided to modify senate bill 1 and add it as an amendment to senate bill 44.

We managed to get it together that morning. We got together with the other people who had the other amendment ready to go and we compromised. We said we would allow them to take out section 3, but they would have to stand up with us on the consumer advocate, which they did. It passed the house and then, of course, it passed the Senate. It was sent to a senate conference committee.

We had to modify it more in the conference committee, but as it came out, we were satisfied with the results. We do have a consumer advocate.

I understand a gentleman from Portsmouth has been named to this post. This isn't the cure-all for New Hampshire. There will have to be other things going on at the same time, but I think it is a help to have a consumer advocate there.

Senator DURKIN. Is this what happened—senate bill 1, which was indefinitely postponed was then added to senate bill 44, and it passed the house and senate and then the Governor vetoed it?

Ms. PROCTOR. Yes, it is.

Senator DURKIN. Did he explain why he vetoed it?

Ms. PROCTOR. I don't know. I don't remember. It was his usual explanation. I think it is there on the record and you could find out.

Senator DURKIN. The bill that would have provided a consumer advocate to go and represent the ratepayer before the Public Utilities Commission was vetoed by the Governor and then passed over his veto.

Ms. PROCTOR. It was the only bill that was overridden by the house in two sessions.

Senator DURKIN. Then the house and senate, disregarding party lines, voted overwhelmingly to override the Governor's veto?

Ms. PROCTOR. That's correct.

Senator DURKIN. We have heard, and it is the regulators great escape clause, that my hands are tied, I don't have enough staff—don't blame it on me, blame it on the legislature. They will not give us the staff to aggressively regulate as we are supposed to.

You stated that the PUC comes before the legislature and lobbies against consumer-oriented bills. To your knowledge, have they come and asked for more staff, asked for more people to help them meet their obligation.

Ms. PROCTOR. There was one bill that was introduced that asked for another lawyer on the PUC staff. Most of us in the house that voted on this bill felt that more competent people, other than the commission level, were needed in the PUC, that is more people to work in the financial department, in the rate engineering department and this sort of thing. That, to my knowledge, was never asked for.

In fact, just thinking back on that, I attended a legislative fiscal committee hearing, I think after the senate hearings that took place,

and I can remember Chairman Craig standing up and asking the PUC commissioner what they could do to help the commission, whether they needed more staff, whether they needed the environmental laws lower. He was asking if there was any way that something could be done for them. Riordan said we pray a lot. We sat there and we did too after that remark. I don't know what they intended to do, but it doesn't seem as if anything is happening at the PUC level. They should be getting into rate changes. They should be investigating the fuel surcharge. Two years ago we were concerned about the fuel surcharge. We sent a petition over there. Apparently, 2 years ago, there was a \$4.5 million overcharge in the fuel adjustment charge.

Somehow, the coal stockpile in a matter of 2 years was fluctuating quite a bit. Nothing was done. There was no investigation. They don't dig into the material that is given to them by the utilities.

Senator DURKIN. The record indicates that if the figures are correct, then they are accepted and there is no challenging of any of the assumptions that underlie the figures.

Ms. PROCTOR. Another thing I'm concerned about is that there are a lot of people in the State of New Hampshire who have a great deal of knowledge of rate structures, changes that should be made and so forth. And it seems as if none of this concentration of abilities is ever called upon. You have certain people who bang their heads against the wall testifying before committees and yet nothing is ever done. Peter Brown represents VOICE, and he has appeared in I don't know how many different committees and before the PUC. He has a great deal of knowledge on rate and rate structure. There are several men from Dartmouth, from UNH. We have the PUC who sits and investigates—we well we don't know what they do. They gag and nothing seems to be coming out of that area.

The Governor's office appoints a consumer lawyer after the fact that we have a consumer advocate in there, and after he vetoed the bill. Committees don't seem to be doing anything. We have an electrical energy review committee. We have people coming in to testify. It ends up being a fight between the person testifying and members of that committee, who are also Public Service Co. officials.

We have the energy office and have all the Federal funding going into that energy office; the only energy programs I see coming out of it are hot air.

Where does that leave consumers?

Senator DURKIN. It leaves us with the highest electric bills in New England. It is my understanding that the system they use for appropriating funds for the PUC is one of zero appropriation. There are no tax appropriated funds going to the PUC because the PUC passes the cost of running the office back to the utility industry. That is one of the few earmarked funds' situations in State government.

It is not a question of not spending taxpayers' money. It is a question of their not asking for enough staff for one reason or another.

Ms. PROCTOR. In many instances, as the statutes are set up, the PUC can hire outside help to come in. In many cases they have not bothered to hire outside help. I understand they have Mr. Waters in on a recent case. He is a lawyer. There was an area where they could have gotten a lot of necessary help there that they didn't even tap. This is why we felt we had to have someone in there, a consumer advocate of some sort.

I understand the fund for Mr. Brown from "Connection" will be running out in January. They haven't closed the rate case. It is still open. I feel that they have just held this rate case open and they are going to hold it open, until the fund runs out or until they think there is no one there who will step in and continue.

Senator DURKIN. The Governor's council tabled the request for funds for an outside audit within the past month.

Ms. PROCTOR. Yes.

Senator DURKIN. Thank you, Nancy. If you have anything else, we will leave the record open.

Ms. PROCTOR. I have a couple of things here. This is the status of energy legislation that came in in the last session. This is the act establishing the energy review committee which is ongoing. There is another committee which has been set up to restructure the PUC. That committee is still holding hearings and so forth.

I have a lot of information here and I can leave it later on.

Senator DURKIN. We will place these in the record.

[The following information was subsequently received for the record:]

#### CHAPTER 408

##### AN ACT ESTABLISHING AN ELECTRICAL ENERGY REVIEW COMMITTEE

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**408:1 Committee Established.** An electrical energy review committee is hereby established to examine electrical production and pricing policies in New Hampshire and in NEPOOL area; to review projected needs and production in the state and region; to examine the feasibility of fuller use of the regional and national grid systems; to re-examine the rate structures with a view to helping the small consumer, and helping to level off peak demand pressures; and to examine the laws relative to public utilities and procedures which govern the regulation of public utilities. Said committee shall consist of one macro-economist appointed jointly by the deans of the Whittemore school of business of the university of New Hampshire and the Amos Tuck school of Dartmouth college; one engineer or technologist appointed jointly by the deans of the Thayer school of engineering at Dartmouth college and the engineering school at the university of New Hampshire; one member appointed by the president of Public Service Co. of New Hampshire; one member appointed by the president of New Hampshire Electrical Cooperative, Inc.; two senators appointed by the president of the senate; two representatives appointed by the speaker of the house; two members appointed by the governor; and one member who represents consumers of electrical energy to be appointed by the committee at its first meeting. The attorney general or his designee shall serve as legal counsel to the committee but shall not be a voting member of said committee. The committee shall have the power to subpoena witnesses and administer oaths in any proceeding or investigation instituted before or conducted by it, and to compel by subpoena duces tecum the production of any accounts, books, contracts, records or documents relating to its investigations or proceedings. The committee shall submit an interim report to any special session of the 1975 general court, and thereafter shall submit a report together with any proposed legislation on or before October 1, 1976.

**408:2 Federal Funds.** The electrical energy review committee is authorized, with governor and council approval, to apply for and receive and expend any federal funds available for the purposes of this act.

**408:3 Effective Date.** This act shall take effect July 1, 1975.

[Approved June 16, 1975.]

[Effective date July 1, 1975.]

#### STATUS OF ENERGY LEGISLATION

SB272: Relative to the office of energy administrator; signed by the Governor.

SB271: Requiring labeling of electrical appliances as to efficiency; sent to Interim Study.

SB270: Relative to permitting the sale of liquid fuels without adhering to trade names; Senate—passed; House—killed by a Committee of Conference.

SB269: Establishing a state energy efficiency building code; Killed.

SB268: Authorizing the Governor and Council to suspend the operation and enforcement of laws relating to the environment under certain circumstances; Killed.

SB267: Revising registration fees for motor vehicles of the pleasure-car type not used commercially; Killed.

SB258: Requiring that the coordinator of federal funds be informed by the applicant or recipient of any federal grant or sub-grant which any person or entity not a part of the state government applies for or receives; Killed.

SB239: Establishing a committee to study administration, navigation, and transportation on state waterways; Senate—passed; House—sent to Interim Study.

SB229: Establishing a committee to study bicycles and the development of a state highway system for the simultaneous and compatible operation of motor vehicles and bicycles; Senate—passed; House—killed.

SB140: Providing for certain penalties for the conviction of speeding violations; killed.

SB69: Revising the state industrial development act; Senate and House—passed.

SB86: Relative to participation in a New England power pool; Senate—passed; House—killed.

SB1: Establishing a utility consumers' council and making an appropriation therefor; Indefinite Postponement.

SB64: Requiring public utilities to charge the consumer for costs of supplying services to remote areas; died in committee.

SB60: Suspending the application of penalties for failure to eliminate burning dumps during the time limits established; Senate and House—passed.

SB44: Providing funds for the emergency repair of a boiler in the State House Annex and making an appropriation therefor; Senate—passed; House—killed.

SB209: Empowering the Public Utilities Commission to hire a consultant firm to evaluate the use of utilities investments; passed.

SB311: Establishing a mineral resources advisory committee and making an appropriation therefor; Senate—passed; House—killed.

HB996: Relative to participation in regional bulk power supply facilities including but not limited to participation in a New England power pool; sent to Interim Study.

HB995: Giving the Public Utilities Commission supervisory authority over any municipal utility which extends its services outside its corporate limits; sent to Interim Study.

HB955: Relative to energy resources; sent to Interim Study.

HB948: Prohibiting certain expenditures and advertising by public utilities; killed.

HB930: Continuing the committee to study New Hampshire airports; House—passed; Senate—referred to financing, New Hampshire airports; died in committee.

HB917: Relative to various amendments to the consumer protection laws; House and Senate—passed.

HB898: Relative to the registration and operation of motorbikes; sent to Interim Study.

HB886: Prohibiting public utilities furnishing electrical power to consumers from charging said consumer any fuel adjustment charge; killed.

HB883: Eliminating rail transportation from the authority of the New Hampshire transportation authority and renaming said authority; killed.

HB 868: Prohibiting oil producers and refiners from operating retail gasoline stations and requiring oil suppliers to treat gasoline dealers uniformly; House—passed; Senate—referred to Energy; died in committee.

HB 846: Restrict the use of radar readings as permissible evidence under certain conditions; killed.

HB89: Requiring federal government gasoline mileage test results to be disclosed to purchasers of new vehicles; killed.

HB79: Relative to the chairmanship of the ambulance service coordinating board; killed.

HB69: Providing the New Hampshire Transportation Authority with note issuing powers; killed.

HB70: Relative to the seating capacity of motor carriers of passengers classified as taxicabs; House—passed; Senate—Indefinite Postponement.

SCR16: Memorializing Congress to provide that the amount of petroleum products exported from the United States to any country shall not exceed the amount imported from the country to whom the export is proposed; Senate—passed; House—killed.

CACR16: All men are entitled to have their natural resources preserved and protected from destruction, damage or impairment; killed.

SCR14: Establishing an interim study committee to investigate the fee structure for registration of automobiles; Senate—passed; House—killed.

SCR12: Establishing a special joint committee on energy resources and energy uses; House adopted with amendment; Senate concurred.

SCR11: Memorializing Congress to investigate pricing of and problems relating to energy resource supplies; adopted.

SCR10: Urging the Public Utilities Commission to exercise its rule making authority by providing lower rates to consumers who conserve energy; adopted.

CACR9: Use of certain revenues for transportation; Indefinite Postponement.

SCR4: Memorializing the President and the Congress in opposition to any increase in the tariff on imported oil per barrel and memorializing the Governor and Attorney-General to join with other New England states in their suit against the Presidential action which has imposed a tariff on imported oil; Senate—passed; House—referred to Resolutions and Screening; died in committee.

HB484: Prohibiting public utility companies from establishing a sliding scale for the automatic adjustment of certain utility charges; killed.

HB472: Relative to management of solid waste, establishing a bureau of waste matter management and making an appropriation therefore; Senate and House—passed.

HB479: Permitting a local option to adopt tax exemptions for realty equipped with solar energy heating or cooling systems; Senate and House—passed.

HB463: Establishing a consumers commission and making an appropriation therefor; killed.

HB423: Establishing a committee to study all aspects of the use of wood substance for the production of methanol and methane as a source of energy and making an appropriation therefor; sent to Interim Study.

HB407: Establishing an electrical energy review committee and making an appropriation therefor; House and Senate—passed.

HB362: Establishing a coastal zone management plan; House—passed; Senate—sent to Interim Study.

HB350: Providing for acquisition, updating and dissemination of mineral and land use resource data under the supervision of the department of resources and economic development and making an appropriation therefor; killed.

HB338: Requiring vessels with a hazardous substance or oil as cargo to have a valid certificate of inspection and a compliance certificate as a prerequisite in obtaining port clearance; killed.

HB313: Establishing a special committee to study public transportation needs; killed.

HB218: Permitting regional planning commissions to receive grants for pilot programs for solid waste disposal; became law without Governor's signature.

HB201: Permitting written or telephone conferences with utilities in cases of proposed termination of services; House and Senate—enrolled.

HB191: Establishing the position of legal counsel to the Public Utilities Commission and making an appropriation therefor; killed.

HB187: Expanding the consumer protection division of the Attorney General's office; providing for consumer advocacy duties by said division and making an appropriation therefor; tabled.

HB154: Establishing a toll on aviation jet fuel of two cents per gallon; killed.

H.B.105: Authorizing the New Hampshire aeronautics commission to conduct a feasibility and environmental impact study for a suitable location for an aviation facility airport in the seacoast region; killed.

HB810: Prohibiting truck-tractors from drawing more than one trailer or semi-trailer or any combination of a trailer and semi-trailer; House—passed; Senate—killed.

HB808: Equalizing road tolls for certain vehicles; killed.

HB784: Changing the violation of speed regulations for certain highways from unreasonable and imprudent speed to using excessive fuel and providing a penalty therefor; killed.

HB783: Providing for fiscal responsibility in the decommissioning of nuclear facilities; Indefinite Postponement.

HB786: Providing a safety code for the prevention of accidents in the proximity of overhead high voltage lines; killed.

HB764: Eliminating the use of radar in certain areas; House—passed; Senate—Indefinite Postponement.

HB760: Relative to instituting a lifeline rate structure for public utilities providing electrical energy; sent to Interim Study.

HB704: Establishing a maximum speed limit in the State of fifty-five miles per hour; killed.

HB705: Requiring gasoline suppliers to offer surplus gasoline to their dealer franchisees; sent to Interim Study.

HB700: To authorize review and approval of site plans for parking facilities by planning boards; House—passed; Senate—referred to Executive Departments; died in committee.

HB678: Placing petrochemical facilities under the authority of the energy facility evaluation committee; House—passed; Senate—referred to Environment; died in committee.

HB598: Establishing a committee to study public utility regulations; killed.

HB507: Prohibiting advertising by public utilities; killed.

HB495: Establishing a committee to study traffic laws and making an appropriation therefor; House and Senate—passed.

HB493: Requiring the metering of certain gasoline sales; House—passed; Senate—sent to Interim Study.

HB488: Authorizing the New Hampshire Transportation Authority to purchase certain rail passenger coaches, operate or lease same to private enterprise and making an appropriation therefor; killed.

#### SHEDDING LIGHT ON THE BURGEONING POWER OF PUC

(By Bill D'Alessandro)

Players of Parker Brothers' board game, Monopoly, know what industrialists learned in real life. You have to own all the railroads if they are to make money.

With plenty of cash in hand, the same Monopoly players have been known to pass up the utility squares. Waterworks and the Electric Co. are less desirable than the lowliest properties on the board, which, at least, can be built up enough to pay handsome returns.

The creators of Monopoly knew their business, since in the world at large, utilities work like they do in the game. Public utilities are unattractive, unless they are combined under one roof.

Today, privately-owned bus systems are going broke. Many waterworks are understaffed and poorly operated. The railroads are reduced to begging in government offices in Washington, D.C., and, saddled with government regulations, electric companies are frightening away large investors during periods of recession and inflation. The utilities are viewed sadly by the public, which is paying higher rates for what were vital and fairly cheap services.

While utilities have come on hard times during the last decade, the government agencies established to control them have always suffered a poor public image. In states with environmental protection agencies, the three or four year old EPA's usually get more press coverage than 100 year old public utility commissions.

In New Hampshire, the Public Utilities Commission (PUC) traces its roots back to 1844 to the state board of railroad commissioners, which was the first such regulatory board to be established in the nation.

Historian Everett Stackpole, who published a five volume history of New Hampshire in 1916, said the lucrative monopoly in railroads in the state "made a few men millionaires at the expense of travelers and manufacturers and producers on the farms."

Stackpole believed that "it would be profitable for the nation to maintain (the railroads), if there were receipts in money," because the roads were indispensable for the common good.

Rather than own the railroads outright, states left them in private hands with regulation by a government agency for better or worse. By 1911 the Public Service Commission of New Hampshire (it changed its name to Public Utilities Commission in 1951) was regulating other business monopolies that had grown up beside the railroads. Today PUC regulates 120 public utilities in the state.

Yet PUC secretary Dom D'Ambruoso recently wrote the first article about PUC ever to appear in the *New Hampshire Bar Journal* during that publication's 16 year history.

Nevertheless, PUC, by law has broad authority over businesses crucial to the public welfare. PUC can "investigate or make inquiry as to any rate charged or proposed" by public utilities. If that were not enough, PUC can investigate "any act or thing done, or omitted to be done, or proposed by a public utility wherever required by law and whenever, in its judgment, the public interest shall require." PUC can even conduct a preliminary investigation without informing a public utility that it is being examined.

With about eight electric companies, seven gas companies, 16 telephone and telegraph companies, 15 water companies, and numerous rail, bus, and private vehicle carriers under blanket regulation by PUC, the dark ages at the commission seem to be over.

"The work load is much greater now than it was five years ago." D'Ambruoso said in his windowless office. "There was a time when the commission had only 10 or 15 hearings per year, and only a few rate filings. Now the commission has 10 to 15 times as many hearings, and we are inundated by rate increase petitions from practically every utility in the state of New Hampshire."

PUC has seen its powers expanded in recent legislative sessions. The commission has authority over condemnation and purchase of abandoned railroad lines in New Hampshire. As the real situation fails, the state's role in rail transportation is likely to get larger. PUC has a new department to deal with railroad problems.

The chairman and the chief engineer of the PUC are members of the new site evaluation committee, which investigates proposals for bulk power plants and refineries. Although bound by the decision of the whole site evaluation committee, PUC is the final authority for plant construction.

In the event an oil refinery were to be proposed for New Hampshire, PUC would not only have influence through its representatives on the site evaluation committee, but also would regulate any pipeline, including pumping stations, storage depots and other facilities for the transportation, distribution or sale of crude petroleum, refined petroleum products or a combination thereof."

Superports or offshore drilling would be regulated by the federal government, but PUC would have jurisdiction in New Hampshire.

Furthermore, PUC retains the power of taking land for public utilities, and in the case of an oil refinery and its pipelines, PUC would preside over the issue of condemning private land for a transmission route.

It is not only utility companies which come to PUC with their proposals and rate requests, but private citizens, who call PUC with complaints, that add to the increasing work load.

In 1973, 592 complaints against utility companies were recorded at the commission. D'Ambruoso said the number of complaints was "increasing incredibly." Most of the complaints were filed against telephone companies, followed by complaints against electric companies and gas utilities. Consumer complaints fall generally into the categories of poor service and size of utility bills.

The engineering department within PUC handles consumer complaints. Every recorded complaint is answered. Usually, an attempt is made to resolve the problem informally, but if the conflict is not ironed out, PUC will hold a formal hearing among all the interested parties in the complaint.

There are about 30 employees at PUC. However, only between eight and 10 staff members are considered decision makers. The other commission employees are involved in office work.

The PUC is essentially governed by a triad. Three commissioners, appointed by the governor, make rulings on utility proposals. A proposal must receive the approval of at least two commissioners.

Alexander Kalinski, A Republican, is chairman of the PUC. Kalinski is 46 years old, attended St. Anslem's College and Boston College law school, has been an assistant attorney general, and spent time in a private law practice.

Democrat Francis Riordan is 59, and like Kalinski, is from Manchester. Riordan was chief of Internal Revenue Income Tax Audit Section, and is a past president of the National Association of Regulatory Utility Commissioners. Riordan's six-year term at the PUC expires this year.

Malcom Stevenson is the newest member of the PUC board. Stevenson was appointed to the PUC last year, replacing Shirley Merrill. Stevenson is 64 years

old. He was a state representative from 1955 to 1974, and has been a businessman and fuel oil dealer.

The three commissioners usually sit at all PUC hearings. The exceptions to full commission hearings occur in routine cases, which are often applications for transportation licenses. The commissioners and PUC staff examiners conduct inquiries into the cases before them.

The PUC can assume the role of an adversary at its hearings. Sometimes, as indicated in PUC records, the hearings are hotly contested.

In the majority of cases, the PUC decision is unanimous. If a commissioner has a problem with any part of a staff recommendation regarding a specific issue, the PUC usually holds its own staff meetings to iron out a compromise or to correct discrepancies in the opinion. While there have been dissenting opinions on some major cases brought before the PUC, a divided judgment is not common.

Depending on the complexity of the issue being reviewed, PUC investigations can be brief or lengthy. Public Service Co. of New Hampshire's petition for a permanent rate increase is one of the longest proceedings ever held at the PUC. It began in 1971, and twice was brought before the New Hampshire Supreme Court.

The PUC staff and Public Service Co. disagreed openly on a number of important issues relating to the computation of cost figures and to the concept of a fair return on investment to the utility company. A 14 percent rate increase was finally agreed on.

Rate increases of this caliber are due partly to what PUC calls "unparalleled economic crises and stresses almost without precedent." But the system of public utility price increases was analyzed back in 1916 by historian Stackpole.

As long as the economy is doing well and there is plenty of surplus profits, Stackpole said, there is no request for legislation or increase of rates.

"Then comes a year, or a series of years, of leanness, when there are no dividends. At once appeal is made to legislatures and to Public Service Commissions for higher rates."

In the atmosphere of continual requests for rate increases, PUC has chosen to exercise its broad powers to conduct an investigation of the rate structures of all the electric utilities in New Hampshire.

Common practice among electric utilities is to use the declining block rate structure. Under this system, the more electricity used, the cheaper the unit cost is for the energy. The grounds for this rate structure are that it costs a utility company more money to supply electricity to small, domestic users than it does to supply large, industrial users.

However, this theory on the cost of serving electricity users may have undergone some internal changes due to the international energy supply situation, national energy policy, and capital equipment costs.

Because the declining block rate encourages the use of energy in business hours, the need for capital intensive bulk power plants, like the Seabrook nuclear plant, increases. In turn, electric utilities can price the power they supply to the consumer at still higher rates based on the amount of money the utility company has invested in capital equipment. Meanwhile, electricity can still be provided to large users at a reduced price.

At a time when the nation is struggling to achieve energy self-sufficiency, the "promotional" rate structure, which encourages rather than discourages the use of energy, is being called into question. Investigations in other states indicate that the promotional rate structure may not be cost efficient in the long run. In other words, it may be cheaper to give rate reductions to those users who conserve energy, rather than to those who use more electricity during peak hours.

The PUC has embarked on a long analysis of the rate structure used by electric utilities in New Hampshire. The electric companies have been asked to submit technical information to PUC so that the commission can proceed with the drawn out process of investigating the declining block rate structure.

Chairman Kalinski believes the study may take one year. Others think the investigation may last as long as two years. Depending on the results of PUC calculations, the cost of electricity used in households throughout the state could be either reduced significantly or substantially increased along the lines set by a promotional rate structure.

Operating funds for PUC daily activities and major investigations are supplied by the public utilities themselves. The sum available to PUC is based on factors calculated by dividing the gross annual revenues of each utility in the state into the total amount collected by all the utilities.

PUC's estimated budget for fiscal year 1975 is \$361,000. If the legislature approves the PUC budget, the commission draws from the funds collected from each utility for its expenses. Any funds left over are applied to the PUC budget for the following year.

Under this system, 54 percent of the PUC budget last year was collected from electric utilities and 35 percent was paid by telephone companies. Public Service Co. of New Hampshire paid \$132,986 for PUC expenses in 1974. While this figure seems high, PUC secretary D'Ambruoso points out that the sum represents just one-tenth of a percent of Public Service Co.'s annual operating expenses of \$90 million.

PUC is the only link between business monopolies and the public. With growing consumer interest, environmental action, and rising utility prices, PUC will be in the limelight more than ever.

Reaction by some Loudon residents to a proposal to string electric transmission lines through that town is just one example of a situation that would have passed unnoticed some years ago, but which is now a topic PUC must handle through extensive hearings.

Some public interest groups, fearing that PUC does not protect the people from business monopolies well enough, have asked for a special legal counsel, but PUC has denied this request.

The role of the investor-owned public utility has been disputed for 125 years. Abuses by railroad companies in New Hampshire in the 19th century led to the first suggestions that public utilities be government operated. Stackpole's history of New Hampshire said that "If private capital cannot manage them (utilities) and make them yield dividends, then the state or the nation must either assist or assume ownership and manage such utilities for the public good, even at the expense of taxing the people directly for their maintenance."

With northeastern railroads in a state of bankruptcy, with bus transportation having declined to an all-time low before the advent of municipally-owned lines, and with the potential dangers of a few private energy companies controlling the national supply, as was experienced during the 1973 shortage, talk of national or state controlled public utilities has resumed.

"A government owned utility would be able to finance its operations at lower interest rates through government borrowing," Dom D'Ambruoso said. "This would probably result in lower rates to consumers."

However, D'Ambruoso described how a major, government infusion of capital into the utility industry would drain away federal funds from other programs, like loans to small businesses and federal housing subsidies. Government operated utilities would, D'Ambruoso said, result in a greater tax payment from every citizen.

"Tennessee Valley Authority, that early experiment in public ownership of utilities established during the New Deal in 1933, has recently found it necessary to raise its rates to remain solvent. This case is instructive," D'Ambruoso said.

"TVA has had to raise its rates as fuel costs and other expenses have risen. This strongly suggests that the rate increases requested by privately owned utilities may not be the wholesale ripoff that certain people would have us believe.

For the most part, management of public utilities remains a complex economic problem. It is clear that trying financial times have made the deficiencies in public services obvious to consumers. They complain more to PUC, and the PUC has added employees to handle a growing number of issues posed by both the utility companies and the public interest groups.

Senator DURKIN. Did I see John Pillsbury come in. Would you care to offer any insight from your experience?

#### STATEMENT OF JOHN PILLSBURY

Mr. PILLSBURY. Your staff invited me to come down. I would like to say in a preliminary way that as manager of the New Hampshire cooperative, I appreciate very much the support you have given the cooperative movement in the country.

I told your staff that I did not have prepared testimony, that I would come, that I do appreciate the interest which you are showing in the electric rates and in the electric structure.

We have been appearing along with other consumer groups for the Washington hearings on matters relating to rate structure and the like and giving our views on the inclusion of construction work in progress on the rate base and the sharing of tax benefits with the rate payer as well as the stockholder and the like.

I do not have any prepared testimony that I would want to deliver at this point. I'm not even certain as to the scope of the hearings but I did want you to know I was willing to be present.

Senator DURKIN. Thank you, John.

We are interested in why the New England rates are so high, why the New Hampshire rates are the highest in New England.

But our broader interest is in finding out what role, if any, there is for Congress in the whole electric ratemaking structure. I wondered if there is anything you think Congress ought to be doing, not necessarily restricted to the fuel adjustment surcharge but should be doing in the whole energy area?

Mr. PILLSBURY. I feel strongly that there has to be a lot of hard thinking about the structuring of utilities and the providing of electric power for the region.

If the emphasis is to be placed on conservation and the use of energy, then I feel one of the badly needed ingredients is a better-defined energy policy on the part of the national administration.

The only policy I discern is to push prices up in the hope that somehow that will discourage use which seems to be working as far as our very poor people are concerned, but not with the rank and file.

Perhaps they haven't gone high enough yet. I see nothing that will bring cheaper electricity to New England. I think it is a real battle to keep them from going on up.

The nuclear plants that are coming on are coming on at 5 and 6 cents a kilowatt hour at the bus bar and yet they are the only things available.

There is a Zinder report, a report of the New England regional commission to the Governors of the six New England States, paid for out of regional funds and that report lays out a blueprint for action that could be taken to get a better policy in New England.

The same report lays great stress on the building of the Dickey-Lincoln Dam which we think is essential not only for the valuable peaking power that it will produce, but for the presence of a marketing agency in New England that perhaps will have on New England rates generally, the impact which a small block of St. Lawrence and Vermont had on Vermont rates, bring them to the lowest in the region.

I appreciate the support you have given to Dickey-Lincoln in the Senate. Although it is being restudied from the point of view of impact on the area of Maine that would be flooded, the ecological considerations, we believe it still merits further support at least insofar as the study is concerned that might lead to its eventual construction.

The basic recommendation of the Zinder report is to find ways to stop the—ways to correct the splintering, parochial, generating practices of New England that do hold generating costs unusually high in this region and needlessly so.

It suggest that there be a separation of the generating and distribution facilities to get a more efficient generating pattern.

Senator DURKIN. Where has hydropower gone in New England?

Mr. PILLSBURY. Hydropower is largely well developed in New England. I remember statistics of a few years ago that said New Hampshire had more widely developed hydro than any other State in the Union.

There is considerable undeveloped power in Maine including that associated not only with Dickey-Lincoln but with the Passamaquoddy Bay project. The harnessing of the tides is a tremendous source of power. The cost-benefit ratio is looking better all of the time.

But, I don't think we can look at hydro and say that is the answer to New England's future. There is just not enough of it.

Senator DURKIN. I do appreciate your taking the time and I appreciate your coming down. We will leave the record open for a substantial period of time.

If there is anything else that you would like to make us aware of, please get in touch with us. The record will be open for a substantial period and we appreciate hearing from you.

Mr. PILLSBURY. Thank you very much, Senator.

Senator DURKIN. Is Mr. Carter here?

#### STATEMENT OF N. B. CARTER

Senator DURKIN. Identify yourself for the record and then proceed in the way you feel most comfortable.

Mr. CARTER. N. B. Carter. All I have are the records here for the last 9 or 10 years, kilowatt hours, electrically heated house. I just got the bills here.

In 1966 and 1967, 20,698 kilowatt hours. That cost \$387.07. In 1975-76, 18,920 kilowatt hours cost \$792.11.

So that just shows you what the cost is. Otherwise, I have nothing to say that can help you any unless you have questions.

Senator DURKIN. If I heard those figures correctly, your consumption of electricity hasn't gone up.

Mr. CARTER. Consumption was down but the cost was more.

Senator DURKIN. Cost almost doubled and your consumption was down.

Mr. CARTER. That is right.

Senator DURKIN. Were you here yesterday?

Mr. CARTER. No; I didn't come down yesterday.

Senator DURKIN. I appreciate your taking the time to come today. Yesterday, Professor Bower from Dartmouth talked about offpeak pricing and time of day pricing.

Do you think that, as a person with an all-electric home, if you could use your electricity at a different time of day with a lower rate you could take advantage of that offpeak?

Mr. CARTER. I doubt if that would help much if anything. I was talking with the power company the other day. They have a special meter on my house for hot water. They said offpeak won't help enough to make a difference. That is hot water heat. It went up from \$5 something and now its running around \$9 to \$12 a month.

Senator DURKIN. Disregarding what Public Service says for a moment, suppose you are a retired gentleman, living on a fixed income. If you knew that you could cut your electric bill by say 20 percent or a third if you heated your house or turned the heat on early in the morning or late at night or adjusted the hours of use like you do with a

telephone call—do you think you could adjust your utilization of electricity to achieve savings?

Mr. CARTER. I do that. I turn it down to 65 at night when I go to bed.

Senator DURKIN. If you could get a better rate you would take advantage of the better rate?

Mr. CARTER. I certainly would.

Senator DURKIN. Do you want to leave that information with us or a copy of that? We would be happy to put it in the record. Thank you very, very much.

Mr. CARTER. Here I have my light bills, 1967, 1968, 1975, 1976.

Senator DURKIN. We will make copies of those and stick them in the record and we will send these back to you.

Mr. CARTER. Thank you.

Senator DURKIN. Thank you. It helps in considering this as a non-theoretical problem. It is a real problem when the bill arrives every month.

Mr. CARTER. That is right.

Senator DURKIN. Thank you.

[The material referred to follows:]

The following five exhibits represent a record of the utility bills of Mr. M. B. Carter, of Goshen, N.H., for the period 1966-76.

## EXHIBIT 1

[Record of electricity used in the home of Mr. Carter broken down by total kilowatt-hour and by total cost]

	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74	1974-75	1976-77
Total kilowatt-hour.....	20,698	19,131	198,61	20,071	23,850	19,850	21,290	21,190	18,420	18,920
Total cost.....	\$387.17	\$379.88	\$384.32	\$403.33	\$424.12	\$391.58	\$442.67	\$557.97	\$760.02	\$792.11

## EXHIBIT 2

[Record of cost and kilowatt-hour usage of hot water heater, outside lights, and totals by months for 1975-76]

	Kilowatt-hour	Cost	Total	Hot water kilowatt-hour	Cost	Total	Outside lights	Cost
August.....	380	\$21.13	\$21.13	245	\$8.17	\$8.17	39	\$5.70
September.....	610	31.88	52.61	253	9.04	17.21	39	5.80
October.....	1,060	44.80	107.41	318	10.25	27.46	39	5.42
November.....	1,680	70.32	177.75	325	11.29	38.75	39	5.48
December.....	3,430	133.35	311.10	356	12.00	50.70	39	5.47
January.....	4,180	160.88	471.98	381	12.65	63.35	39	5.46
February.....	2,830	120.00	590.98	336	12.46	75.81	39	5.59
March.....	2,050	82.91	673.80	332	11.31	87.12	39	5.46
April.....	1,260	54.61	728.41	330	11.36	98.48	39	5.48
May.....	740	34.03	762.44	287	9.47	107.95	39	5.39
June.....	350	18.84	781.28	258	8.31	116.26	39	5.36
July.....	350	19.36	800.64	270	9.10	125.32	39	5.42
			791.46			125.41		66.03
Total bill, \$982.90.								

## EXHIBIT 3

[Same as exhibit 2 for August 1976]

	Kilowatt-hr	Cost	Total	Hot water, kilowatt-hr	Cost	Total	Outside lights
August.....	390	\$20.38	\$20.38	244	\$7.73	\$7.73	\$5.34

## EXHIBIT 4

[Record of electricity used in the home broken down by total kilowatt-hour and by month for the years 1966-76]

	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74	1974-75	1975-76
August.....	347	360	418	371	300	400	390	320	380	380
September.....	821	652	409	534	510	530	610	670	620	610
October.....	1,269	1,094	922	1,299	1,120	940	1,370	1,390	1,690	1,060
November.....	1,731	2,131	2,089	1,994	1,870	2,320	2,200	2,450	2,380	1,680
December.....	3,001	2,875	3,623	3,553	4,030	3,070	3,180	2,730	3,030	3,430
January.....	2,599	3,544	3,981	4,554	4,640	3,280	3,310	3,480	3,240	4,180
February.....	3,085	3,165	3,112	3,230	4,550	3,120	3,060	3,370	2,630	2,830
March.....	2,695	2,423	2,433	2,669	3,120	2,820	2,210	2,750	2,390	2,050
April.....	1,699	1,299	1,367	1,487	1,900	1,480	1,670	1,620	1,810	1,260
May.....	1,418	894	815	680	810	790	1,140	1,336	520	740
June.....	1,762	484	348	370	300	510	420	620	420	350
July.....	272	290	344	330	330	310	290	460	310	350
Total.....	20,698	19,131	19,861	21,071	23,480	19,570	19,850	20,190	18,420	18,920
Total cost.....	\$387.17	\$379.78	\$384.32	\$403.33	\$424.12	\$391.58	\$442.67	\$558.07	\$760.02	\$792.44

## EXHIBIT 5

[Total utility bills of Mr. Carter broken down by month for years 1966-76]

	Budget bill											
	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74	1974-75	1975-76	1975-76	1974-75
Aug.....	11.14	11.45	12.52	11.44	9.80	12.11	13.00	11.76	16.99	21.18	84.70	61.18
Sept.....	19.95	17.24	12.31	14.94	14.57	14.88	17.62	19.85	27.20	31.88	84.80	64.18
Oct.....	27.11	24.31	20.96	26.80	24.03	21.24	30.95	33.38	58.34	44.80	84.42	64.18
Nov.....	34.51	40.91	39.20	37.57	35.65	42.63	48.17	56.74	81.28	70.32	84.48	64.18
Dec.....	54.83	52.83	62.82	61.74	69.13	54.25	65.44	60.21	118.49	133.35	84.47	65.34
Jan.....	48.39	63.51	68.37	77.25	78.59	57.51	68.15	76.88	115.42	160.23	84.46	65.34
Feb.....	56.17	55.72	54.90	56.73	61.69	55.03	62.64	81.39	99.76	120.00	84.59	105.40
Mar.....	49.93	44.22	44.38	48.04	55.03	50.38	47.25	76.83	95.26	82.91	84.46	105.46
Apr.....	33.99	25.56	27.85	29.71	36.12	34.04	36.81	52.45	77.40	54.61	84.48	105.81
May.....		20.52	19.30	17.21	19.22	21.63	27.77	44.95	28.52	34.03	84.39	105.80
June.....	41.81	14.05	10.90	11.41	9.80	16.38	14.17	24.78	22.91	18.84	84.06	105.70
July.....	9.34	9.56	10.81	10.49	10.49	11.50	10.70	18.85	18.45	19.36	53.29	29.13
Total.....	387.17	379.78	384.32	403.33	424.12	391.58	442.67	558.07	760.02	791.46	982.60	-----

## STATEMENT OF H. E. ERICKSON

Mr. ERICKSON. Thank you, Senator. I'm H. E. Erickson. I live at 8 Forest Road in Wolfeboro, N.H. I spend two-thirds of my working life working in the electric utility industry.

I'm happy to say that experience was in a consumer-owned sector of the industry and not the investor owned.

I came to the hearing yesterday as an observer, very interested in finding out exactly what our State of New Hampshire is going to do or try to do in the way of keeping energy costs at least competitive with the rest of the Nation.

I was very pleased today to hear the remarks of Mr. Espieffs from Keene and from Mr. Pillsbury who is manager of the New Hampshire electric co-op.

In the course of my work, I have taken a great interest in the effect of electricity on the economy and on the welfare of the consumers. Without being egotistical, I think the town of Wolfeboro had probably one of the nicest electric systems in the State.

It was a municipally operated system and I had the pleasure of managing that system for 19 years. In the beginning, we generated our own electricity. We were completely independent of the influence or the effects of other energy within the State.

Economically, it came to our advantage to negotiate a contract with Public Service of New Hampshire. Under that contract, we were able to economically provide the power needs of the community.

After I left Wolfeboro and the contract was renegotiated, it didn't come out quite as well and the power costs began to rise rapidly.

As I understand it, Senator, the purpose of this hearing is to find out exactly or not exactly, but to see what the people in the community of New Hampshire can recommend as a means of at least holding the line, as a means of seeing that we are treated equally and fairly in our regulatory processes.

During the past 3 years, I have been working with an association made up of the consumer-owned electric utilities in the Northeast, primarily in New England.

We had to say Northeast because we had representation from New York. It was part of my occupation to collect and present information at various hearings, committees, regional, State and Federal Government levels.

As an observation, I'm very disappointed and have been for some years in the attitude of the U.S. Congress toward the problems of the electric utility industry, particularly those that are owned by the consumer.

I'm pleased to note that the last year's election did provide us with people who are trying very hard to get to the base of the problem and find out what the problem is and to do something about it.

You, Senator Durkin, are one of them. Christopher Dodd from Connecticut in the House is another who is conscientiously trying to explore a way to equalize or to at least nullify some of the effects of this.

I have several recommendations I would like to make for your consideration. I think foremost for New England, particularly for New Hampshire, we should conscientiously and emphatically do everything that is possible to bring the Dickey-Lincoln hydroelectric project in Maine to its completion.

I have worked on this project locally and at the Federal level, testifying, writing letters for a period of almost 10 years. We are no closer to completion of Dickey-Lincoln than we were 10 years ago although we did get through the Federal Government an appropriation to continue the study.

Had we built Dickey-Lincoln 10 years ago, it would be an effective, hydroelectric peaking project that would have substantial effect on the rates of New England as well as New Hampshire.

Senator DURKIN. The projected power needs based on peak capacity or peak demand?

Mr. ERICKSON. It is primarily a peaking-power project.

Senator DURKIN. Who killed the Dickey-Lincoln power project 10 years ago and who has been trying to strangle it since?

Mr. ERICKSON. Obviously, it is a government project. We in New England want to be completely independent and the less we have to do with the Federal Government, the better off we feel.

I believe in that. But sometimes we cut our nose off to spite our face.

What happened, and I'm speaking as an individual citizen based on what I did before, is that the lobby of investor-owned utilities spent literally thousands of dollars defeating the Dickey-Lincoln project.

Senator DURKIN. They used our money to defeat a project that

would have produced lower cost peaking power to New Hampshire or New England.

Mr. ERICKSON. It is estimated if Dickey-Lincoln were a viable project with actual producing power at this point in time, that the savings to New England would be in the vicinity of millions of dollars.

Over the course of a project, and a project is good for 50 years, the costs are incalculable. You can't figure them out. I will go one step further with Dickey-Lincoln.

To take complete advantage of the power of Dickey-Lincoln, it must be made a component of the New England power pool. The New England power pool, as bad as it is, at least is a step in the right direction. And, if the New England pool's central dispatch is as efficient an organization as paper work says it is, it would allow Dickey-Lincoln to be used to benefit all the New England States and I'm speaking of some of the southern States.

Dickey-Lincoln's power is available to preferential customers. A preferential customer is a municipal utility, cooperative utilities, State or Federal agency within the area.

It is an accepted fact that preferential customers would not be able to use the complete output of Dickey. This should be no problem. They worked it out in the Middle West, Far West, and in the South. So that the surplus power would then be sold to the investor-owned utilities or to whomever could take it.

Basically, its effect would be twofold. One, it would give us a hydroelectric, low-cost, nonpolluting source of power that would be primarily peaking power which otherwise is very, very costly.

Second, it would give you a yardstick. It would provide for the first time in the New England States a Federal power project and the cost of that project both as to its construction and to the cost that it puts out would be used as a yardstick so that you can compare these costs to the Public Service of New Hampshire, Boston Edison, Brockton Edison, anything else.

We are the only section of the country that does not have a Federal power project in our area and it's about time we had it.

I'm very disappointed to say and I'm sure, Senator, you will back me up on this, that up until this time, we have not had the support of the New England delegation in Congress. They have voted consistently against it.

They have found fault with it, have called it socialistic. We are destroying the private enterprise of the electric utility industry and the records are voluminous on this.

I think the second point I would like to make is one of the reasons why a very important hearing and meeting such as we had yesterday and are having today is that the hall is not absolutely crowded, that we didn't have to move to a hall bigger than this.

I think people have lost confidence in their government and not only their Federal Government. I think they have lost confidence in their State governments. I think they have lost confidence sometimes in even their local governments.

The reason for this is that the people we've elected to represent us in all of the areas have just not come through with a firm, well thought out policy in energy, that we can handle, that we can take care of.

The comments yesterday and today have been against the public utility commission in the State of New Hampshire. This used to be

an excellent commission. Alfred Mont, who was a chief engineer, I'm sure he would be heartsick if he knew what was going on in our regulatory board today.

Jim Stockley was a rate engineer with the commission, who was always available for a conversation, always available with advice, and always available to hear your part of the story.

These people are no longer employees of the commission and I'm sorry about it. They were good men. We have other good men and we are not beat even yet. New Hampshire will come through this with flying colors and I'm sure of that.

But what we have to have from our Federal Government and from our representatives in the Government is an energy policy, a firm one and I don't mean one as a result of hearings and hearings and hearings.

Our stenographer has taken copious notes. Anyone who has said anything is on paper. It would take 2 days to read them. Who is going to read them? What effect will these notes have on the Commerce Committee? How can we be assured that the testimony we are giving today will have any effect whatsoever?

I don't mean this as an affront to you. It is just that we are bottled down with paperwork.

Senator DURKIN. Maybe public power is the solution to the energy crisis. Chairman Magnuson comes from the State of Washington. He has seen what public power can do.

The chairman is very interested in the whole question of equity and the changing world. It is his leadership and understanding that made it possible to bring the hearing here.

This year we don't have an energy policy and that is because there is no leadership.

You say that the people are fed up and disillusioned with their Government. I know a number of Senators and Congressmen who are disillusioned with Washington even though they are there every day; 535 elected officials can't lead this country under our system. We have to have leadership coming from the White House.

Until we get an elected President, we will not get that leadership. I'm not trying to get involved in the Carter/Ford thing, but we have to have an elected President, and we have to have one who is exerting leadership.

We are not going to have an energy policy until someone faces up to the oil industry, which is the coal industry, which is the uranium industry, which is the industry buying up all of the alternative sources of energy.

The utility industry is in bed with the oil industry, the coal industry, the uranium industry. Until the average citizen, through his elected representatives, break that grasp, you are not going to have an energy policy.

Hopefully, that will be solved and we will start moving in some coherent direction next January.

Some days, it's very disillusioning and disheartening for people who are there. And it crosses most party lines.

There is the oil party in Washington and there is the nonoil party—those who vote the interests of the oil industry and those voting the interests of the consumers.

Right now, there aren't enough voting for the consumers. That is why we don't have an energy policy that wasn't written in the board-rooms of Exxon.

Mr. ERICKSON. I would think that one of the areas that deserves consideration now is the restructuring of the FPC. As you recall, last year there were several bills in the legislature, and the year before, to restructure the FPC, to give the consumer more protection.

The FPC was created to protect the consumer, not the investor-owned utility. As you recall, Senator, from some of the letters you received from me a year or two ago, we wholeheartedly supported the Dingell bill in the House.

I understand the House has a new bill which is the same bill again, House bill 15544.

Again, it was sponsored by Mr. McFall and Mr. Dingell. I looked at the bill only briefly, but I had not noticed cosponsorship from anyone from New England.

But, a bill such as this, which eliminates pancaking of rates, which is one of the detriments to the ratemaking process, which allows a fair return on investments, and which would prevent what happened here recently with our 127,000 tons of coals, it would make it mandatory that a certified audit of fuel supplies would be available to the FPC at least on a yearly basis.

It would guarantee a full and complete hearing on all rate cases before the case was decided. It would provide for, I hope, guidelines for State regulatory boards and support both in staff and in finance for the board, if the State felt it needed it.

There would be a consumer advocate who would act for the FPC at the hearings. Chairman Dunham says he has no objection to the restructuring of the FPC.

I think the FPC should make complete studies in-depth of offpeak rates, of time of day pricing of lifeline, of the advantages of one rate over another.

And, as a personal thing, I still think block rates are good and block rates can work but at least get some good thinking on this.

The last point I would like to make really, and I'm going to be severely chastised for it, but I would encourage within our State and within our country, the—at least the promotion of creating municipal electric departments within those communities who think that that is the way to go.

I would hope that some legislation, either in the States or at the Federal level could be enacted that would allow a community that chooses to go municipal, to fulfill that choice, instead of being bottled up in constant hearings before regulatory boards and through the courts.

The city of Massena, N.Y., about 6 years ago decided they would be better off to create their own municipal electric department and not have to pay the costs of the investor-owned utility that was serving the area.

Massena, being a municipality, would be able to purchase power through PASNY, Power Authority of the State of New York, at a substantially reduced price.

The city has already raised the money. They have already passed the laws. They met the legal requirements of creating their own municipality and yet 6 years now and they still are not in business.

The people of Massena that would be served at the rate 43 percent lower than the rate at which they are now paying. There is something wrong here when the wishes of the people, the true wishes of the people can be denied or delayed through a legal process of appeal, after appeal, after appeal.

I think what is happening is that the investor-owned utility is in hopes that Massena will spend all their money fighting the case and therefore will have no money left to purchase equipment.

We should be able to do what we think is best, create our own departments. There are several communities in the State of New Hampshire who are studying this and I encourage them to do so.

I would like to say for the record and for my own satisfaction that I definitely believe that all hearings of the public utility commission in our State should be open, conducted aboveboard, but, basically, the commission should protect the consumer and not the utility.

I think they have lost sight of this and I would encourage you in this election year to make sure that your representatives know that you feel that the public utility commission's prime function is to protect the consumer and not to guarantee the investor-owned utility a profit.

There were several comments made yesterday about Canadian power. I had an opportunity to meet with people representing the Canadian Government, in trying to negotiate for Churchill Falls power in Canada.

We could not get together. There was too much to be done between our State Department and their State Department, working out the finances. It is still a viable project and one I think we ought to explore.

I did, Senator, attend the FPC hearing in New York and presented testimony on CWIP and I was very heartened to hear your announcement that it will not be included in rate bases.

Senator DURKIN. I just read it in the paper. We sent a telegram to President Ford and to the Chairman of the FPC indicating that we thought it was poor timing. I was encouraged to see that they are postponing it at least for the present time.

Another thing you commented on—you know the Consumer Protection Agency would have provided a consumer advocate to go before the Federal Power Commission and all of the major regulatory agencies to represent the consumer and make sure the consumer viewpoint was heard.

That died, and there is only one person to blame. Gerald Ford decided he did not want the Consumer Protection Agency and that was one of the reasons there is no Consumer Protection Agency protecting us with respect to the FPC or any of the agencies.

I would like to point out that there were a couple of bills, S. 3310 and S. 3311 that died in the Senate Commerce Committee this year. They got caught in the rush or the crunch.

Mr. ERICKSON. S. 3311 is lifeline.

Senator DURKIN. One basically involved the retail sale of power. The other, I think, involved the wholesale issues—pancaking and wheeling. They are underlying issues at this hearing, although this is not a hearing on S. 3310 or S. 3311.

One of them is sponsored by Senator Moss of Utah, who has an excellent consumer record, not just against the utilities, but across the

board. I know he was disappointed that the bills didn't get out this year. He was pushing very, very hard for them.

Also, there is the whole question of location of generating facilities. Should it be left to the States to fight out among ourselves, or should their be a regional approach, or maybe even some of the decisions should be made nationally in order to have a coherent, cohesive energy policy?

Mr. ERICKSON. We could never even start to discuss some of these problems.

Senator DURKIN. We are just beginning to scratch that pile of coal. Maybe we can get a handle on it this afternoon.

I'm trying now to find out what is the latest possible time that I can get to Manchester, taking into consideration the 55-mile-an-hour speed limit and appear at the dedication of the Federal building to Senator Cotton.

If it were any other set of circumstances, I would stay here and run the hearing right through. I am afraid if I did that, it might be misconstrued as my reluctance to share in a day that is dedicated to Senator Cotton.

I disagreed with many of Senator Cotton's votes. But he went to Washington from Lebanon and retired after more than 20 years in Washington, and the man is no more wealthy today than he was when he left Lebanon as a Congressman. I think that is a tremendous tribute to the man.

I have to go to Manchester and I want to repeat that statement to him as part of the proceedings, even though it will be an inconvenience to some of you. I'm sorry. I have to go even though it's going to disrupt the hearing.

#### STATEMENT OF CHARLES DUBE

Senator DURKIN. Mr. Carter wants to lend his testimony and presence today in favor of reduced rates for our senior citizens who are caught with fixed incomes. There is no automatic fuel adjustment surcharge which increases fixed incomes and these people are affected very, very severely by the escalating electric rates.

I know Mr. Carter wanted to add that. If you indulge me I will add it to the record on your behalf.

Mr. DUBE. I would like to know why Granite State Electric charges more than Public Service does. In the Senior Times News for the month of August, you notice there is a fuel adjustment of \$1.12 from Public Service Electric Co. I get my bill and there is a \$1.32-fuel adjustment from Granite Electric. That is a 20-cent rise. Somebody should look into that.

Senator DURKIN. We are. We are going to. That is one of the concerns we have had. That is one of the questions. But it is more meaningful when someone who is faced with the problem, someone who pays the bills to Granite State, comes in. I think the record should show your testimony is unsolicited. It underscores a very real question. It is one of the frustrations in dealing with this problem that, although Granite State Electric did slide a statement in to be offered in the record, they are not here to testify in person.

In the record that has unfolded in New Hampshire over the past several months, we see the real reason why the public utilities com-

mission and Public Service Co., haven't had the guts to come forward in these 2 days of hearings and face the public that they expect to pay outrageous rates.

Mr. DUBE. I have a bill from my niece from Connecticut. Their fuel adjustment runs anywhere between .000420. That is less than one-half cent per kilowatt-hour. That was the month of December to January. Then October to November it was exactly one-half cent. January to February, it was .000670. Over here we have to pay 1½ cents, 1¼ cents, 1⅓ cents, 1⅓ cents.

Senator DURKIN. It gets to over \$1. It was as high as \$1.54 at one time. And it is real money.

Mr. DUBE. The oil is just as expensive in Connecticut as it is here. The fuel adjustment is based on the price of oil.

Senator DURKIN. Price of oil and price of coal. We have seen questions raised as to the purchasing practices of public service with respect to Sprague Oil. We have raised serious questions with respect to their coal purchasing policies. We have seen the fact that the public utilities commission has not challenged the figures.

And the record shows that the only time the public utilities commission has said "no" is when they didn't understand how much of a request increase they were asking for.

Mr. DUBE. Every time they ask for an increase, they are allowed an increase. Then I have the difference between 1971 and 1976. For 4,880 kilowatt hours, I paid \$94.18. Now it is 2 months—so for the 2 months added together here, I have 4,390 kilowatt hours, for \$181.49. That is more than double.

I have an all-electric home.

Senator DURKIN. How does your electric bill square with your tax bill in Salem? Is your electric bill greater than your mortgage payment, greater than tax payments? How does it stand in relation, for example, to your property tax bill?

Mr. DUBE. Property tax is a little higher than the electric bill.

Senator DURKIN. Not much?

Mr. DUBE. Last year it was over \$200 more.

Senator DURKIN. Your tax bill is only \$200 more than your electric bill?

If it is none of my business, tell me, but how does your mortgage relate to your electric bill?

Mr. DUBE. My mortgage is down to \$6,000.

Senator DURKIN. OK. I have bumped into a lot of people in the southern part of the State who fell for the blandishments of the "Redi Kilowatt, All-Electric Heat." Their electric bill is higher than their property tax bill and higher than the mortgage. God knows the mortgage and property tax bills themselves are high enough. In many places the property taxes have gone up 40 percent in the last 3 or 4 years.

Mr. DUBE. I have only been living there 5 years.

Senator DURKIN. Do you suppose we could have copies of those and we will get them back to you. I would like to stick those in the record. It adds a certain significance to the fact that it is not a theoretical problem.

I don't know if we got your name and address for the record.

Mr. DUBE. 6 Lake Shore Road, Salem.

Senator DURKIN. Thank you. We appreciate your unsolicited testimony. There are people in Washington who are concerned.

Mr. DUBE. They had advertised in the paper that Public Service was going to be open. Tuesday and Thursday was a bad stormy night. I didn't go. Wednesday I went to the town hall and I asked if the town fathers knew about that meeting that was being held to discuss the rates. So, the girl at the desk there said there is nobody here now, but I can call one of the selectmen—he is home. I talked to him on the phone and he said he never heard nothing about it.

I said, "There was a big ad in the paper. You should have seen it." He said, "You are going down there?"

And I said, "Yes," I would be going tomorrow night.

He said, "What time?"

I said, "Between 6 and 9."

He said, "I have a few commitments, but I will try to get there."

I went there at 10 after 6. I argued with the manager and showed him the bills. I said, "We are paying more than twice as much than before."

He figured it on computer. He figured on kilowatt. I said, "Figure how many kilowatts I used and compare the prices. It is more than twice as much." I argued with him until 20 minutes to 8.

I said, "For crying out loud, throw that computer away. Give me a pen or pencil and I will figure it out for you."

The selectman never showed up.

Senator DURKIN. Well, we are getting more and more people interested. Nashua was in yesterday, Keene was in this morning. More and more communities in the State are getting concerned. If enough people get concerned, we will get action.

[The material referred to follows:]

I asked Granite State manager if he could tell me how many kilowatt they could make with a gallon of oil and he didn't know. So how do they figure the fuel adjustment? I think that we're paying for all of the oil just in the fuel adjustment. Is there any way that you could find out how many gallons of oil it takes for 100 kW?



## GRANITE STATE ELECTRIC COMPANY

9 LOWELL RD SALEM 03079

SUP 001011

FROM	TO	RATE	READING	CONSTANT	KWH USED	AMOUNT	DESCRIPTION
0717	0812	T 1	22245		292	14.48	ELECTRIC

PLEASE NOTIFY US 10 DAYS BEFORE MOVING

ACCOUNT NUMBER	DEMAND
41 70102 244500	

INCLUDES FUEL CHARGE AT RATE OF
\$1.32
PER 100 KWH..

TOTAL
14.48

MONTH
AUG 76

COMPLETE SCHEDULE OF ALL RATES WILL BE FURNISHED ON REQUEST

## FUEL ADJUSTMENT CHARGE INCREASES AGAIN!

Have you noticed an increase in your electric bill for August? Public Utilities Commission granted the Public Service Company their request for a 15 cent per kilowatt hour increase in the fuel adjustment clause for August (raising the surtax from 97 cents to \$1.12 per 100 kwh). This increase is for August, and who knows what it will be for September, October, or the winter months, when the demand for electricity is at its highest and consequently, the most expensive for all of us. Call the PUC in Concord, or write to them at 26 Pleasant Street, Concord and ask why? You have a right to know.



SERVICE USED AT ACCOUNT 14 GLENDALE ST

13 225 529009

STATEMENT

JANUARY 21, 1976

FROM	TO	READING	RATE	CONSTANT	DEMAND	KILOWATT HRS. 100 CUBIC FEET			
DEC 16	JAN 16	09975	1			897	ELECTRIC	37.74	
ELEC FUEL ADJ -			897 KWH X \$.000420					\$ .37CR	
PLEASE KEEP THIS PORTION FOR YOUR RECORDS								TOTAL \$	37.74

FROM	TO	READING	RATE	CONSTANT	DEMAND	KILOWATT HRS. 100 CUBIC FEET			
OCT 16	NOV 14	08249	1			640	ELECTRIC	29.47	
ELEC FUEL ADJ -			640 KWH X \$.000500					\$ .32CR	
PLEASE KEEP THIS PORTION FOR YOUR RECORDS								TOTAL \$	29.47

FROM	TO	READING	RATE	CONSTANT	DEMAND	KILOWATT HRS. 100 CUBIC FEET			
JAN 16	FEB 17	10805	1			830	ELECTRIC	35.39	
ELEC FUEL ADJ -			830 KWH X \$.000670					\$ .55CR	
PLEASE KEEP THIS PORTION FOR YOUR RECORDS								TOTAL \$	35.39

## STATEMENT OF JEAN BELLEFEUILLE

Mr. BELLEFEUILLE. I live in Epping, N.H. I'm the executive director of Mobile Home Owners and Tenant Association of New Hampshire.

Senator DURKIN. Are you still at the health center?

Mr. BELLEFEUILLE. Yes, I just recently left the legal assistance because of the commitments. I'm going to devote my time dealing with the elderly and youth. I hope to bring them together so that we can become a powerful influence in seeing that the needs of people are met. I have come today to talk about problems we have and with some suggestions I hope that will be helpful to your committee.

Senator DURKIN. Thank you.

Mr. BELLEFEUILLE. We have to realize that the people have been trapped in the webs of the power companies, telephone companies, and all other public utilities. It is no longer possible for a person to be able to live without having electricity, without having fuel, whether it is oil or electric, or even firewood. There is no way out of it.

Because we are trapped we have to find some way to control those who have trapped us and we have made it possible for ourselves to live a decent life.

Recently I was in Washington and I was talking with some Government employees there. And after having had a partial conversation with some of the problems that were affecting us at the local level, I was told that we were not sufficiently informed to be able to make any judgments as to the relationship that existed between the Government and ourselves. I asked them to bear with me for awhile and listen to what I have to say and then make their judgment as to whether or not we were insufficiently informed or uninformed.

And at the conclusion of my presentation, then they admitted that their isolation from the people caused them to make decisions that were, to say the least, inadequate and did not meet the challenge. That is the reason why I think the Senate coming here to listen to us at this time will probably be a bridge that is needed between us and Washington so that we either are going to get better decisions out of our Government or lacking that, maybe we can find means of regaining control of our destiny.

Last fall I made a statement on TV in which I said, "Next year, we are going to celebrate the Bicentennial. Let us look at what it means because 200 years ago we overthrew a despotic form of government. I think we have gone full circle. Today we find ourselves saddled with a despotic Government that is unfeeling toward our needs. It requires that we regain control, we regain the right to be able to make decisions at our level, in our own interest. Those are the important issues we have to deal with."

Senator DURKIN. Jean, I think it was well intended but the last 25 years of sending all the decisions to be made in Washington was a mistake. We have to rectify that.

Mr. BELLEFEUILLE. I think there is more than that. The gentleman a few minutes ago was speaking about Dickey-Lincoln.

We can go further than that to Passamaquoddy. This was anticipated. I can go back to a Mr. Olds in the Roosevelt administration, who had at his fingertips knowledge of the potential power of every stream in the country and who was persecuted and vilified and finally passed

away 3 years ago of a broken heart. The power companies ruined him totally. He took over and tried to show that the utilities were not concerned with the interests of the people but were only interested in their own interests.

Today somebody better listen closely to what we are saying, somebody better start guaranteeing that the people will live, instead of guaranteeing the power companies 15 percent profits. We have to make sure that there was not a conspiracy and I suggest that there should be an investigation in that area.

The power companies were influential in passing legislation where they could add the fuel costs that would bypass the Public Utilities Commission in establishing the costs to the public. They foresaw a long time ago that they would get total and complete control of our power resources and they were putting into our system at that point a method whereby they would be able to get total control of prices.

Next week or some time in the near future right here in the State of New Hampshire they are going to ask to be able to lock in these fuel costs into the regular price. I think somebody better look into the conspiracy of the power interests.

Most of the available resources now are in the hands of the power companies. At one end they ask the State, through the Public Utilities Commission, to set a price that will guarantee their profits. At the other end they don't have to ask the Public Utilities Commission to authorize the fuel adjustment price and they are the ones who own the mines and they can charge it up at that end there without having to go to anybody and this is where they put it, in our bills.

I want to add, finally, that the manner in which they are treating the consumers today is insulting. I have my own electric bills that I brought here. I pay my bills on the first of the month. I have never been delinquent in my bills. I get telephone bills that say, "Please pay by October 19." This is my latest bill now. And the billing is, last day of the billing was September 2, 1976.

When I did business before I used to be able to get 60, 90 days to be considered as cash. They have computers and they are unfeeling. Computers don't give a damn what they do to people. To me this is debasing, degrading, insulting to have them write on my bill, "Please pay by October 19," "by August 18."

Senator DURKIN. That is a change in procedure. They are asking you to pay in advance.

Mr. BELLEFEUILLE. Pretty close to it. The power company puts it a little differently. I'm talking about New Hampshire Public Service Co. They bill me for reading the meter about the 7th or 8th of the month. By that time I have paid them or I have put into the mail a check to pay for last month's bill. On October 4, I made out a check to the Public Service Co. for a bill. The other was September 1, August 4, July 6, June 2, May 5, April 7, March 3. I am pretty consistent in paying in the first 7 days of the month. What does it mean if I don't pay it? They will shut off my electric lights, my heater also, because my heating system is connected to it.

So, with winter coming on now we have problems. The telephone company that says to me, "Please pay by this date here," has insultingly in another instance of a neighbor of mine who received a telephone bill monthly where they say, "Either pay on this date or we

will shut you off and if we do shut you off it will cost you \$18 for us to restore the service and if we take the telephone out it will cost you twice that, around \$36. I think the time has come, where we, the people, have got to stand up to these companies and to say, and to encourage all of those who will stand up with us and say it, too, that we are tired of the insults that are being heaped on us by these concerns today and the manner to which they are doing business.

I don't think the computer is doing us any service. It seems this is another way where they are going to further imprison us, further tighten the shackles.

The oil company where I buy my oil said if I didn't pay the bill by the 27th of the month, on the 28th they will charge me a service charge of 18 percent a year. This is incredible. Something ought to be done.

I want to say thank you for coming here to hear what we say. If you need any support in any of your endeavors, anybody to carry some placards or what not, don't be afraid to say so and we will be there.

Senator DURKIN. Thank you, Jean. I appreciate your taking the time to come today. You are soft-spoken but your good testimony has to stand in contrast to the arrogance of the Public Utilities Commission and the arrogance of the Public Service Co. who cannot find time to attend.

I have a feeling that even as insensitive and arrogant as those two outfits are, that they may wish, before this record is closed that they had found time to testify. The record shows they find time to lobby against bills that protect the consumer. They have time to take our money to lobby against us but they don't have time to come to a U.S. Senate Commerce Committee hearing.

Mr. BELLEFEUILLE. Unless they pay some attention to us, perhaps public ownership of all of these would be the best thing we can have.

Senator DURKIN. Thank you, Jean.

If my listing is correct, Dave Bradley wants to testify. George Linehan from Whitefield wants to testify.

#### STATEMENT OF GEORGE LINEHAN

Mr. LINEHAN. West Forest Lake Road, Whitefield, N.H., George Linehan. I am formerly from Salem.

For the last 5 years I have worked in connection with the New Hampshire Association for the Elderly. One of the greatest problems with the elderly, low income people in New Hampshire, is utilities and paying for them. The majority of the senior citizens can no longer enjoy a good life because of the fact that the cost of living has risen so high that they can no longer afford to pay their electric bills, pay their rent. We believe that there should be some type of a flat rate for the first 300 or 400 kilowatt-hours. The electricity that is essential to living should be given to the people of New Hampshire and all people at a price that they can afford to pay. We feel that we are subsidizing the people that use an awful lot of electricity. People have to go without television. They have to cut down on their electric rates, cut down on their electric use and they continuously see these shopping centers and stores lit up, wasting energy and they are asked to conserve energy.

Senator DURKIN. And subsidize that use.

Mr. LINEHAN. We feel we are subsidizing them. We feel the Federal Government should step in because the State does not take an interest in us. We feel the Federal Government should step in and establish a guaranteed rate for the people.

Senator DURKIN. Thank you very much.

Next on the list I have is Jeff Brummer. Can you come back this afternoon? Peter Brown will be here this afternoon. Dave Bradley, Beverly Snee, and Eugene Daniell.

The record will be kept open. If you or your friend want to add to the record, want to testify, we would appreciate your submission.

We will be back here at 2 o'clock and start promptly.

[Whereupon, the hearing was recessed, to reconvene at 2 p.m., the same day.]

#### AFTERNOON SESSION

Senator DURKIN. We will proceed.

#### STATEMENT OF ROBERT La PREE, CONTOOCOOK, N.H.

Mr. LAPREE. I'm Bob LaPree and I have been sitting in on hearings as an assignment for the New Hampshire Times and I have made some observations that I would like to comment on.

Senator DURKIN. Please do.

Mr. LAPREE. I think we have pretty well established and most people have been aware of the fact that the Public Service Co. has been catered to by the Public Utilities Commission. It has always been my concept that a monopoly that is a private company should or at least is supposed to limit its profitmaking venture to a reasonable return on its investment.

It seems to me that Public Service has succeeded in getting itself in an absolute no loss situation with the surcharge and apparently Sprague Oil has found themselves a good patsy to make money on fuel oil deliveries. I think that something the committee and particularly the Federal and State governments should be looking at, rather than the end product which is our high electricity rates and fuel rates, is to look at the greater question of what we should do as an energy policy as a Nation.

At this point in time and in the foreseeable future, the energy policy coming out of Washington and out of the States has been mainly oriented toward nonrenewable fossil fuels. We seem to be protecting the investments and profit motives of the big oil companies. They have been permitted to go into all forms of energy sources, nuclear, coal, et cetera. And we have ignored the very real sources of energy that we could use and not deplete as well as with our oil, coal, and nuclear fuels.

Mainly what I am talking about is the greater usage of wind and solar power, the recognition of wood as an energy source particularly in this part of the world. I feel the Government should take upon itself to turn the ERDA budget around. Rather than being completely oriented toward nuclear power, which something like 85 percent of its budget is oriented toward, the Government should turn that around and put our money and engineering expertise in this country into the

utilization of the wind and sun, and again like I say, the wood resources of the country.

I can give you an example of what I feel is engineering shortsightedness on the part of both capitalist enterprise and the Government. The Filtreen Co. in Harrisville has been trying to put in a hydroelectric production station just for their factory. They went all over the country to find an engineering firm that would engineer for them and tell them how to do it. This being a small operation—I have no idea of the kilowattage—but they needed only about 1 acre of water impoundment.

They came to the conclusion that large engineering firms that handle such matters only could deal with large projects such as the St. Lawrence Seaway Hydropower project or the large-scale turbine production of electricity. Nobody would even touch the small-scale project they had in mind. Either they did not know how to approach it or they did not want to bother with it.

Finally they found a man in Nova Scotia or New Brunswick who came down and engineered the project personally. This points up the inability of the corporations to either understand the dynamics of Project Independence or I don't believe they understand that big is not always best.

That is a new rage now, small is beautiful, but there is a great deal of validity to the fact that large companies can't deal with small problems. They either make them big and then deal with them or they ignore them. The systems for solar heating in homes is outrageously expensive. A friend of mine wanted to build a house, but he couldn't afford the solar system, and he ended up using various plastic materials and designed his own system and he put in a solar system that cost only about \$500.

SENATOR DURKIN. We have been moving toward a tax credit for those who implement the use of solar systems and other forms of heating.

MR. LAPREE. The Government should understand for the working class person, the income tax credit is a help. It should be an incentive. If a person puts in a wood stove and saves 400 gallons of fuel oil, he should be rewarded for that.

There are designs where you can take a fireplace and make it more efficient than it really is. On the part of the Government, I refer to ERDA's budget and they have been putting most of their money into nuclear research. Nuclear power is pretty much of a dinosaur and we will pay for it dearly if we continue with the kind of program we have underway now. We have no way to deal with the waste for one thing.

I think we should take that type of developmental expertise—the kind of expertise we put into the space race—use the hardware we use in our military establishment and take those efforts and put them into finding a good renewable energy source. We should approach it from the point of view that we can't continue to consume expendable supplies at the rate we do.

We should make cars smaller. I feel the Federal Government should make cars with no more than 250 horsepower, to grab a figure out of the air. I think our appliances should have an efficiency rating and there should be a real project undertaken to make our appliances more efficient. We don't need electric pencil sharpeners, can openers. Everything can be done by a push of the button.

Senator DURKIN. We drive to weight reduction classes.

Mr. LAPREE. Right. The institution of offpeak lower rates for electricity should be number one priority. This brings me to the point of the Dickey-Lincoln Dam. People have been singing the praises of that project for 40 or 50 years. The same for the Passamaquoddy project. The area that would be inundated by the Dickey-Lincoln project is the last large section of wilderness in this part of the country. That is a high price to pay to provide peaking power so that people can turn their air-conditioners on in Boston and not have to pay such an outrageous price. I realize our views differ on that.

Senator DURKIN. But you have to make some kind of tradeoff.

Mr. LAPREE. Peak load comes from people coming home and turning on all of their appliances. First of all, we should have a peak power premium on that electricity. That would help cut it down. If somebody had to pay 50 percent more to do things that they could do at other times that would take care of much of the problem there.

Senator DURKIN. You raise a fundamental problem.

Mr. LAPREE. The differences between environmental needs and our own realistic needs to provide what we consider to be quality of life.

Senator DURKIN. As Professor Bower suggested, the need for power will increase no matter what we do. If we block all sorts of power, we are going to create an energy gap or energy crunch. I feel strongly about the wilderness but it may well be that some of the wilderness is going to have to be given up to find a source of nonpolluting, renewable power until solar and fusion are on line. That is my only concern. I also share your concern for the environment and wilderness and the white water along the St. Johns River.

Mr. LAPREE. I understand. I'm not one of these types of environmentalists who thinks you stop all progress just to save a few trees. I don't think that is right either. Professor Bower says our energy needs will increase as time goes on and there is no way around that. I believe that is true. But I don't believe we will see the kind of progression of use over the years that were projected in 1955.

Already since the energy crisis came on, the growth of power consumption has decreased. It has changed already the outlook of many utilities, as to what they need on line in 1999 or 2000. If a national policy was established and the public of the country came to the realization that we cannot continue to consume at the rate we are, we could make drastic reductions in future use and sort of get on a flat level of usage.

Senator DURKIN. Stabilize it.

Mr. LAPREE. Yes. As the population increases it would increase but our population is also slowing down. The Dickey-Lincoln project is not a panacea to our problems. It is a renewable resource, but what we will be trading off for that will be a massive area. It's not just the area that will be inundated that will be ruined by the dam. Right now that is impassable wilderness. If you open up that area by putting a lake in there you will have people riding on boats all the way in there and that is a high price to pay.

They are in the planning phases on a small level for Passamaquoddy tidal power. But to take that whole area and turn it into a peaking power supply for Boston/New York area is not a good idea. The 55-mile-an-hour speed limit has proved to be a good way to reduce the amount of oil used.

Senator DURKIN. There is more oil that can be saved by conservation than there exists in the Prudhoe Bay.

Mr. LAPREE. It's also a positive way to deal with it. The way we deal with shortage is to find more rather than look at the problem, which is overuse. We have to stop overusing and that to me is the only way to deal with it in the long run.

Senator DURKIN. We may well look back in 10 or 15 years and realize that the embargo should have done us a favor. It should have opened our eyes to the fact that our resources are finite.

Mr. LAPREE. One last comment. A greater part of the problem we have is that our planning is done by people—and I'm particularly thinking of the Nixon/Ford administration and much of the establishment in Washington—much of our planning is done by the people who have been in the pocket of the capitalist enterprises. We don't have anybody, it seems, except for a few people who don't have a vested interest.

The oil companies have gotten into the whole energy field. I would like to see them stay out of solar.

Senator DURKIN. That is what is slowing down solar energy development. The energy industry wants to adapt solar to their very capital-intensive distribution system. Many people think that type of distribution system is not necessary.

Mr. LAPREE. I think the prime example, one of the previous witnesses mentioned Massena in New York. My family comes from that area. I am very familiar with Massena. When they built the St. Lawrence Seaway they put in a huge hydropower dam built with Federal, Canadian funds, and New York funds. It was a great boon to the town because there were a lot of jobs which were attained.

Today, however, they are still getting their electricity from Buffalo out of Niagra Mohawk and paying fairly high prices. However, when the dam went up within about 3 years Alcoa Reynolds and General Motors put up plants less than 3 miles from the dam. You can look at the power lines and they go right into the plants. Yet the people at Massena cannot get a municipal power-buying system setup through probably legal stonewalling. That was the implication from the man who testified on that.

That gets to the point that the capitalist interests own much of the means of production that the people should own. I think we should go into more projects where the State, say, buys the fuel oil for Public Service or the Federal Government finances or underwrites large-scale production of electricity.

Senator DURKIN. When you get the Federal Government in there, they have the possibility of producing another postal department.

Mr. LAPREE. I'm afraid so. That is a big difficulty.

Senator DURKIN. That gives a lot of people pause.

Mr. LAPREE. We have already seen what happens when you allow the large conglomerates and corporations to get involved. They become involved in the Government and in the means of production of the very essential energy projects. I just wanted to make a few observations.

Senator DURKIN. Thank you. The AP articles and some of the testimony that has been introduced into the record contain substantial allegations concerning the relationship between Sprague Oil and Public Service and the failure of the Public Utilities Commission to ag-

gressively look into the situation. Too many hearings are in Washington and you get as witnesses paid Washington lobbyists who make a living testifying before Washington committees. That is one of the reasons we are here. Many of the people who have sat here for a couple of days would be happy to know that the Governor was on the radio saying this was grandstanding. I wish he could be here to hear Mr. Linehan, people from Nashua, Mr. Dube—I don't think you people have been grandstanding.

I don't think the fact you people are speaking out on these electric rates is grandstanding. It's too bad the Governors' energy czar wasn't here to testify. It's too bad the Public Utilities Commission couldn't find time to come here and testify. These two gentlemen in the back of the room have been here for a couple of days taking notes. Will you identify yourselves for the record.

Mr. RODER. Dick Roder, Mr. Durkin.

Senator DURKIN. Would you care to testify or are you just here to take notes?

I'm glad to see that one of the electric utility companies has taken an interest. You will be afforded the same opportunity if your management feels moved to testify. The record will be left open and you can testify. We still hope to find a time when Public Service and the public utilities commission can come to testify, if not before us, before some other governmental body.

Gail Morrison.

**STATEMENT OF GAIL MORRISON, PRESIDENT, GREATER NASHUA CHAPTER OF NOW, NASHUA, N.H.**

Ms. MORRISON. I have about a 1-minute statement to make.

Senator DURKIN. Identify yourself for the record.

Ms. MORRISON. I am Gail Morrison, president of the Greater Nashua Chapter of NOW.

I wanted to make the point that to a large extent poverty is a woman's problem. If one investigates the makeup of that income bracket referred to as below the poverty level, you will find disproportionately large numbers of women.

There are elderly women alone. Women with children who are receiving welfare. You find single working women and unemployed women, still the last hired and first hired. And you find working women who support families.

It is my observation that a utility rate structure and utility policies that penalize the poor for using less penalize women in particular.

Thank you.

Senator DURKIN. Thank you.

I think the point was alluded to yesterday. Bob Gross testified from Legal Aid indicating that the amount that welfare allows for all utilities, phone as well, is substantially less than the minimum electric bill. Unfortunately some of our senior citizens, men and women, and especially the women, don't have the full energy saving devices. They don't have the appliances and consequently they can't cut back. They have already cut back.

They don't have color TV's. They don't have self-cleaning ovens. They don't have these full labor-saving devices and so there is no place to cut back.

Ms. MORRISON. I don't want to use a statistic without having it in front of me because I don't know the source, but I have been told that one-half the women over 65 are living on incomes of less than \$2,000 and that is incredible.

Senator DURKIN. And there is no automatic passthrough like the public utilities has allowed with respect to the fuel adjustment surcharge.

As you know, that fuel adjustment surcharge is no longer just a surcharge, but it represents almost 75 percent of the fuel component in electric bills for the majority of people in New Hampshire today.

That has gone through without any approval, other than the rubber stamp and time stamp at the Public Utilities Commission.

We will leave the record open. If you have other statistics or data or if you want to communicate with the committee or my office, please do so.

The electric rates and extension of benefits for the GI bill are by far the biggest complaints we get in the office, through the van, mobile office and hotline.

If you want to add to the statement later on, feel free to do so.

If there are things your organization thinks my office should be doing or the Commerce Committee should be doing, or if you are just calling to give us hell, please do so, so we will know.

Ms. MORRISON. Thank you.

**STATEMENT OF JEFF BRUMER, RESOURCE COORDINATOR, GRANITE STATE ALLIANCE, MANCHESTER, N.H.**

Mr. BRUMER. Thank you for putting up with my comings and goings.

Senator DURKIN. Identify yourself for the record so we can preserve it.

Mr. BRUMER. I am Jeff Brumer. I am a resource coordinator for the Granite State Alliance which is in Manchester, N.H.

Senator DURKIN. What is the alliance, for the record?

Mr. BRUMER. The Granite State Alliance is an organization which has been in existence for 1½ years working on various facets of interest to concerned people in New Hampshire, one of them being utility rates and power.

We also publish a paper which I am sure you are familiar with called the Granite State Independent.

We have people working on other programs sufficient as to who owns and controls New Hampshire.

Senator DURKIN. If you find out who owns Public Service Co., I would appreciate your letting the public know.

Mr. BRUMER. I will direct myself to that a little bit, more with a request than new information.

What I have to say is fairly brief. But I wanted to deal with this matter of rate reform in a somewhat larger perspective.

Looking back to a time preceding the 1970's when electric utilities, not only the Public Service Co. but utilities at large throughout the Nation were building ever and ever larger plants.

At the time, larger plants provided economies of scale which resulted in a net decrease in the cost of electricity produced by them. But after 1970 that old formula turned itself around and as new plant

capacity was added to the system, the electricity produced by those plants became more and more expensive.

Utility companies began to experience a new phenomenon where their earnings were being eroded.

Looking at that, any utility company, even examining the situation in its own self-interest, would have been advised to stop the wholesale expansion of its production system, its generating system, looking more towards conservation.

However, they haven't done that. They have done the exact reverse, principally through the development of nuclear power, to try to expand their production capabilities.

To my mind, what we are faced with here, with that kind of contradiction where you would think in their own interests they would begin to consider conservation, rather we come up against the basic problem of what so-called publicly owned or what a monopoly is that is given a public franchise, called a public utility and what its responsibilities are.

I think the first thing we will have to recognize is that so long as the present rate structure and whole method of ratemaking is continued on the basis of setting rates where we collect a percentage of your capital rate base, that there is no way that a private utility can even really begin to consider conserving on the one hand or, for that matter, getting into alternatives that don't provide the capital expansion picture that something like a nuclear powerplant does.

It is natural, it is part of the American scene, for this company, even though they are supposedly a public company, to acquit itself in the same way another company does and to try to increase profits.

Not necessarily the percentage of that, although we have seen they have done that—whereas utilities used to be content with 8-, 9-, 10-percent return, now they are asking and having before the local public utilities commission and said they want 15- and 16-percent return, a nice blue-chip stock.

Senator DURKIN. They are getting 9.83 now which isn't a bad return. It is a lot more than the senior citizens are getting, a lot more than the women are getting.

Mr. BRUMMER. The ratemaking formula is more complicated. They received authorization from the public utilities commission to pay 14 percent on common equity. Out of that they think they will be able to pay 11 or 12 percent on long-term indebtedness.

As you know, I am sure, utility companies are unique. They are not capitalized like private companies. Private companies are capitalized on something like 70, 80, 90 percent common equity. Whatever else they have they raise their debentures, stocks, loans.

That is not true with the utility industry.

The SEC provides a guideline saying they can't float debts more than 75 percent of what they are doing.

They maintain that inverse capitalization so that 75 percent of the company or something close to that is capitalized in terms of bonds.

The reason I bring this up is that they and particularly Public Service continues to maintain a myth that the stockholders have some say in what their company is doing.

Senator DURKIN. Another one is the proverbial widow who is going to starve if the dividend check doesn't arrive.

Mr. BRUMMER. That is put to a lie when you get hold of the forms which show the top 10 stockholders. They are hardly the proverbial widow.

I know Senator Metcalf has been doing work to change SEC rules to provide information about who the major debtholders are in utilities.

I would like to encourage you in whatever manner you can to push for that.

Senator DURKIN. I am going to.

Mr. BRUMMER. Here in New Hampshire when a decision is made to raise or lower 1 point or half a point on a loan, it is the banks that are dictating that to a large extent, local banks as well as the big banks in Boston and New York.

Senator DURKIN. You raise an interesting point. I have a feeling that I have been here before, even though the "here" is in a different room and it is 5 years later. The cast of characters is shockingly similar to the cast of characters we had when we had the Blue Cross hearings. The board of directors of Blue Cross-Blue Shield, and some of the banking institutions—and I find a person who submitted testimony for Granite State Electric who used to be with Blue Cross—is the same group that is operating an awful lot of our utilities.

Mr. BRUMMER. I want to stress the importance, particularly in the utility field, of the public's right to know who these so-called non-public owners are of public utilities. Because the decisions they make in terms of loaning money to utilities for the construction projects of the type public utilities engage in, in terms of control, is far greater than what is said at the annual stockholders' meeting in Manchester.

That is not to downplay the fact that there are large common stockholders in Public Service Co., principally banks, locally Indianhead banks, but the biggies are the ones in New York. Manufacturers Hanover Trust, City Bank of New York, and some of these people.

In that context I would like to see—

Senator DURKIN. I am sure the Boston banks and friendly insurance companies have a hand in this somewhere.

Mr. BRUMMER. In the same vein, I would like to see kind of a removal of the shroud that they have created to hide the identity of some of these people, banks, trusts, nominee trust, and all of that.

It makes research that much more difficult when you have to play in that game.

That is pretty much all I want to say.

I believe that there is a variance. The hard fact is that the whole system, given its present rate formula, is predicated on growth.

And the nuclear plant is a manifestation of that because it is the most capital intensive of any type of electric utility generating plant built.

It is just the same old flow, that they are going regardless of whether we need that or not, and despite the fact that patterns of electricity consumption have changed dramatically with people cutting back; it does not make sense on its own terms for that company to even begin considering conservation.

I think the Public Service Co.—where they are trying to justify an expansion of their system they want to maintain that rate structure will sell the most electricity.

They have a promotional rate structure, this declining block structure, and our thinking on the matter is that so long as the company persists in trying to build even beyond its financial capabilities that there is no way they can tolerate any real change in the rate structure.

So the matter of conservation is intimately tied up with the matter of equity.

If we are going to have fair rates, it will entail reduction in consumption of electricity and change in patterns of consumption and that is antithetical to what the utilities want.

Unless the whole manner of ratemaking, the very premise on which that is done, unless that is modified seriously—and I can't see any alternative but we should call the number on the public utilities and make them public and do away with this business of trying to regulate them altogether.

It hasn't worked and New Hampshire is not unique in that.

Senator DURKIN. One of the problems has been there is free enterprise for widows, free enterprise for young women trying to raise a family, free enterprise for the handicapped and children, but there is no free enterprise or competition in the utility industry.

To replace that, the reform was to provide a strong regulatory commission to take the place of competition.

What is happening is that the regulators become seduced by the people they are supposed to regulate.

As someone observed, instead of Public Service, they should change the name to Self-Service.

The public has been forgotten and excluded. The public is supposed to pay the bill and not whimper at all.

I don't know whether you were here, but Professor Bower, who has a reputation which speaks for itself, said the earnings per share of New Hampshire Public Service have gone up approximately 40 percent during the period in which the fuel adjustment surcharge has been in effect.

Utility stocks were experiencing some difficulty. They are now one of the most desirable blocks of stocks.

I don't know whether you heard Nancy Proctor who described that the same Public Utilities Commission who couldn't come here sent their key people to lobby against Senate bill 44, against hearings on fuel adjustment surcharge, against having a consumer advocate.

If you can guess how much the pile of coal weighs, then you can testify for 5 minutes as a consumer representative at a Public Utilities Committee hearing.

The present oil embargo logic which gave rise to the declining block and some of the other ratemaking procedures, hasn't changed since the days of the Salem witch trial. The preembargo logic has no place in a world which has changed substantially since the embargo.

Mr. BRUMMER. I wanted to point out also that during the—this may have been testified to, but Senate bill 44 heard in the last special session had two parts to it. One was to create a Utilities Consumer Council. The other part provided that the stockholders would be responsible for picking up the cost of repairing a plant when they have a breakdown which was unscheduled.

I thought no more revealing a statement was made than by William Tallman, president of the company, when he wrote a letter published

in the Union Leader when he said that there simply was no way in which Public Service Co. could tolerate having such a provision in law because it would ruin the possibilities of their carrying out their construction program, that stockholders seeing that their earnings were subject to ensuring more or less that their plant and equipment be run in an efficient way and conversely that they would pick up and lose if the plant wasn't, and they had a lot of unscheduled outages, then there is no way they could have raised the money necessary to expand their system.

Anyway, that was eventually beaten down.

But in terms of the possibilities of reform of the fuel adjustment surcharge, that tells you a good deal about the situation vis-a-vis their trying to grow constantly when they don't need it.

Senator DURKIN. In too many cases the management of Public Service began reading meters and their depth of vision is still 12 inches off their noses. They are rewarded for making mistakes. If I make enough mistakes I will be retired. If an average businessman makes enough mistakes, he will be given a green or pink slip or whatever color it is. If a utility executive makes a mistake he is rewarded, he is promoted and they expand the rate base and they get 109 percent of that mistake back and pay dividends to stockholders.

I will lend my support to bring sunshine to management.

We have been hearing disturbing allegations with respect to Sprague Oil. I can't tell you whether Sprague Oil owns Public Service Co., owns a share or block of it, and most people can't tell.

Does Exxon own Public Service? We don't know.

Here in the U.S. Senate Commerce Committee and we don't know. PUC doesn't know and doesn't care.

It is an outlandish scenario.

Mr. BRUMMER. I agree. All we know, is Cede & Co. is a large stockholder in Public Service. It is a straw company for Manufacturers Hanover Trust which doesn't help us much because we don't know who the big stockholders are there.

Utility regulation was conceived by the private utilities back in the 1920's and 1930's when there was quite a large amount of municipal ownership. Prices at that time were going up.

At the time there was this fellow who is actually the father of Public Service, a fellow by the name of Samuel Linsil, who put together an enormous utility empire. It was at his behest that regulation, so-called, was established, and it was done to ward off the cry for increasing public ownership.

From its very inception regulation was intended to deceive the public. I think we ought to continue to bear that in mind.

Senator DURKIN. I am not sure of the actual facts with respect to utilities, but many times regulation is a protective umbrella.

The funny thing is, and it is disturbing, most of the Washington regulatory agencies aren't any better than the PUC.

The Federal Power Commission was cited by the House Commerce Committee as being the worst of a bad lot.

Mr. BRUMMER. I would argue perhaps with the Nuclear Regulatory Commission.

Senator DURKIN. There are openings on the Joint Atomic Energy Committee. I know Mike Gravel is waging a strong campaign to get on

the Joint Atomic Energy Committee to bring another voice or viewpoint to the committee that has the overall responsibility for oversight of the nuclear industry.

This committee does not have jurisdiction.

We were able to block in the last week of the session the midnight appointment of George Murphy to the Nuclear Regulatory Commission.

Thank you. I appreciate your taking the time.

#### STATEMENT OF DAVID J. BRADLEY, HANOVER, N.H.

Mr. BRADLEY. I am David J. Bradley of Hanover. I work here in the legislature in the off season, voters willing.

Senator Durkin, I would prefer to leave my testimony with you in the form of pictures. I have been around the game enough to know that it's easy to obfuscate things with numbers and that is hard to do with pictures. These are the base rates now in effect of Public Service Co.'s electricity for residential use. You have to add full adjustment on there and since it changes all of the time I haven't put that in. I haven't put much in the way of numbers here because I don't want to get screwed up by them.

This is the cost of electricity on this axis and here the kilowatt hours running from 1 to 500 on that. As you can imagine it goes on out. This is the usual residential rate. It begins at 21.7 cents and then it goes down and on out. These are the so-called descending blocks. They are interesting, aren't they. Most of the people you have heard about who have been trying to speak are in this general area, 500- or 600-kilowatts per month or less, the poor people.

They start at 21 cents and they almost never get to the high rate and out here are the rest of us. I'm out here. Here at the lower dotted line is the charge for home heat. I don't know any person who heats his house with home heat. Notice those people who do pay less even than those who don't out here. That is what is called a promotional rate. It's hard to disguise that in pictures. This means simply that this group is subsidizing that group. These people here are subsidizing me and the rest of us who use more than 500. It doesn't take any kind of education to know that that is wrong.

These people out here are mining these people here. It's no wonder you have heard from these people.

Senator DURKIN. The poor people are subsidizing the more affluent.

Mr. BRADLEY. Mr. Bower told you yesterday it was up to 20 percent that were paying more than they should have for their electricity.

Senator DURKIN. That is senior citizens, mothers raising small children on their own.

Mr. BRADLEY. My own kids are subsidizing me and I think that is wrong and it's stupid, plain stupid and I will right that right to the end. The sensible thing to do is to charge people for what they use on a per unit basis. That would look like this. Even more sensible, and what some of the folks here have been talking about, would be to charge one rate for peak and a different rate for those who use their heat offpeak.

Senator DURKIN. Just like telephoning on Saturday night.

Mr. BRADLEY. Yes. That is the way it looks. The first one here would be a fair line. Everyone would pay according to how much he uses.

When you look ahead you know we have to conserve energy. Therefore to separate the rates and encourage people to use nonoffpeak, non-peak, is necessary. That is why I drew that in there for you. I will leave these with the committee.

Senator DURKIN. You don't mind if we send Xerox copies of them to friends from the electric companies.

Mr. BRADLEY. Now, it's often said that it can't be done. It's often said that it can't be done, to change those rates. What you are dealing with is a change from a triangle to a quadrilateral. So that income earned in one place is made up of—income lost from this area, poor people, is made up by those who should be paying more. That is as simple as pie.

You need to set that line, wherever it goes, to make sure the company gets a justifiable income.

Senator DURKIN. Then you are going to get conservation in your industrial community where the controller, or whoever is responsible for holding down costs, will start manufacturing in energy-efficient manners as well.

Mr. BRADLEY. You will find the industrial people are doing pretty well. They are using electricity around the clock and they are paying demand cost, peak price cost at special rates. I want to stick to the residential because that is where the justifiable yelling is. The other is a more complicated subject and I don't want to get into it today.

We have established it isn't a complicated mathematical thing to adjust that straight line so that the income taken from the poor people will be made up by those who are richer. At least, I submit it isn't too tough. It's often said that it can't be done but—

Senator DURKIN. Anything that will benefit the consumer always needs more study. That has been my experience.

Mr. BRADLEY. I want to show you stuff I got from the attorney general of Virginia. I wish I had the numbers. He promised to send it to me but I haven't gotten the numbers yet. That is what Virginia is doing. They have this front-end load here but in wintertime it's a straight line. It can't be done except Virginia is doing it.

In summer they have a load which increases because they wish to discourage the heavy use of air-conditioning. Those are two good examples of a modified life line that I think is highly desirable. There are other evidences that it can be done.

Senator DURKIN. Virginia doesn't have the high cost we do.

Mr. BRADLEY. No; I will let you have the figures when I get them. Let me go a little further. France uses a circuit breaker. You come home when your wife turns on a whole pile of junk and the circuit goes off. She says, "I better turn on the washing machine." There is a contract between you and the company not to use more than so much. In Germany they use the rem control system, in Hamburg. That is being

experimented with in Rutland, Vt. It has been used there for a long time. A message is sent down the wire from the head office which says shut off certain instruments at peak time. And they are shut off. These things cost money but over the long run—I will any day fight for justice. I want the rate to be realistic and fair.

There is one other darn good evidence that it can be done because it's being done here in the United States and it's being done here in New Hampshire.

No one in the Public Service Co., can say they don't believe in life lines. They give life lines to their own employees. That is the green line there. If you are an employee of the company you start at 1 cent. Out here at 30 kW you go up a little bit. Then you go over and then you come down. From there on out if you are an employee of the Public Service Co., you have a life line. They obviously believe in it for a certain select group.

I submit to you, Senator, it's not such a completely wild idea.

Senator DURKIN. You are right. A graphic demonstration is more moving and complete. I assure you we will reproduce those graphs and they will be in the hearing record and hopefully we will be able to use them.

Mr. BRADLEY. I will keep these.

Senator DURKIN. I appreciate your talk very, very much. I appreciate your not only taking the time and coming down here and sitting a considerable amount of time in the past 2 days but I appreciate also your presentation, your individual testimony.

You said you weren't using numbers because you didn't want to confuse the issue. I sympathize with your potential constituents in the confusion that they are going to experience on November 2.

Mr. BRADLEY. Horrible accident.

Senator DURKIN. I would urge you to stay in touch with my office and the committee. Please feel free to get in touch with us if you think we are going off the wrong end. Or if you think we are operating with incomplete or erroneous information. Please don't wait for a request.

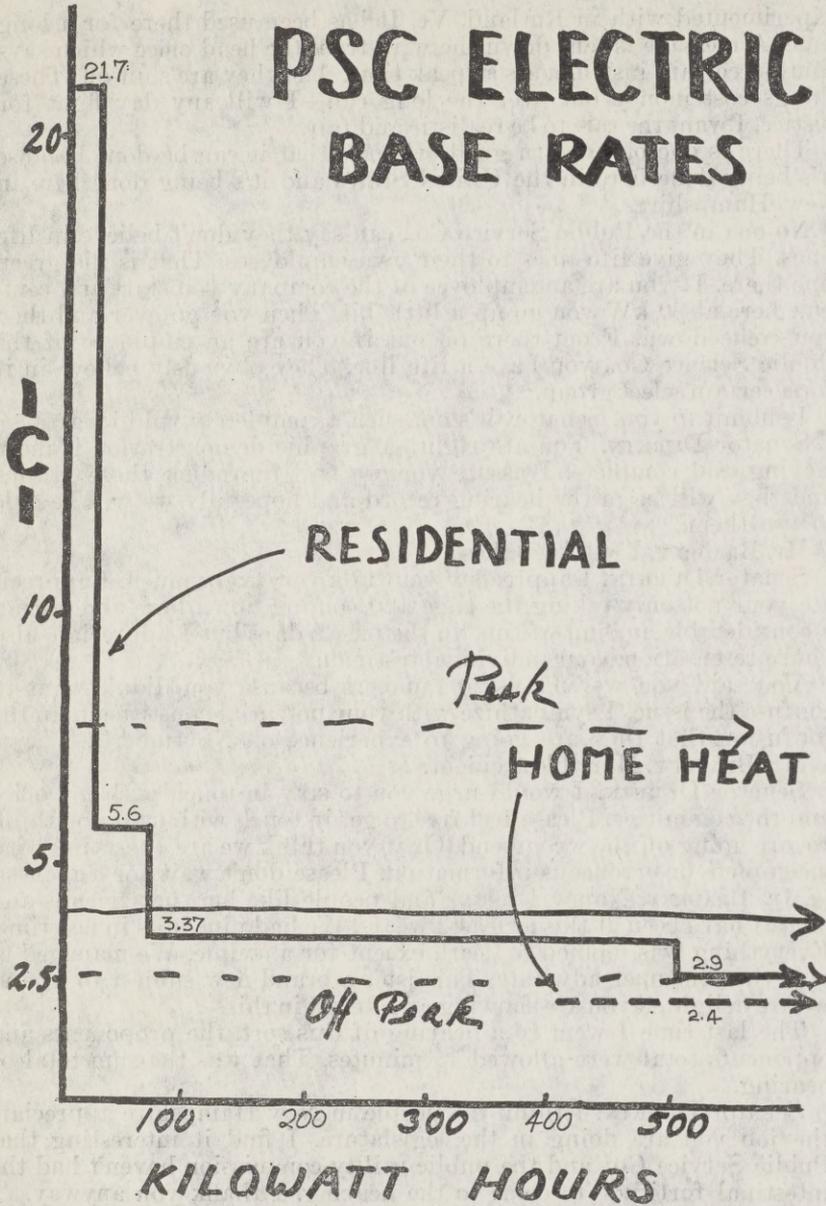
Mr. BRADLEY. Nancy Proctor and people like her, her friends and myself have been at this at least 2 years. We had nine bills in last time. Everything was lobbied to death except for a couple. We managed to save the consumer advocate. This isn't a brand new subject to us and we are delighted you are showing an interest in this.

The last time I went to a hearing of this sort, the proponents and opponents total were allowed 15 minutes. That was the sum total of hearing.

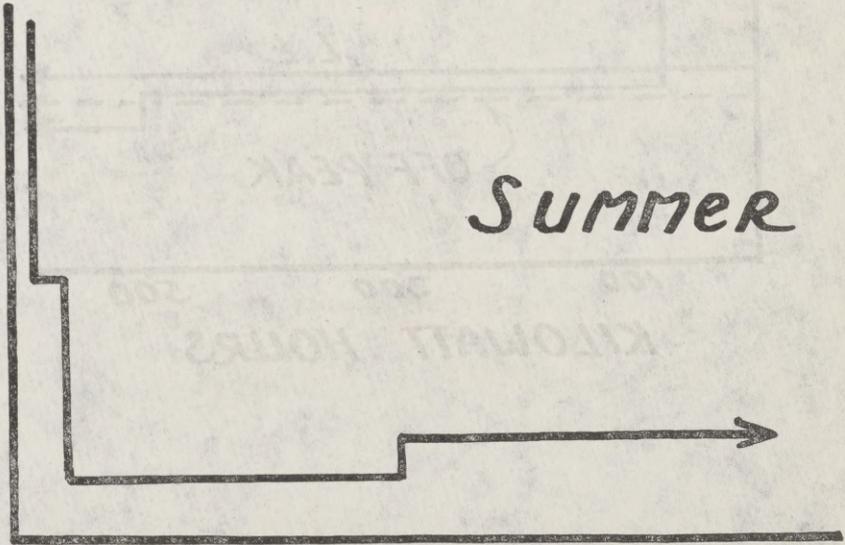
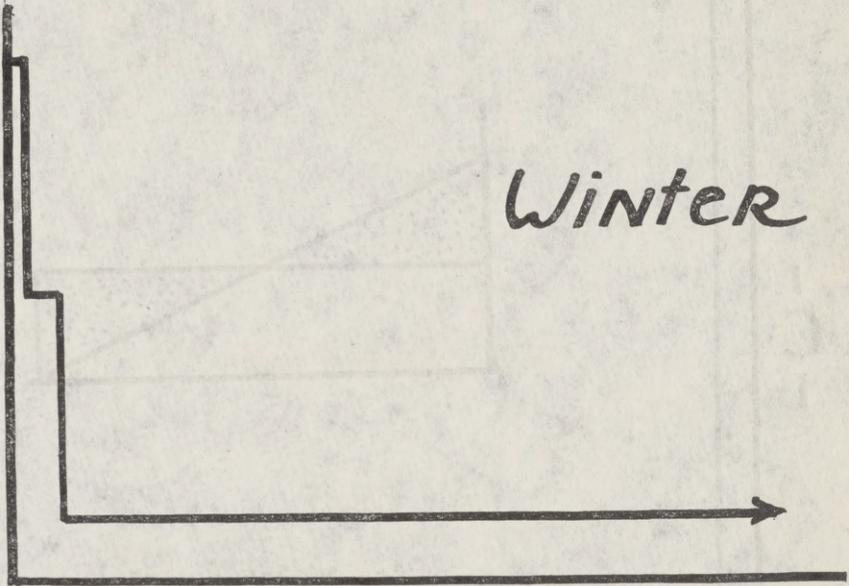
Senator DURKIN. I think the people in New Hampshire appreciate the job you are doing in the legislature. I find it interesting that Public Service Co., and the public utility commission haven't had the intestinal fortitude to come to the hearing. I thank you anyway.

[The material referred to follows:]

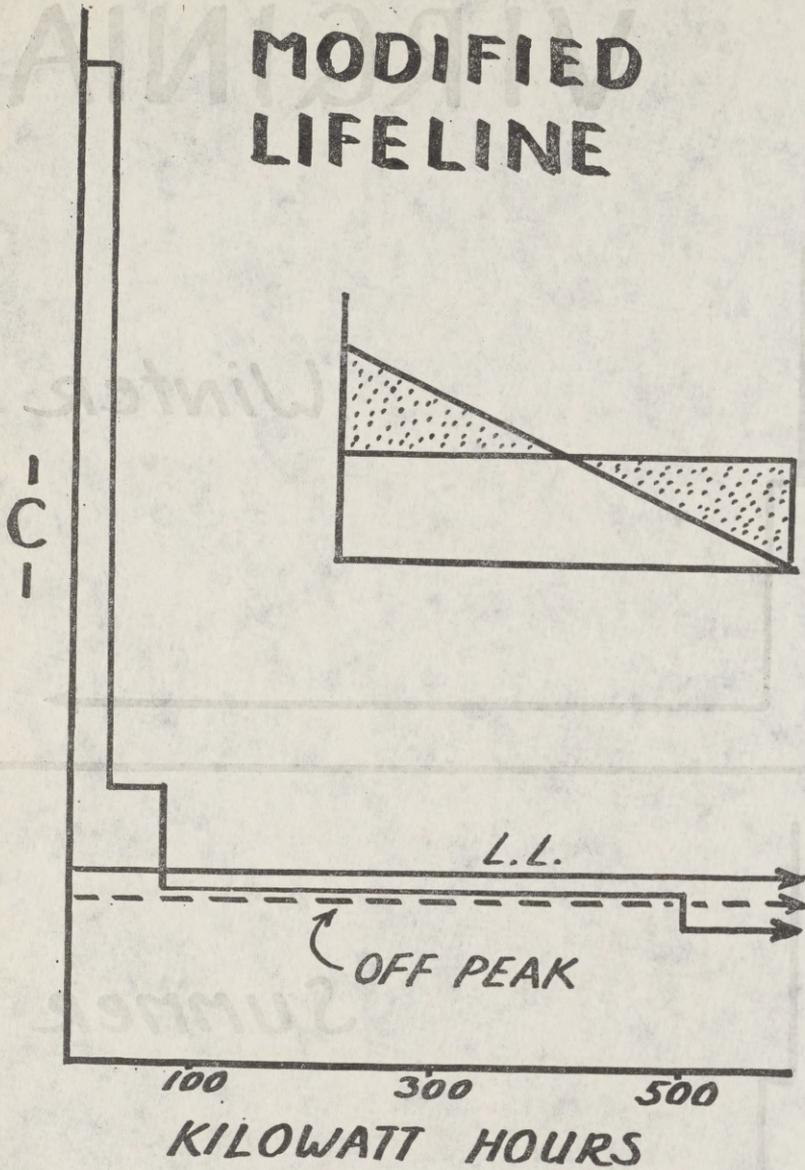
# PSC ELECTRIC BASE RATES



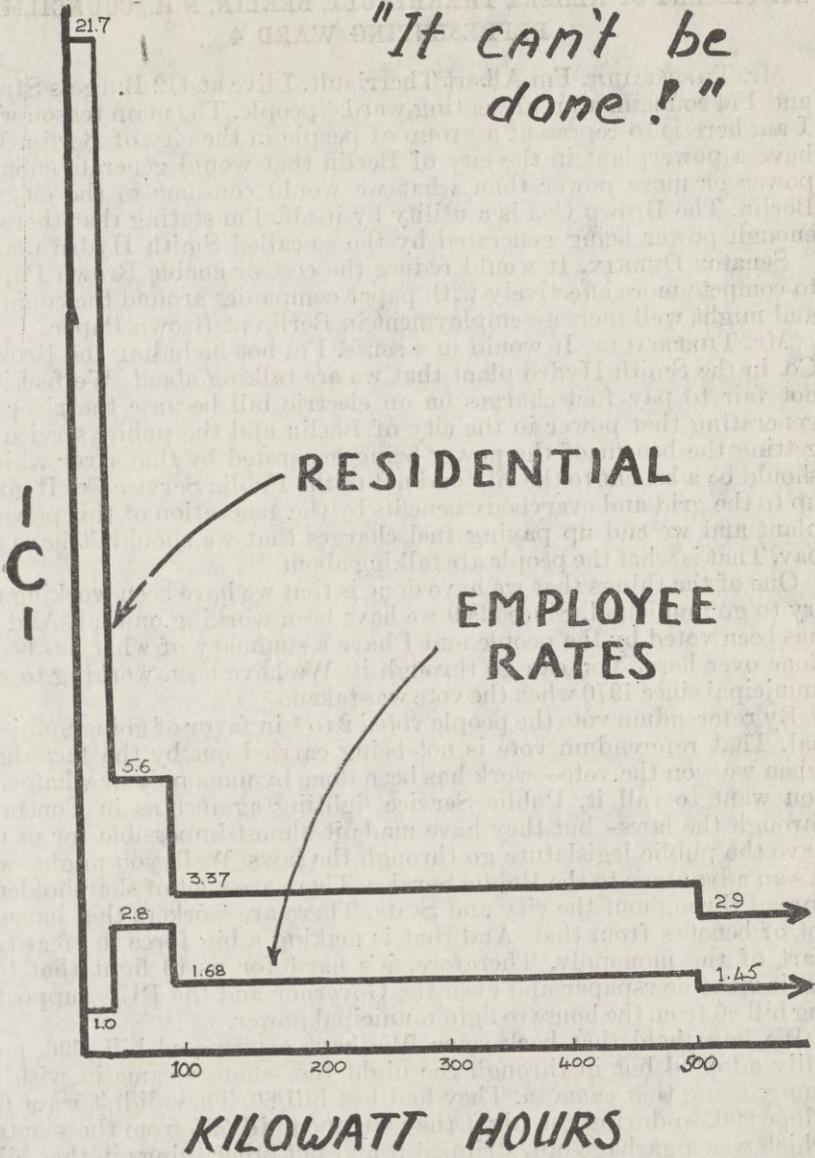
# VIRGINIA



# MODIFIED LIFELINE



"It can't be done!"



STATEMENT OF ALBERT THERRIAULT, BERLIN, N.H., COUNCILMAN  
REPRESENTING WARD 4

Mr. THERRIAULT. I'm Albert Therriault. I live at 412 Burgess Street and I'm councilman representing ward 4 people. The main reason why I am here is to represent a group of people in the city of Berlin. We have a powerplant in the city of Berlin that would generate enough power or more power than what we would consume in the city of Berlin. The Brown Co., is a utility by itself. I'm stating that there is enough power being generated by the so-called Smith Hydro plant.

Senator DURKIN. It would reduce the cost or enable Brown Paper to compete more effectively with paper companies around the country and might well increase employment in Berlin at Brown Paper.

Mr. THERRIAULT. It would in a sense. I'm not including the Brown Co. in the Smith Hydro plant that we are talking about. We feel it's not fair to pay fuel charges on an electric bill because the river is generating that power in the city of Berlin and the public service is getting the benefit of the power being generated by that river which should be a benefit to the city and not to the Public Service Co. It goes up to the grid and everybody benefits by the generation of this powerplant and we end up paying fuel charges that we shouldn't have to pay. That is what the people are talking about.

One of the things that we have done is that we have been working to try to go municipal. Since 1969 we have been working on that. And it has been voted by the people and I have a summary of what has been done over here. You can go through it. We have been working to go municipal since 1970 when the vote was taken.

By referendum vote the people voted 2 to 1 in favor of going municipal. That referendum vote is not being carried out by the fact that when we won the vote—work has been done by monopoly or whatever you want to call it, Public Service fighting against us in Concord through the laws—but they have made it almost impossible for us to have the public legislature go through the laws. Well, you might say it's an advantage to the Public Service. There are a lot of shareholders spread throughout the city and State. There are workers that have a lot of benefits from that. And that is making a big force in creating part of the monopoly. Therefore, it's hard for us to fight that by having the newspaper and even the Governor and the PUC supporting bill 86 from the house to fight municipal power.

We have held that back some. We have a proposed bill, 996, not fully adopted but in through the night the senators came in with a funny thing that came in. They had lost bill 86. They didn't want to adopt 996, so during the night they stripped bill 527 from the senate, which was a garbage bill, stripped it and put other things in that bill against the municipals, which created a fight again. It didn't appear legal but they have all of the twists and all of the money they need to proceed in order to stop the towns or cities who may want benefits from going municipal.

The city of Berlin has the highest tax rate in the State. I guess nobody will reach us because the council just has voted \$11 tax increase this week against my vote. I was the only one voting against an \$11 tax increase but that makes us really the top.

Senator DURKIN. I'm sure you realize that taxes, property taxes, in an average across the State of New Hampshire in the last 3 or 4 years, have gone up at least 40 percent.

Mr. THERRIault. It has made it so hard that in the city of Berlin what is happening is that the property tax is so high that they are moving out of the city of Berlin. Those that are left have to carry the burden. We tried to go municipal in order to get benefits from the river.

Senator DURKIN. It's your river.

Mr. THERRIault. Yes; if we could lower our electric rates, at least we would have something to offer to industry, other people that may want to come to Berlin. Any study that I have made of the saving that would be obtained by going municipal, one store could save from \$5,000 to \$6,000 a year on his electric bill, almost paying his tax bill.

Senator DURKIN. That's real money.

Mr. THERRIault. Now they are moving out of the city of Berlin.

Senator DURKIN. We have had testimony that the fuel adjustment surcharge and the high electric rates hurt not just senior citizens and young mothers and average working families but a fellow yesterday testified to the housing construction industry. It hurts all the way across the economic spectrum. It's aggravating the economic situation not just in New Hampshire but all across New England.

New England is having a tough time competing with its neighbors to the south. Whether you call it a tax or whether it's a fuel adjustment surcharge it's still taking real money out of pockets of the people not only in Berlin but all across the State.

Your observations and your testimony raise another question—the question of New England power pool and how it operates. I'm not convinced that it isn't a sophisticated pea in the shell game. If you guess what shell the pea is under then you get back, as in your case, the power generated locally with the surcharge and increased costs because you have to move it from some other spot in New England.

We are going to dig into that to find out if we are not just paying an inflated cost to get power generated here back from Boston or somewhere south of us. I understand and sympathize with your concern.

Mr. THERRIault. One of the things that is most important, in order to simplify a way so that cities and towns could go municipal, that is the point. We started in 1969. We are right at the door, ready to go municipal. We are ready to offer a price to the Public Service. They refused to sell. Through the monopoly they have created a political affair in the city with the help of the newspaper.

And they have a majority in the council. They are not following the referendum that the people voted on. How that can be straightened out I don't know. The point is the law is there but how can we simplify it so we can have these people know what they have to follow. If you vote something in the senate this year, next year if you are out, somebody takes your place. They still have to do what you have voted to be done.

Senator DURKIN. We would like to think so but sometimes I'm not sure.

Mr. THERRIault. We are wondering what the law is.

Senator DURKIN. It sounds like you are being lobbied against with your own money. The money you pay for electric rates is being turned around to lobby against your proposal and your concern.

Mr. THERRIAULT. I know when we presented 996, the PUC was against it. Our own senator from the north was against it. I know the Governor's aide was working against it. They were working for bill 86 which favored the Public Service. I have a consultant with me. He is more acquainted with those things. Thank you very much.

Senator DURKIN. Please give my regards to your friends and neighbors in ward 4. Ward 4 has always been very, very good to me.

Mr. THERRIAULT. I'm proud of it. I'm proud of my people because our senator has been tied up with the Public Service all the time and when he came in for election this year, my ward was the only ward that voted against him. I was proud of my people that they could see through this guy. Thank you.

Senator DURKIN. The city of Berlin has been good to me and very supportive.

#### STATEMENT OF JOHN HARRIS, CONSULTANT ENGINEER

Mr. HARRIS. I'm John Harris, consultant engineer, registered in the State of New Hampshire. I spend about 5 percent of my time or a little more in the last few months before public groups. My full-time occupation, except for this time, is I'm project director for a power development just north of Berlin, N.H.

What I might say, following your remarks referencing Nepool—New England Power Pool—the bill Mr. Therriault mentioned was before the house and senate, S.B. 86, which was defeated and brought in as 527. It was finally passed, but the Nepool was removed.

What that Nepool requirement was, the utilities of New Hampshire were trying to have it mandatory that an organization belong to Nepool prior to coming under the law of the Public Utilities Commission that they were passing. If you were not a member, you had no business being there. The thing not realized for sometimes at the house and senate in 1975 was that the executive committee of Nepool makes a decision on whether you build a facility or whether you do not. If you passed a law in the State of New Hampshire you had to belong to Nepool first, then you were against the constitution of the State of New Hampshire in monopoly.

First they would say you cannot build, therefore, you don't come under the law. This was the position of my company which I'm not here to represent today, but without the requirement to belong to Nepool, initially, we were in the position that we wouldn't have been given permission to build.

To get back into utility position which probably before the Arab boycott had a good basis of reasoning, but is fast falling behind the board, is the fact that the Public Utilities Commission of New Hampshire and most all public utilities commissions in the United States do not have the planning responsibility for power.

They only have the regulatory responsibility. The company that has the franchise to serve an area is the one who must plan and supply and advise the public utilities commission of what they are going to build and then get the permission to do so.

I think that the Public Utilities Board of Vermont does have the planning responsibility and, therefore, they have to go into the question of what is the facility you are building, how much does it cost, how does it compare to something else, they have the right to go out and buy or purchase from outside.

When we talk about the Public Utilities Commission not doing certain things, the first thing that is required is a change in public utility law giving them different responsibility. If that is done, they have to have additional capability and staff.

I think we have a legislative question on our hands. The reason that utilities, especially before the Arab boycott and now some of the utilities do not wish to buy power from other projects. You heard them speak of Canadian projects and so on. Or other projects that they do not foster themselves, such as the one we are developing as a private company. It doesn't make any difference whether it is a public agency such as Dickey-Lincoln, whether it is a company such as we have or whether it is a company in Canada.

Senator DURKIN. Or municipal.

Mr. HARRIS. If it is not in the rate base, they do not make a profit. So you can see their logic. It must be in there in order to make a profit for all generation.

Senator DURKIN. They must be doing pretty well, because utility company stocks are probably one of the most desirable blocks of stocks today. They have to be doing something right.

Mr. HARRIS. Historically, they refused to buy St. John power in the early 1960's. They refused to buy Brinco power coming down from Canada. There have been six mills delivered here. St. Lawrence power, New Hampshire turned it down, although the legislature passed the bill. Vermont bought 100 megawatts of St. Lawrence power. I was on that project during its construction as a manager for 4½ years.

That power is 4 mils at the bus bar. If you calculate the transmission, correctly, so at that time, going from Massachusetts to New Hampshire, it would be 7-mil power. You could build a powerplant at Bow, buy coal at those rates and produce power for 5 mils, 5½ mils. But in the last few years they are losing more money on fuel charges than they made in all of the years behind them. If you were building a plant today you might use a different judgment in buying hydropower. You would buy it if it was just the same or a little more. You know it is not going to escalate.

As individuals and companies realize you will get escalation in oil and the like.

Senator DURKIN. Public Service seems to be the only enterprise that literally profits from its mistakes.

Mr. HARRIS. I can say that this is the nature of the public utility, that it can profit from its mistakes. However, today you can't lump public utilities into one category. In our work in building a project and interconnecting transmission and with Nepool planning and the like, we find that about half the utilities representing more than half of the generation are looking for power that they can get cheaper and they are looking for hydropower.

They are looking for hydropower to cut out the generation by oil, as much as they can, in turn utilizing the oil as a backup. Part of this project we are working on, we may be able to eliminate 25 million barrels of oil a year in the New England system. So there are many or,

let's say, half the utilities are interested in getting low cost power, knowing they have to stabilize the rates. There are those who feel it must be generated at home to be of any value.

Church Falls was a 4-mil power and again, of course, you have the project in northern New Hampshire that was turned down. And the one in northern Maine also.

The result is, this year you have \$175 million annually, that is loss, because those particular facilities were not brought into the picture.

What I have to say is that the PUC does not have the responsibility to do what we think or would like to have it do. It doesn't have the authority.

They don't have the planning authority. There could be some change in that, and I think that might satisfy a lot of the concern. The people think the PUC is the one that has the responsibility for supplying power. They cannot buy power. It has to be the utility itself. The Dickey-Lincoln project is one that has a great deal of possibility for the peaking. There is no way to get around the need for peaking. As long as we come home at 4 or 5 we are bound to eat shortly thereafter. There will always be a need for peaking power.

I think Dickey is one of the better solutions. This statement was our analysis as presented at the hearing on coal. But it was carried further as to why the costs.

Senator DURKIN. If you have a copy of it, we would appreciate that.

Thank you.

[The following information was subsequently received for the record:]

BERLIN, N.H.,  
August 30, 1976.

Senator D. ALAN ROCK,  
*Chairman, Legislative Consumer Utility Council,  
Concord, N.H.*

DEAR SENATOR ROCK: I was very much impressed by the way you and your assistants carried out your part at the Fuel Charge hearing before the PUC in Concord last August 20. It gave me a feeling of hope for the future and I think others felt the same way.

I thought it might be a help to you if I sent you a copy of the report I had prepared for me by John N. Harris, P. E. to give our group an understanding of the fuel charge situation which we feel is very serious, especially when we look at the utility record of making the wrong choices in the past. We are still paying for their mistakes now and we have gotten to the point where we must have some control over their future choices.

Even the 1975 Annual Report of Public Service quotes future fuel costs which are based on two facts that are already outdated since they are at least two years old and some of these facts were provided by the same group that predicted (not too accurately) that power from Vermont Yankee could cost four mills and that it would be operating 90 percent of the time.

My big worry is how much responsibility the PUC of N.H. has to evaluate power plants being planned and constructed by PSCo. as compared to other states, such as Vermont, and whether our PUC really has any responsibility to assure a supply of reliable low cost power for New Hampshire consumers.

Also enclosed is a short outline I have made up from John Harris' resume showing some of the experience which qualifies him to speak with authority on this subject of electric power. From my quite lengthy personal experience with John, you can be confident of his facts and rest assured that everything he quotes has 100 percent documentation and backup. Let me know if you have any questions or want supporting information.

Best wishes,

ALBERT J. THERRIAULT,  
*Berlin Citizens Group.*

## SUMMARY TAKEN FROM DETAILED RESUMÉ

JOHN N. HARRIS, P.E.

John N. Harris, P.E. (N.H.) was assistant project manager in charge of construction planning and operations for building a 400 mile railway to open up Labrador, including two power plants. He spent five years on the St. Lawrence Power Project as engineer in charge of design, location and supervision of construction of the St. Lawrence River retaining features on the New York Power Authority project. He also spent three years with ALCOA on U.S. and overseas major developments as principal consultant in charge of design and management of several projects.

From 1960 to the present, Mr. Harris has been in New England, having done the engineering planning and design of the Cross Rock Development on the Upper St. John River in Maine in conjunction with Dr. Ellis L. Armstrong, the original designer of Aswan Dam; project manager of the St. Lawrence River Project and former Commissioner of the Bureau of Reclamation. The 1100 MW Cross Rock project was turned down by the New England utilities—after engineering, construction contracts and financing were completed and project ready to go—on the grounds that the utilities could develop power cheaper in Southern New England.

Mr. Harris planned the first nuclear station in Maine for a public group in 1965-66 which was defeated by the formation of the Maine Yankee corporation by a consortium of eight New England utilities who were authorized by the Maine PUC to proceed posthaste with the construction of Maine Yankee.

He also evaluated the presentation of the proforma statements for certain public utilities in Vermont for the approval of Vermont Yankee. (Finally, after two months of hearings, the Vermont Public Service Board approved the statements prepared by the engineers and manufacturers which stated and maintained that Vermont Yankee could operate 90 percent of the time and produce four mill power.)

John Harris also assisted a public group in evaluating the Canadian Brinco project (1500 MW from Labrador's Churchill Falls where 6 mill power could have been available to New England). This power was turned down by Southern New England utilities and eventually by Vermont for the construction of Vermont Yankee which was supposed to produce four mill power at 2 mills less than the cost of power from Labrador.

Since 1968-69, he has been project director for the development of low-cost power at a project on selected sites in the Berlin area, after having evaluated and rejected Sears Island in Maine and a site at Seabrook in Southern New Hampshire.

(John has world-wide insight in the development of electric power, especially in Canada, and for more than 15 years, has been one of the principle planners for low-cost power in New England. He is well versed in the area problems and he is also aware of the Public Utilities' need to construct generation within their own service areas or through utility sponsored legislation with ownership anywhere in New England. This utility limitation in planning is based on their fundamental concept that all construction of generation must be on their own rate base to assure profits which excludes the purchase of low-cost power which must be carried as an expense item without profit under PUC regulations.)

BERLIN, N.H., August 27, 1976.

Re Appearance as Technical Consultant before the PUC Fuel Charge Hearing, August 20, 1976 in behalf of Albert J. Theriault, Berlin City Councilman, who represented a Citizen's group in opposition to the present "fuel charge" as determined for electric billing and steadily increasing cost of electricity to New Hampshire customers.

HON. ALBERT J. THERIAULT,  
Berlin, N.H.

DEAR ALBERT: At your request I accompanied you to Concord on August 20, 1976 as technical consultant at the hearing before the PUC (as a result of Senate Bill 44) to assist you in evaluating the origin and effect of the Public Service Company electric fuel charge set for August, 1976.

The hearing commenced at 10:00 a.m. with a two-hour recess for lunch. The afternoon session, you will remember, continued until 9:30 p.m. with agreement

by consensus to continue this hearing until 10:00 a.m. Monday morning, August 30, 1976.

First, it should be recognized that the addition of a fuel charge per Kwh over and above a base cost established by the PUC in 1971 is a procedure approved by the Federal Power Commission as well as the state PUC for a regulated utility to recover the cost of fuel escalation (ie, fossil fuels—coal and oil). The essential item of fuel in the cost of power generation would be a fluctuating cost that can only be covered by a fuel adjustment clause. A utility, theoretically, could be driven to a loss position or it would have to ask for annual or even semi-annual rate adjustments, including a contingency allowance in place of the present "fuel charge" in relation to a base price as approved by the PUC.

It can be readily observed that the above procedure is most logical, provided the utility has control of its fuel supply with adequate contracts that are not "open-ended", permitting the fuel supplier in effect to increase his prices indiscriminately, forcing an unwarranted flow-through of fuel expense to the customer.

We may be in more of a "fuel price crunch" than is comprehended. The major fuel companies are involved in the production and sale of coal, oil and uranium fuels. Even large electric utilities, with fuel in relatively short supply under a controlled market, can find themselves in a near "dictated contract" position that can create a flow-through of extra cost to utility power customers, somewhat beyond the control of the utility. Therefore, it warrants diligent PUC review and evaluation of utility contracts, especially their terms and conditions controlling administration, delivery, escalation clauses in the contract terms and basis of payment for this potentially changeable "Cost of Fuel".

We have lived through the recent period of fuel escalation in New England where oil has gone from \$1.80 per barrel to \$11.00 per barrel and coal from \$8.00 per ton to \$34.00 per ton. We are about to take the same escalation ride in enriched uranium fuel for LWR reactors that will drive the present fuel costs for nuclear power of approximately three mills per Kwh now to between 12 mills and 24 mills per Kwh in the early 1980s, depending upon whether U308 is \$100 per pound or \$200 per pound, as forecast by some, if cartel controls become effective.

#### PUBLIC SERVICE COMPANY'S COAL SUPPLY, BOW STATION

From testimony by Public Service Company witnesses, several salient points were brought out reference the company's contract with Consolidated Coal Company:

1. The price FOB cars at the coal tipple in West Virginia at an assumed moisture content (believed to be  $7\frac{1}{2}$  percent by weight).
2. That Consolidated coal was to deliver the coal to the Bow conveyors to stockpile at which point it was weighed by PSCo. to establish proper tonnage received as well as evaluation of transportation charges on a train-load delivery basis.

(A) *Suggestion.*—That moisture content be taken at intervals during unloading to establish moisture content on delivery and these 8 to 10 samples, taken during unloading, could be blended together and split into two samples per train-load to check the BTU content of coal.

3. The next salient point (which is good business management by PSCo.) was payment upon burning of the coal. (Presently estimated at \$34.03 per ton.) The determination of this payment is by continuous weighing on the belt delivering coal from the stockpile to the Bow Station.

(B) *Suggestion.*—To determine the moisture content (say each hour) of the coal that passes over the weighing station with the establishment of an average per day or per shift moisture content utilized as the basis in coal payment (considering the assumed agreement in the Consolidated Coal contract to deliver coal (at let us say,  $1\frac{1}{2}$  percent moisture content.) Also, a blend of the daily moisture content samples could be split for determination of BTU value.)

4. The method of control of coal delivered and removed from the stockpile is based upon practical experience and good contract practice.

5. Quantity assessment of the coal pile as practiced by PSCo. and as recommended by Touche Ross was performed by standard acceptable methods with accuracies within  $1\frac{1}{2}$  percent (+ or -); that is, accurate ground control and aerial photography with one foot to two foot contours produced by a plotter are most satisfactory to determine volume.

The method of determining density and core sampling of the pile gave an adequate moisture and density condition of the pile which, together with the

book records of delivery and withdrawal, established the excess payment of over \$4-million to Consolidated Coal Co.

6. Vice-President Merrill confirmed that the Touche Ross survey established an average moisture content of 5 percent by weight in the approximately 160,000 ton coal pile. Vice-President Merrill also stated that Consolidated Coal Co. dictated that 1½ percent moisture be used as the standard for coal going up the delivery belt from the stockpile to the station to be weighed for payment purposes and that there could not be a change in that moisture content without an agreement with Consolidated Coal Co.

(C) *Note.*—It would appear that the problem of overcharge originates with the difference between 5 percent moisture in the pile, as delivered to the plant, and the contract with Consolidated Coal that requires the use of 1½ percent moisture content without moisture content evaluation. For example, within the general range of the Bow plant operation, if 3,000 tons of coal were burned each day, PSCo. would be paying for an extra 105 tons of coal in the form of excess water, or about \$3,500 a day of overcharge which would be passed on to power customers.

(D) *Suggestion.*—Therefore, it appears that it would be in order for the PUC to assist PSCo. in adjusting the payment procedure based on moisture content for coal entering the plant at the delivery belt, thus eliminating a potential overcharge of 3,000 tons per month or approximately 35,000 tons per year, based on this year's moisture content of the stockpile.

*Note.*—The Touche Ross suggestion of annual audit and assessment of the tonnage in the stockpile, including coalpile delivery and withdrawal records, would establish the true amount of coal burned, making a fair payment adjustment annually to the supplier without providing the supplier with a million dollars or more of free operating capital annually donated by the power customers.

It appears that this condition of overcharge will re-occur annually unless payment is based on moisture content of coal entering the station less the agreed upon moisture content at the Consolidated Coal Co. tippie which presumably is not to exceed 1½ percent under terms of the contract.

7. It appears that the PSCo. coal agreement with Consolidated Coal requires the supplier to replace emergency draw-down of the PSCo. coalpile which occurs due to mine strike, rail strike, accidents in the mine, or on the railway transportation route. In testimony, Mr. Merrill indicated that Consolidated Coal must perform "within its capability to restore the coalpile after an emergency has occurred." It was also brought out in testimony that spot purchases of coal were made presumably to assist in bringing the coalpile back to its maximum level due to the inability of Consolidated Coal to perform.

*Note.*—Does PSCo. have to pay cash upon delivery of spot shipments, and if so, is this an added cost to the power consumer paid for through the fuel charge for spot coal including an interest carrying charge?

8. It is my opinion that the coal overcharge payment at the Bow Station to Consolidated Coal Co. is an honest mistake by PSCo. but an error which requires re-adjustment of the contract with the Consolidated Coal Co. such that the supplier cannot dictate the moisture content at the final delivery belt to the Bow Station. Rather, this moisture content would be determined daily for coal payment with such payments to be adjusted annually by a Touche Ross survey such as that company recommended. (A copy of the final report and PUC determination on the fuel overcharge adjusting the benefit to Consolidated Coal would be appreciated.)

Calculation of Fuel Adjustment (from N.H. PUC No. 20-ELECTRICITY (20th Revised, p. 15) PSCo. of N.H., Fossil Steam Generation.

It should be noted that the Merrimack Coal Station, based on net output, has a net fuel cost of 12.77 mills per Kwh. The Newington Station has a net Fuel Cycling cost of 20.13 mills per Kwh for oil and the Schiller Station has a net Fuel cost of 20.5 mills per Kwh.

#### PURCHASE OF SECONDARY ENERGY

*NEPEX.*—"New England Power Exchange", coordinates the operation of generation and transmission facilities of New England.

This central dispatching agency is supposed to result in the lowest cost of generation for all member companies because it is assumed that all units are to be economically dispatched as a single system.

In recent testimony before the Vermont Public Service Board (as reported in the Vermont *Sunday Times Argus*, June 20, 1976) regarding the unexpected 18-

day shutdown of the Vermont Yankee nuclear plant, it was shown that replacement power supplied by NEPEX at \$2.6 million could have been obtained at \$1.6 million. As a result, there was a \$1-million overcharge to Vermont utility customers.

The president of Vermont Yankee (also president of the largest utility in Vermont) stated he never tried to obtain power at a cheaper rate because "it would have been pointless" as NEPEX is supposed to dispatch power from the lowest cost generation available.

With only a very limited review, one of the utilities being overcharged discovered two power sources in New England that could have supplied the Vermont Yankee outage replacement power; the first source at one-half cent per Kwh cheaper and the second source at 1.1 cents per Kwh cheaper. In their opinion this is shocking proof that NEPEX does not always dispatch lowest cost power for replacement to NEPOOL member companies, a fact not known to the utility executive in this case, resulting in a customer overcharge of \$1 million for an 18-day outage of Vermont Yankee.

At the August 20 "Fuel Charge" hearing in Concord, this overcharge by NEPEX for the 18-day outage for Vermont Yankee was pointed out to Vice-President Merrill of PSCo. He said that he was not aware of this happening.

On further questioning, Vice-President Merrill stated that if it had happened to Vermont Yankee "I suppose it could happen to us" such as during the recent outage of the Merrimack Station. (See two page report from the Sunday Rutland Herald and the Sunday Times-Argus. "Week in Review", published June 20, 1976 attached.)

It should be said that NEPEX's dispatching team is supposed to have the record of the heat rate for each generating unit and the operating status of all generating plants within NEPOOL. This includes adequate spinning reserve and stand-by capacity available with complete economics as to fuel cost and efficiency for all plants on stand-by. All data is supposedly updated continuously in a computer program such that economic adjustments to the cost of generation within the pool can be made within a reasonable time limit.

An 18-day lapse with a \$1-million overcharge certainly indicates that NEPEX personnel did not automatically ask the computer for the lowest cost source of generation (as anticipated by the Vermont utility president) nor as would be expected by Vice-President Merrill, and certainly NEPEX was not operating as advertised—as automatically selecting and dispatching the most economic sources of generation, resulting in the lowest cost power to all NEPOOL member companies. Why?

Is this Vermont Yankee outage replacement power oversight a frequent error, or is it possible to manipulate the power costs in certain areas through NEPEX?

#### BROWN NEW HAMPSHIRE

It was of interest that NEPEX supplied PSCo. 63-million Kwh of energy at 17 mills per Kwh and Brown N. H. supplied 1,875,000 Kwh at 9 mills per Kwh.

It is questionable that energy from Brown N. H. is from the fossil fuel unit as Brown N. H. hydro is also interconnected with Public Service. Therefore, it is believed that this generation purchased from Brown at half the cost of the fuel charge for PSCo's oil-fired station should not appear on page one, but be added to the list on page two, as part of the 18,608,000 Kwh of hydroelectric generation, thus reducing the fuel cost calculations by about \$8,843. In any case, this is the best buy for energy presently available to PSCo. and it does not seem right to add over 1¢ per Kwh for fuel adjustment costs that were not incurred by PSCo.

"TOTAL NET MWH GENERATED & PURCHASED", PAGE TWO.

Under this item is tabulated purchased nuclear power of approximately 39-million Kwh from ownership in "Yankee" nuclear stations in New England. Presently, the fuel charge is more than double that when these units first went on-line and, in addition, there is extensive U235 in spent fuel no win storage at Vermont Yankee and Maine Yankee, as evidenced by the fact that both of these nuclear stations are expanding their spent fuel storage capacity.

There are also additional charges to PSCo. in proportion to its entitlement (percent of ownership of the station) for the carrying charges on the multi-millions of dollars in spent fuel waiting for processing.

It is true that the overall cost per Kwh chargeable to fuel is somewhere between *three* and *five* mills per Kwh, but, as yet, this has not been broken down.

As the utilities indicate, this relatively low cost for nuclear fuel per Kwh is a bargain to the power consumer when compared to the present fuel charge of 20 mills per Kwh for PSCo's oil-fired stations today.

*Note.*—It should be considered that the U.S. Government has presently stabilized the fuel enrichment cost, based on U. S. enrichment capacity built 20 years ago that would otherwise be idle. However, in 1983, this government subsidy for enrichment of nuclear fuels for LWR's will be lifted and enrichment costs are expected to increase three to four times. In addition, it is expected that reprocessing plants for spent fuel will be in operation under private ownership and the costs for extraction and reprocessing of hot fuel, including disposal of waste, will add to the costs. (See projections of Massachusetts Energy Policy Office and other material attached.)

In other words, there is no panacea through LWR nuclear power for New Hampshire or elsewhere in the U. S. as projected nuclear fuel costs for LWR stations (1983-93) will range from 12 to 24 mills per Kwh; 4 to 8 times the cost of nuclear fuel provided under government subsidies today.

#### NUCLEAR FUEL CHARGE

In other words, it would behove the PUC to keep the public informed and knowledgeable as to what does occur in uranium and nuclear fuel cost escalation by including a "Fuel Charge" allowance for customer bills based on the increase over the 1976 nuclear fuel cost which is projected to be between 1¢ and 2¢ per Kwh in the 1980s.

As the utilities have stated, it may be practical to cut back the fossil fuel stations and relegate them to backup and emergency power production. It may be less expensive to pay a five to seven mill capital cost surcharge per Kwh on power production to relegate the fossil fuel stations to stand-by or intermittent use and obtain 80 percent of generation from nuclear stations. The fuel for such coal and oil-fired stations for production of base load power tends to escalate to make these plants more expensive to operate than the new base load nuclear stations in the 1980s even with their projected high power costs of 4¢ to 5¢ per Kwh. (Reference: See "The Economics of Nuclear Power: A New England Perspective," published by the Massachusetts Energy Policy Office, Henry Lee, Director, December 1975, page 54.)

In any case, the escalation of nuclear fuels should be carried as a monthly "Fuel Charge" to all customers. It appears that LWR nuclear stations in the 1980s will be carrying a fuel charge payment (in comparison to today's nuclear fuel cost of 1¢ to 2½¢ per Kwh) equal to or double the fossil "Fuel Charge" adjustment rate applicable to PSCo. bills for August, 1976, now under review.

As it now stands, the nuclear power costs (including the escalating fuel costs unknown to the public) for PSCo.'s ownership in Maine Yankee, Vermont Yankee, Connecticut Yankee and so forth are part of the monthly billing for each particular station—a participant or an owner in such a nuclear station must pay monthly his entitlement percentage of the sum of the total fuel cost and total operating costs for the station plus an amount equal to one-twelfth of the composite percentage for such month of the net investment for each unit of the Yankee power stations in which PSCo. has ownership.

This hidden nuclear fuel cost is projected to escalate ten times today's cost from approximately 4 mills today to more than 30-mills in the 1990s.

#### BACKGROUND OF GENERATION IN NEW ENGLAND THAT DEVELOPED THE PRESENT FUEL CHARGE CONDITION

Historically, it has been the policy of the New England Utilities to develop generation for their own service area and with the advent of NEPOOL, to confine the development and planning of transmission to serve New England with relatively weak ties with the New York Power Pool and internationally.

This policy of local generation and transmission was based on the premise of \$1.80 per barrel oil and \$8.00 per ton coal with minimal escalation anticipated on fuel and capital costs. The principal utility planning and equipment suppliers' cure for escalation was the 6 percent to 8 percent annual load growth and economics of size of new stations. In other words, the larger stations would tend to keep the cost of capacity per KW of new stations equivalent to that of existing stations.

Under the above premise, the following events took place in the 1950s and 1960s.

## ST. LAWRENCE HYDRO POWER

St. Lawrence hydro power was offered to New England in 1956-57 at approximately 4.2 mills per Kwh plus transmission. The New Hampshire legislature in the mid-1950s authorized the PUC to purchase St. Lawrence power. (see 1966 NH PUC published regulations, p. 65) A study by PSCo. and by the N.H. PUC determined that the Bow, N.H. station could provide power by burning coal at approximately 5 mills per Kwh and it was estimated that St. Lawrence power delivered to the New Hampshire utilities would cost approximately 7 mills per Kwh.

At today's price of \$34.00 per ton for coal (\$8.00 in the 1950s) the fuel charge alone at the Merrimack station is now 13 mills per Kwh. The total cost of power at the Bow Station is approximately 17 mills. Therefore, importation of St. Lawrence power based on today's cost would save one cent per Kwh on the cost of power to New Hampshire customers, nearly eliminating the average fuel cost adjustment of 1.02¢ per kilowatt hour applicable to the Augsut power bills.

Hindsight evaluations are always the most accurate. However, it should be noted that VELCO in Vermont initially purchased 150 MW of St. Lawrence power, having a transmission cost of approximately 2 mills per Kwh compared to approximately 3 mills per Kwh to New Hampshire. In addition, VELCO purchased a portion of the output of Merrimack No. 2. In effect, VELCO has firm power from the St. Lawrence at approximately 6 mills per Kwh with no escalation and unit power from Merrimack No. 2 at approximately 17 mills per Kwh (today) with an ever escalating fuel cost.

## UPPER ST. JOHN RIVER HYDRO PEAKING CAPACITY FROM NORTHERN MAINE (AVAILABLE 25 PERCENT TO 40 PERCENT OF THE TIME)

In 1962-63, the New England utilities were offered hydro peaking power from the Upper St. John River equivalent to that being produced today at the Newington cycling plant or obtained from Bear Swamp pumped storage delivered by a double-circuit 345 KV transmission line to Boston for a cost of between 7 and 8 mills per Kwh.

Today the Newington fuel costs are 20 mills per Kwh with the total cost of power from oil-fired cycling and peaking capacity between 30 and 40 mills per Kwh today and subject to escalating fuel costs for foreign oil imports.

This 1100 MW of peaking capacity from the Upper St. John River in Maine was turned down officially by the New England utilities on the premise that 4 mill nuclear power would operate pumped storage peaking capacity nearer to the load centers of New England at less than 8 mills per Kwh.

Today, as part of the extra cost of power in New Hampshire, it costs at least 1½¢ per Kwh to provide Newington cycle or pumped storage peaking than hydro non-escalating peaking power from the St. John River in Maine, rejected in the early 1960s.

## ANDROSCOGGIN RIVER IN NEW HAMPSHIRE

New Hampshire's own Pontook project on the Androscoggin River would have developed 250 MW of 10-mill non-escalating hydro peaking power in Northern New Hampshire, saving at least 1¢ per Kwh over today's Newington station.

## CHURCHILL FALLS-LABRADOR, CANADA (BRINCO PROJECT)

A primary source of non-escalating firm base power from the Canadian BRINCO project was offered in 1965. Vermont negotiated for 1500 MW of BRINCO power delivered at the Northern Vermont-Quebec border at approximately four mills per Kwh and at the Vermont-Massachusetts border at six mills per Kwh. This BRINCO power from Labrador was rejected initially by Southern New England and finally by Vermont on the basis that nuclear stations could be built in Vermont, Maine and elsewhere in New England and provide baseload power at 90 percent capacity factor for four mills per Kwh.

The Vermont Public Service Board, after two months of hearings and reviewing of 62 pro forma data sheets, ended up allowing 4.5 mills per Kwh projection for Vermont Yankee's 90 percent capacity factor operation. Vermont Yankee, in its best operating periods when it did operate at over 80 percent CF, had power costs exceeding 12 mills per Kwh. Its average capacity factor to date is less than 60.

percent in comparison with the projected 90 percent. Its average power cost exceeds 20 mills per Kwh.

Maine Yankee's best year of operation (this year) has averaged 12-mills per Kwh. Its average capacity factor since it went into commercial operation in 1972 is in the 60 percent range—Average capacity factor (CF).

It should be reviewed again that the minimum projection for nuclear fuel costs for LWR stations in the early 1980s is 12 mills per Kwh. New nuclear stations, coming on-line in the early 1980s, will have power costs of 40 mills per Kwh while the old stations operating at 70–80 percent CF will be producing 20 mill power. Therefore, this refusal of Brinco power based on today's nuclear power cost would save nearly 1¢ per Kwh and in the 1980s, between 2¢ and 3¢ per Kwh on 10-billion kilowatt-hours annually.

*Note.*—The above are some of the reasons which, again in hindsight, could have sharply reduced the fuel cost adjustment to New Hampshire customers. It can be justly stated that a prudent examination of the risks would have warranted the purchase of a 25 percent to 50 percent of projected power requirements from non-escalating hydro stations in the 1950s and 1960s.

#### WHAT FUTURE POWER SUPPLIES ARE CONSIDERED FOR N.H. CUSTOMERS

New Hampshire power customers are locked into a 1150 MW LWR nuclear unit coming on-line in the 1980s with relatively low projection by NEPOOL for capacity factors during the first four years of operation. Also, high escalation of nuclear fuel costs are projected (1¢ to 2¢ per Kwh) above today's nuclear fuel cost providing 4¢ to 5¢ nuclear power at the station.

However, the LWR nuclear reactor is considered the best alternative for the production of low-cost power within the utility service areas of New England. Alternatives will exist again that can supply hydro and other base-load generation with proven higher capacity factors and lower fuel costs that can blend with present utility planning. Some of the possibilities are hydro power from James Bay or from a development on the Bay of Fundy which, when considering the projected cost of New England power, could be most economic when evaluating the non-escalating fuel cost for hydro generation.

There is one particular obstacle to overcome in the purchase of power outside of New England. This is the fact that ownership is not generally available to the utilities. There would be no earnings by the utility since there would be no cost of ownership to put on the utility rate base, removing all incentive for New England utilities. This fact sets up resistance by utilities to all purchases outside of New England. In other words, outside power purchase by the utilities must be treated as an expense under PUC regulations similar to fuel, operation and maintenance. The only profit available to the utility would be for the added transmission and distribution system required to market the power to the customers in the utility's own service area.

The solution to low fuel costs and lower power costs lies in the assurance of proper evaluation by the PUC and by other authorized groups to assure that obvious errors of judgment in the 1950s and 1960s are not repeated in evaluation of power resources in the 1970s and 1980s to the detriment of the power consumers.

The above evaluation covers the points taken up in the fuel adjustment rate hearing on Friday, August 20, and as you requested, reviews some of the history that developed our excessive fuel and power costs in New Hampshire and New England.

And, as indicated, it is not necessary to go down the same utility road without primary consideration of the future costs to the power customer.

Sincerely yours,

JOHN N. HARRIS, P.E.

Enclosure.

[From the Sunday Rutland Herald and the Sunday Times Argus, June 20, 1976]

#### SWEEPING PERUSAL OF UTILITY LAW ONE OUTGROWTH OF YANKEE HEARING

Whether by conspiracy or fate, last week was one of the times when events served to thrust electric utility issues—and especially the Vermont Yankee Nuclear Power Corp. plant in Vernon—repeatedly into the public consciousness.

For most of the week, the focus of attention within and without the utility business was the Public Service Board investigation into the unexpected 18-day shut-down of the Vermont Yankee plant.

Although that investigation was prompted to answer a relatively specific question—whether rate-payers should bear the \$2.6 million it cost Vermont utilities to buy substitute power during the shut-down—the search for an answer launched the board on one of the most extensive reviews of utility law and policy it has ever conducted.

On top of that, the Vermont Yankee plant was again in the news when it was attacked anew by two anti-nuclear groups. It also hit the front pages when a technician at the plant accidentally triggered a key safety system, activating the emergency core cooling system and turning off the plant's 540 megawatt reactor for a day.

The attacking anti-nuclear groups were the New England Coalition on Nuclear Pollution and Safe Power for Maine. They petitioned the Nuclear Regulatory Commission to shut down Vermont Yankee, along with the Maine Yankee and Rowe (Massachusetts) Yankee plants, claiming that none of the plants had valid quality assurance programs.

Utility officials immediately responded that they did have approved programs, calling the anti-nuclear groups' claim a distortion of the facts.

That dispute was soon followed by a second blast at the utilities, a blast that fell equally on the Vermont Public Service Board. The occasion was a public hearing on whether utilities should be allowed to pass through to consumers the cost of the 18-day shutdown of Vermont Yankee last winter.

For several hours in humid Montpelier City Hall citizens decried the shut-down as a management "mistake" and the Vermont plant as a "lemon." Most speakers urged the board to force utility stockholders to pay for the shut-down. At the same time, they denounced the board as being in "complicity" with utilities, and most said there was little hope the regulatory body would take their side.

With that vote of no confidence, the board moved up the street to its own offices to open technical hearings. Those hearings drew to Montpelier some of the foremost utility lawyers in Vermont.

Most notable on the private utility side of the bench were veteran Atty. John D. Carbine, who, along with Attys. Donald Rushford and Alan B. George of Rutland, represented Vermont Yankee, the Central Vermont Public Service Corp. and the Vermont Electric Power Co. (VELCO).

Across the table from them was noted utility expert Allen Martin of St. Johnsbury, representing the Vermont Electric Cooperative of Johnson. Appearing on behalf of municipal utilities was Montpelier Atty. John A. Burgess, a former Public Service Board member.

Representing the public were Atty. Fred I. Parker of Middlebury, Assistant Atty. General Benson Scotch and Vermont Low Income Advocacy Council Atty. Louise McCarren.

The hearings raised more issues than there were attorneys in the case, but during the three days of technical-legal hearings, some issues came to be at least roughly defined.

The first issue, raised most extensively by Atty. Parker, concerned who was at fault for the safety problem that gave rise to the shut-down.

After that question was discussed on the first day of hearings, the focus shifted to whether the shut-down was actually necessary. Also, the hearings involved a utility argument that preventing the pass-through would unduly hurt utilities and mean long-term harm to rate-payers as well.

Finally, the topic for the third day of hearings was whether, given the fact of the shut-down, utilities bought the cheapest substitute power available.

The first witness of the investigation was Thomas Keman, a plant engineer for the Yankee Atomic Electric Co., which is the firm that provides technical services to Vermont Yankee.

Atty. Parker led Keenan through the early design and construction of Vermont Yankee, in an apparent effort to lay the blame for the safety system flaw at the plant on its manufacturer, General Electric Co., or on some other company involved in the plant's construction.

Atty. Rushford complained that Parker was trying to make a "negligence" case out of the investigation. He said that was pointless, because the Public Service Board doesn't have jurisdiction over General Electric anyway.

Parker held that if he could establish that General Electric may have been at fault for the shut-down, that would be sufficient to have the board deny the pass-through until the negligence question is resolved elsewhere.

However, it came to light during the hearings that Vermont Yankee may have signed legal papers in other cases freeing General Electric from any liability.

What if that was so? Parker speculated that he might still argue that such an agreement was an act of "mismanagement," in which case utility stockholders, rather than rate-payers, should bear the responsibility.

Enter Charles J. McCarthy, an investment analyst. He argued that denying the pass-through would weaken the financial condition of utilities and scare investors away. The result would be that the utilities would have to pay higher interest on stocks and bonds, and that consumers would thus pay more for poorer service in the future.

McCarthy conceded that stock-holders should pay for management mistakes, but he also observed repeatedly: "You have always got to remember . . . that the customer has got to bear the cost in the long run."

Another facet of the responsibility question was whether the shut-down was actually necessary. Parker and the other attorneys grilled Keenan on how the decision to shut-down was reached, and on whether the modifications in the safety system could have been made without the shut-down.

The evidence seemed inconclusive, and it may well depend on strict legal interpretation. It also may require a lot of judgment. Illustrative of that was the fact that Keenan himself refused to pin the blame for the safety defect on General Electric, saying that such a question required him to guess on the "state of the art" of nuclear technology back in the 1960's, when the plant was designed.

It was almost with a sense of relief that the investigation turned to the cost of the replacement power, and Atty. Allen Martin took center stage.

Martin led the board through a detailed discussion of how the New England Power Pool (NEPOOL) a grouping of most of the region's utilities, sells replacement power in cases such as that involving Yankee.

Martin directed his questions at Vermont's representative to the pool, Byron O. McCoy. McCoy is also president of the Vermont Electric Power Co. (VELCO), which procured the replacement power for the Vermont utilities.

Martin quizzed McCoy as to whether he tried to get the replacement power from NEPOOL at a cheaper rate than he ultimately did. Martin said the cheaper rate would have resulted in costs of only about \$1.6 million instead of \$2.6 million. McCoy said he never tried to do so, because "it would have been pointless."

Next Martin asked him if he tried to find replacement electricity from some source other than the pool at less than the pool cost. Again, McCoy said he didn't try, because that wouldn't have been possible.

Martin appeared quite skeptical, but just as he was building his case to a crescendo, the hearings adjourned for a week.

When the hearings resume, the focus will be on the controversial "automatic adjustment" clauses that allowed a number of utilities to pass the replacement power costs directly to consumers without a rate hearing before the Public Service Board.

The clause was upheld in the state Supreme Court last week, but some participants are expected to argue that it takes away from utilities the incentive to cut their costs.

The Vermont Electric Cooperative, which is represented by Martin, appears to be proof of that argument. The cooperative doesn't have such a clause, and it, alone among Vermont utilities, is participating in the case as a critic of Vermont Yankee and VELCO.

That may also be partly due to the fact that the cooperative's manager, Walter Cook, is a maverick in utility business in Vermont, though Cook has previously led drives for a state take-over of VELCO.

During Martin's cross-examination, the wiry and smiling Cook had a look of delight on his face, enjoying watching Martin apply the needle to McCoy as the investigation delved deeper and deeper into the complex world of power.

#### WHEY AUTHORITY BORROWS \$9.6 MILLION FOR PLANT

The Whey Pollution Abatement Authority finalized the sale of \$9.6 million in revenue bonds to pay for the construction of a whey processing plant in East Georgia last week and in doing so guaranteed four northern Vermont cheese-makers new life for the next few years.

Whey Authority officials borrowed the \$9.6 million at an interest rate of 7.261 per cent which means the total cost of the proposed plant—principal and interest—will be about \$23.6 million.

Gov. Thomas P. Salmon was in New York with the Whey Authority to close the deal Thursday. The governor was one of three members of the state's Emergency Board which approved the whey plan—which calls for 100 per cent backing of the project by the state.

Under the terms of the whey authority's agreement with the state, the state will lease the plant from the authority for a rate comparable to the annual amortization rate. Richard Gadois, chairman of the Whey Authority, said that rate would be about \$788,000 for the next 30 years.

The state in turn will sub-lease the plant to the cheesemakers who have guaranteed they will reimburse the state the full \$788,000 per year or go out of business.

If the cheesemakers are forced out of business the state still must continue to make the \$788,000 payments from the state treasury.

The 7.201 per cent interest rate obtained by the Whey Authority was slightly higher than the 6.75 per cent they cited when the Emergency Board agreed to back the project.

Earlier this year the state's treasurer borrowed \$14 million at an 5.35 per cent interest rate.

Deputy State Treasurer Leo Hickey said the treasurer's office didn't participate in the sale of the \$9.6 million in revenue bonds for the Whey Authority.

#### THE ECONOMICS OF NUCLEAR POWER: A NEW ENGLAND PERSPECTIVE

\*\*\* really in question. Fuel reprocessing was performed by one plant from 1967 to 1972 when it was shut down to expand and modify plant facilities. Unresolved regulatory issues concerning the use of plutonium and nuclear waste disposal have prevented its reopening. If these problems cannot be solved, then spent fuel could be stored as is. The problems with waste management are largely social and environmental, not technological or economic. There is no doubt that we can bury wastes in granite beds or salt deposits. The important question is whether these are acceptable solutions.

What will the price of nuclear fuel be in 1983? In light of all the unresolved issues discussed above, a single point estimate is truly little more than a guess. One reassuring point is that in sharp contrast to the rapid increases in nuclear capital costs, nuclear fuel costs have remained very low, still less than 2 mills/kwh. This report shall use 8 mills/kwh as its most likely estimate of 1983 nuclear fuel cost, and assume that fuel costs will increase at 6 percent thereafter. This price is higher than the "high" estimate of 7.0 mills and the A. D. Little study for New England Electric System, and far above the AEC WASH-1174 estimate of 5.6 mills (in 1982\$), but we feel it is justified. This price would mean more than a tripling in the price of each of the fuel processing steps, which should cover the cost of solving the above uncertainties.

#### FUTURE OIL PRICES

What the price of oil will be in 1983 is a question of politics as much as economics. World oil prices are being set by a group of oil rich countries, OPEC, at prices that have no relation to production costs. At this point U.S. domestically produced oil is controlled at prices will below the world price, but it may be decontrolled and allowed to rise up to world prices. Current imported crude prices are in the range of \$11.25 a barrel, down from over \$13.00 one year ago. To this cost must be added the refining cost and the cost of \* \* \*

## METHODOLOGY: TOTAL LEVELIZED GENERATING COSTS

For each given nuclear capital cost and capacity factor, the annual capital cost was divided by the amount of electricity that would be produced at that capacity factor to arrive at the capital cost in mills/kwh. To this the levelized nuclear operating and maintenance (O. & M.) costs and fuel costs were added to arrive at total levelized generating costs over the first ten years of the plant's lifetime.

Thus for a \$1,000/KW nuclear plant operating at 70 percent capacity factor:

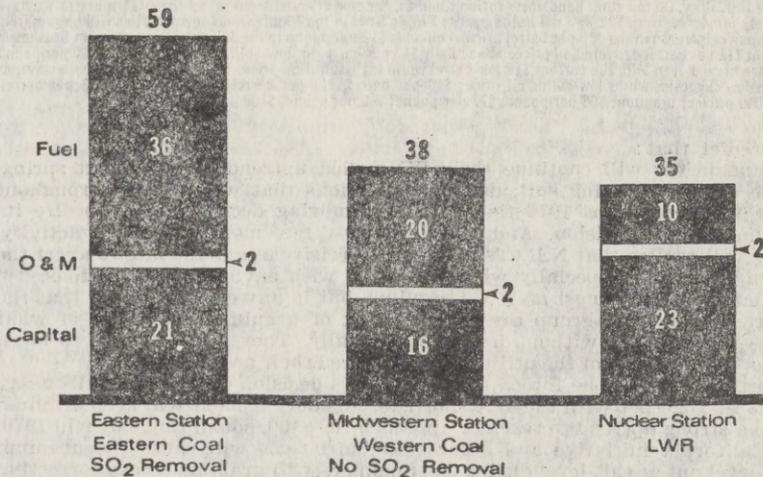
$$\text{Capital cost} = \frac{(1,000\$KW) \times (.18 \text{ AFCR}) \times (1,000 \text{ mills}/\$)}{(8,760 \text{ hours/year}) \times (.70 \text{ capacity factor})}$$

$$\begin{aligned} \text{Total nuclear} \\ \text{generating} \\ \text{cost} &= 29.3 \text{ mills/kwh} \\ &= (\text{capital cost}) + (\text{fuel cost}) + (\text{O. \& M. cost}) \\ &= 29.3 + 9.5 + 3.0 \text{ mill/kwh} \\ &= 41.8 \text{ mills/kwh} \end{aligned}$$

Oil and coal levelized total generating costs were calculated in a similar manner, only by varying the fuel costs rather than capital costs. The results are listed in Table 3 in the main text.

## EXHIBIT 45

**STEAM-ELECTRIC STATION GENERATION COSTS—Mills/KWh**  
10 Year Levelized 1985-95 15% FC 75% PF



Source: EBASCO.

## Exhibit 46

CONSERVATIVELY ESTIMATED \$65/POUND; URANIUM—\$10-11/BARREL OIL Btu BREAK EVEN LEVEL OR \$100/POUND  
BREAK EVEN WITH \$12/BARREL OIL

Cost	Mills per kWh				Comments
	Old		New		
	Fossil	Nuclear	Fossil	Nuclear	
Capital.....	2.5	3.5	4.5	5.5	Capital differences have stabilized somewhat.
Fuel:					
Uranium.....		1.5		2.0	Eightfold increase to \$65 per pound.
Enrichment.....		.5		1.5	Cost for new capacity may triple unless new technology arrives.
Fabricated and reprocessing.....		.5		.5	Tripled reprocessing cost should be offset by soaring value of recovered products.
Coal or oil.....	\$2.5		\$7.5		Threefold delivered cost rise for long-term contracted high sulfur coal or oil plus costs of desulfurizing, or for low sulfur grades, or more.
Total.....	5.0	5.0	12.0	11.5	Nuclear remains competitive—capital cost differential could widen modestly further if need be.

<sup>1</sup> At \$8 per pound.

<sup>2</sup> At \$65 per pound.

<sup>3</sup> At \$3-4 per barrel.

<sup>4</sup> At \$10-11 per barrel.

NOTE.—Capital costs have escalated dramatically for both fossil and nuclear plants but according to the latest surveys the differential has now stabilized. Fossil plants are about 80 percent the cost of nuclear plants, versus as little as 70 percent the cost of nuclear plants in the past, before the cost of air abatement equipment rose nearly tenfold. Nuclear plants are now assumed in official ERDA forecasts to increase from 40 to 60 to 75 percent operation in the first 3 years and hold there until the 15th year, then decline 2 percent a year. This is less than the 80 percent for the first 15 years previously assumed, and could be optimistic if some of the current startup difficulties, holding operating rates as low as 60 percent, do not prove transitory. On the other hand, laser fusion could cut the cost of enrichment rather than its tripling as we have conservatively projected, from \$28/kg SWU in the past to \$75/kg SWU in the 1980's when new facilities will be required. Each \$1 per barrel increase in the \$10 per barrel price of oil adds \$12 per pound to the \$65 per pound uranium breakeven level. Current \$12 per barrel delivered oil prices are actually \$13 per barrel for low-sulfur grades. Thus, a \$100 per pound uranium price breaks even with the current \$12 per barrel world high-sulfur oil price. The leverage works both ways, as the matrix below suggests: World low-sulfur oil price; \$10 per barrel, \$11 per barrel, \$12 per barrel, \$13 per barrel. Equivalent Btu price of uranium; \$65 per pound, \$77 per pound, \$90 per pound, \$100 per pound.

We predict that:

Uranium prices will continue their WX-fueled uptrend through next spring, with the stocks following suit, despite indications that will appear throughout the first few months of 1976 that N.R.C. is moving decisively to expedite its plutonium recycle decision. And after the first few months of such activity, industry will realize that N.R.C.'s new-found decisiveness is too late to avert the projected shortages, especially when combined with environmental actions.

TVA may get all or most of WX's uranium, but in any case it is clear that the utility customers as a group are "short" a lot of uranium, regardless of what happens—or drags on without happening—legally. They will continue to boost prices, as only a couple of the utilities have covered their needs.

In April, ERDA will be forced to announce its decision on boosting tails assay above 0.3%. Together with the WX shortage, this development will keep uranium prices in a strong uptrend to reach or approach the \$100/pound range by mid-1976.

The California initiative and other state initiatives will cause the uranium price to level out at this level during the Summer, with uranium stocks correcting in this time from a 1H76 level.

Our guess is that the California initiative will be moderately favorable to nuclear power, or quickly overturned in the courts if unfavorable, and that as the initial reactions settle down, utilities will realize that they must "write off the 'breeder'" for long range planning purposes if the public's acceptance of the much safer light water reactor industry is this marginal. At this point they will realize that they have created a multi-billion dollar worldwide industry that possibly will not have enough fuel, and starting in 2H76 the uranium price may thus start rising beyond \$100/pound to perhaps two to three times this level, before eventually settling down to the vicinity of \$100/pound.

Uranium prices will thus go through three upward legs. The first came to a halt with a four-month plateau in the summer of 1975 during ERDA's "open season" on changing enrichment contracts. The second leg, now in effect, will

peak out next Summer, with another several months' plateau until the California initiative is past. If this hurdle is cleared, the third leg will start.

The third, "overshoot" leg is difficult to quantify, but Exhibit 46 pointed out that \$65/pound uranium represents about 4 mills/kwhr., so that \$100/pound uranium would be about 6 mills, or  $\frac{1}{40}$ ths of a cent. The public now pays about 4 cents/kwhr. for electricity, so that an extra \$200/pound price in uranium would raise his bill to about 5.2 cents/kwhr., or 30 percent. With other costs also rising, this 30 percent price rise might not be sustainable in the political, regulatory, or economic sense, other than as an interim condition. But if, for an interim period, the economics of nuclear fuel were to be thrown out of balance—as we believe may now be temporarily happening—we would judge this magnitude of uranium price overshoot to encompass the practical range of possibilities.

Another way of guessing a possible upward price limit for the uranium price is to refer to the nuclear industry's own thoughts about the "breeder." While our "most likely" long range forecast is \$100/pound with an intermediate-term possible overshoot to \$200-300/pound assuming no "breeder," even assuming a "breeder" many industry planners believe uranium prices may eventually reach \$200-300/pound. The "breeder" would gradually make nuclear power self-sufficient for fuel, so that these prices would not hurt economically; but diminishing amounts of uranium would still be needed for a very long time, probably calling forth such price levels in the longer term. It is for this reason that many in the uranium industry are strong advocates for the "breeder." The main difference, as we see it, is that without the "breeder," such prices could be seen sooner rather than later.

A final way of guessing a possible upward price limit for the uranium market, beyond the fundamental analysis in this report, might be "technical." "Technical analysis" is just another way of viewing a price forecast after doing the basic fundamental analysis, but can occasionally be a "mind-jogger" that puts the fundamental analysis in focus. Commodity prices often reflect the same principles of "technical analysis" and mass psychology as do stocks or other publically traded vehicles. The first "leg" of the uranium price move took 1980-delivery prices up 3.5 times from \$10/pound to \$35/pound, and spot prices up an even more sharp 5.0 times from \$5/pound to \$25/pound. If these percentages apply symmetrically on the second "leg," as technical analysis suggests often occurs, 1980-delivery prices and spot prices might both clear our "most likely" price forecasts of \$100/pound. And if nuclear power goes ahead, but a "breeder" appears unlikely to receive public acceptance, the same percentages could be applied to these prices in a third "leg," as the real shortage of uranium finally begins to be realized.

#### PROGRESS TO DATE IN ESTABLISHING MUNICIPAL OWNERSHIP OF ELECTRIC POWER FACILITIES IN THE CITY OF BERLIN, N.H.

(Authorization by the Voters of the City of Berlin under RSA-38 was given by Referendum Vote (2 to 1) on June 9, 1970)

##### 1. June 30, 1969, Earl F. Gage, Mayor

"A Resolution Establishing a Municipal Power Department for the City of Berlin," was passed unanimously by the City Council.

##### 2. May 25, 1970, Norman Tremaine, Mayor

The Special Election set for June 9, 1970 on the referendum question of Municipal Power was approved by City Attorney James J. Burns and former City Attorney, Arthur J. Bergeron, as follows:

"Do you vote to confirm the action of the Berlin City Council taken at the regular City Council Meeting, held on June 30, 1969, by whom the Council passed a Resolution entitled:

"A Resolution establishing a Municipal Power Department Authority."?"

City records indicate that the referendum question was discussed with City Attorney, James J. Burns, and former City Attorney, Arthur J. Bergeron. Attorney Bergeron concurred with City Attorney Burns that the law was being followed in the manner in which the June 9th referendum was phrased. There has been no attempt to mix people up, he indicated. "Yes" means municipal power; "No" means no municipal power.

Councilman Don Borchers pointed out he was present with Attorney Burns and Attorney Bergeron during the discussion and it was because of Attorney Bergeron's great experience that he was asked to join in the discussion.

*3. June 9, 1970*

The voters of the City of Berlin at a Special Election decided the referendum question under RSA 38 to establish a municipal power department in the City of Berlin with an overwhelming 2 to 1 majority in favor: Yes—3,329; No—1,819.

*4. June 24, 1970*

Special Legal Counsel Richard F. Upton drafted an ordinance on forming a Board of Electric Utility Commissioners as taken from the City Records, page 170. The ordinance reads: "There is hereby established a Board of Electric Utility Commissioners to consist of three members, \* \* \* No person shall be eligible for appointment as commissioner unless he shall profess that he is favorable to the general principle of municipal electric ownership and operation in the City of Berlin."

The following persons were appointed and confirmed by vote of the Council to serve as members of the Electric Utility Commission: Oliver R. Bell, Oliva Morneau, and John Jacobs.

*5. July 6, 1970*

Special Counsel Richard F. Upton drafted a letter signed by Mayor Norman J. Tremaine which was sent out to companies owning electric power facilities in the City of Berlin; namely, PSCo. of N.H. and to Brown of New Hampshire, Inc., as follows:

"A majority of the qualified voters of the City of Berlin at a special election held June 9, 1970, having voted that it is expedient to acquire or establish a municipal electric plant in this City pursuant to RSA 38:4, you are hereby notified of such vote, as required by RSA 28:6, etc."

*6. November 23, 1970*

News release by Board of Electric Utility Commission chairman, John Jacobs, announcing that the Commission had decided to engage the consulting engineering services of Frank Sahlman, P. E. as consultant to the Commission in its evaluation of the PSCo. of N.H. electric system in Berlin, N.H. (Mr. Sahlman is a registered electrical engineer in Massachusetts, New Hampshire and Vermont.

*7. November 1971*

Public Service Company's electric system in Berlin was inspected and evaluated by the Commission and its consultants through meetings with PSCo., including field inspection of the distribution system in the City of Berlin, East Side substation, and inspection of Smith Hydro, including inspection of PSCo. records in Berlin and Manchester with special meetings between the Commission, its consultants, special legal consultant and, at times, PSCo. of N.H. representatives in Mr. Upton's office in Concord on November 30, 1970; March 25, 1971; June 14, 1971; October 26, 1971; November 22, 1971; July 26, 1972; November 3, 1972; October 21, 1974, and September 24, 1975.

*8. March 16, 1971*

During the evaluation of PSCo. electric property in Berlin, as confirmed by letter from W. A. Adams, vice-president, PSCo., the Commission found that the estimate of value of PSCo. transformers and meters, submitted to the PUC at \$625,000 contained an overcharge of property in service in the amount of approximately \$200,000 (33 percent) with the final estimate for transformers and meters in service in the City of Berlin agreed upon at \$430,000.

*9. September 24, 1975*

The Electric Utility Commission stated on that date that the Commission had conducted negotiations, inspection and a general evaluation of the PSCo. of N.H. electric facilities located within the City of Berlin, stating that the Commission had been assisted in this task by Special Legal Counsel Richard F. Upton and Consultants Frank Sahlman and John N. Harris.

*10. October 27, 1975*

Consultants to the Electric Utility Commission, Frank Sahlman, P.E. and John Harris, P.E., released a report to the Berlin Electric Utility Commission of the evaluation of the PSCo. distribution and transmission plant and of Smith Hydro, based on original cost less depreciation to plant and of Smith Hydro, based on original cost less depreciation to 12-31-74 at approximately \$4,000,000, taking into consideration the information from PSCo. Legal Counsel, Franklin Hollis

Esq., dated August 7, 1975. The October 27, 1975 report also provided recommendations and costs for operation of the electric system in the City of Berlin under a City municipal electric department and predicted savings of approximately 40% on the electric bills to the City and to the power consumers.

*11. November 13, 1976*

Special Counsel Upton, in a letter to the Board of Electric Utility Commissioners, gave his views as to the municipal power planning report for the City of Berlin, dated October 27, 1975, and revised his estimate stating that the City should be prepared to appropriate \$50,000 toward the cost of proceeding before the Public Utilities Commission. Mr. Upton included in this estimate a recommendation to engage the firm of R. W. Beck to support in the proceedings before the PUC.

*12. November 14, 1975*

A special meeting of the Board of Electric Utility Commissioners was called, including a special meeting with the council in the evening. The afternoon meeting of the Commission with Consultants Frank Sahlman and John Harris included a statement by Commissioners Morneau and Jacobs that they had reviewed the October 27, 1975 Municipal Power Planning Report and basically agreed to and understood the content. However, it was felt by the Commission that prior to recommendation of proceeding with acquiring PSCo. facilities, they would like to have R. W. Beck, as recommended by Special Counsel Upton, review the October 27, 1975 report and make their recommendations as to the cost and potential savings for a City Municipal Electric Department.

The commission presented to the Council its plan to hire R. W. Beck Associates to make a final review and report on the power facilities in the City and the cost of their operation as well as the potential savings as a municipal electric department.

*13. November 17, 1975*

The City Council passed a resolution authorizing expenditures by the Board of Electric Utility Commissioners as follows. (Resolution passed by unanimous vote of the Council.)

"Permission is granted to the Board of Electric Utility Commissioners (in keeping with Attorney Upton's letter of November 13, 1975) to engage R. W. Beck Associates and make them part of their team at this time, in as much as the Commissioner feels that its full team should be formed before it makes a recommendation to the Berlin City Council."

"Upon being engaged, the Commission will request R. W. Beck review with the Consultants and the Commissioners the Municipal Power Planning Report and provide the Commission with comments, engineering opinion and report."

*14. December 22, 1975*

R. W. Beck report received and scheduled for review by the Commission at a meeting with its consultants on December 31, 1975.

*15. January 5, 1976.*

The Board of Electric Utility Commissioners unanimously accepted the report prepared by R. W. Beck and Associates, and unanimously recommended the following to the Berlin City Council:

a. That the Berlin City Council authorize the Board of Electric Utility Commissioners to submit, through its Special Counsel, Richard F. Upton, an offer to purchase the distribution facilities of PSCo. located in the City of Berlin, including Smith Hydro, in the amount of \$4,195,300.

b. That the City Council appropriate for the purpose of continuing the negotiations with PSCo. (including hearings before PUC) the sum of \$60,000.

The Commission submitted a copy of the resolution drafted by Richard F. Upton, Esq. dated November 13, 1975, in order to facilitate action on the above recommendations.

*16. January 6, 1976, Public Hearing*

The Board of Electric Utility Commissioners respectfully requested a meeting with the Mayor, City Council, and City Manager on Tuesday, January 6, 1976 at 7:00 P. M., advising that the meeting was open to the public, radio and newspaper representatives. This meeting was called by the Electric Utility Commissioners to discuss the R. W. Beck report; request action of the City Council; and answer any questions from the Council and members of the public.

Senator Laurier Lamontagne read a prepared statement against the conclusions of R. W. Beck and the advantages of municipally owned electric utilities, concluding that the main points in the R. W. Beck report and none of the R. W. statements "stand up when you look at them closely."

*17. February 2, 1976*

The City Council passed a resolution concerning the Board of Electric Utility Commissioners which was a mandate for the Commission to proceed with the acquisition of Municipal Electric Plant under RSA 38 with an estimated appropriation required of \$60,000 dollars.

*18. August 26, 1976*

As of this date, the Board of Electric Utility Commissioners is waiting a decision for funding required for the purpose of carrying out negotiations and hearings before the PUC with Special Legal Counsel Upton with the services of R. W. Beck and the Technical consultants.

*19 August 26, 1976*

After agreement on the \$4,200,000 for distribution facilities and Smith Hydro, or after adjustments through PUC hearings, the final price to purchase the facilities for the Berlin Municipal Electric Department would be presented as required under RSA 38 to the Berlin City Council for final authorization of purchase and bonding.

*20. August 26, 1976*

Contrary to the report on page one of today's Berlin Reporter, the City of Berlin is not responsible for financing either the nuclear power plant or the industry. Quoting from a letter of January 3, 1975 to Chairman Anders of the Nuclear Regulatory Commission, we offer the following excerpt:

"Our (IG & T's) letter of intent also includes the City of Berlin, N. H. to whom we are bound by contract to provide a maximum of 600 MWe of nuclear capacity or the amount the city may elect, or may be permitted by IRS to finance with revenue bonds."

As you can plainly see, neither the credit of the city nor any tax money will be pledged for the development which is totally IG & T's.

All statements made herein can be supported by written documentation.

Submitted by concerned citizens of Berlin, N. H.: Laurier R. Fortier, John Sullivan, Donald Borchers, Hebert Costello, Lionel A. Caron, Edward V. Ferrari, Robert R. Theriault, Xavier F. Pinette, Leon E. Guitard, Henry Pinette, Gerard Bergeron.

PSCO of New Hampshire residential power cost, Berlin, N.H.—June 9, 1970—500 Kwh at 3¢/Kwh cost \$15.00 per month. August 26, 1976—500 Kwh at 5.5¢/Kwh costs today \$27.50 per month. Projection for 1985—500 Kwh at 10¢/Kwh (1985 costs) = \$50.00 per month.

Important to remember.—The engineering reports for the commission (EUC) show a 33 percent to 40 percent savings to Berlin customers on their power bill.

Senator DURKIN. It was interesting to note yesterday that Professor Bower, talking about the other side of public power, said that rather than have the public generate the power and transmission be regulated, there should be free enterprise in power generation. Rather than going public, we would free generation of restriction and then the transmission lines would be able to choose to take power from the most efficient, competitive generating source.

Mr. HARRIS. That is a good idea. The project we are working on has 400 mills of transmission involved. It interconnects with other public and private facilities, as well as our own. It will be a low cost facility.

Senator DURKIN. Aiming at the problem is like aiming at a moving target. The days of cheap and easy is more than just a slogan we used in a campaign. It is true.

Beverly, you have been patiently waiting for some time. Identify yourself for the record and then proceed.

## STATEMENT OF BEVERLY SNEE, MANCHESTER, N.H.

MS. SNEE. I'm Beverly Snee, resident of Manchester, and have been all of my life. I am a welfare mother. It is known as "Aid to Families With Dependent Children." We are on a fixed income. I would like to speak on behalf of these women who are rearing children and have to keep up with the utility costs.

In New Hampshire we are presently living on 1969 cost-of-living standards while the electric and gas rates rise. Telephone rates keep rising. Each month we are faced with the predictment of do we pay the rent this time, light, gas, or telephone or what about the kid's shoes? I'm always faced with kind of borrowing from Peter to pay Paul type thing.

I wonder who will we appease this time. This leaves me under a great deal of stress. I can't always be a loving mother to my children. I can't let them understand the money is going to the electric company. That doesn't mean anything to them. They don't understand it. We have to pay for the cost of food stamps. Sometimes we cannot buy the food stamps or we buy a proportion of them. Our legislature hasn't chosen to adjust our budgets. My mother is on social security, senior citizen, says that things are rough for her, but at least with social security the cost of living has been taken into account. In our cases people don't speak out, because they are oppressed. I got a kick out of you calling it public service—self-service. I called them the public nuisance company of New Hampshire. I can't plan what my bills are going to be each month. I bear no shame, because I had a shut off with my gas. I need gas. It is not right for people to be penalized simply because they can't afford what was one time a basic need which is now turning into a luxurious item caused by utilities. One of them has got to go.

For me the last would be a phone, because that is my contact with the outside world. That keeps me on stable ground. I think it is unfair that the Public Service Co. doesn't consider or care about the needs of poor people. There are poor people. They expect local welfare or some agency to come in and take care of these needs.

I just feel that it's reached a point now that something has to be done.

People on fixed incomes in New Hampshire, especially AFDC have to have some kind of relief now.

The pressures have gone on too far. There have been more meetings going on, and I can't seem to figure a way out to continue on with this.

Our legislature will not update our grant. The public service isn't going to yield. Something has to be done. That is why I came here today. I appreciate your coming, because you have shown concern for the people of New Hampshire. I will vote for you again. You have done more today than Governor Thomson has in New Hampshire all the time he has been here.

I appreciate that, sir.

Senator DURKIN. Thank you. I appreciate your taking the time and patiently sit here, to wait and present very eloquent, moving testimony. And then to contrast that with the total arrogance and, if you will, utter contempt for the public that the Public Utilities Commission has demonstrated, not just today or yesterday, but all through the proceeding.

How would you like these fixed incomes? Here is the president of Public Service Co., William C. Tallman, \$69,000. This is the fixed income that he is faced with. He can't get out of the stuffed chair and come to a hearing. Executive Vice President Adams, \$50,000.04. Maybe the 4 cents is the cost-of-living adjustment.

Executive Vice President Merrill, the same one that has trouble locating the pile of coal, \$50,000.04.

Robert J. Harrison drops off to \$41,666.

Then Roger Hunt—\$42,250.04.

Donald Sinville, lobbyist, the one that moves about the concrete halls of the Capitol, in the corner office on the second floor, lobbying against anything that will benefit the public interest, \$33,643.04.

Ralph Wood, over \$41,000.

This doesn't even get into the stock options and other benefits that you and I and everyone in this room and everyone across the State are paying for.

Someone, I think, ought to look into those fixed incomes. If I sound angry at their arrogance, I guess it is because I am, I contrast these figures with your quite beautiful eloquent testimony about the real problems faced by real people in Manchester, Nashua, Berlin, Salem, across New Hampshire. When was the last time there was an adjustment in your income to take into consideration increased costs?

Ms. SNEE. Our grant is on two components. They updated the shelter cost to 1973 standards, but all that did was go to the landlord. That covered the shelter costs. Everything else is on 1969 standards. All our needs in a month is on 1969 standards of living figures. My monthly income is \$291, \$116 of that goes to rent. Food stamps would be \$52. That leaves a balance of \$123 each month for electric, gas, telephone, household detergents, paper products, clothing, nonprescription drugs.

It causes more stress and strain on these mothers.

Senator DURKIN. You don't have an automatic pass-through. You can't pass through the increased cost as they have done with the fuel adjustment surcharge.

Ms. SNEE. No idea.

Senator DURKIN. Thank you. The record will stay open. If there is anything else you want to add, please feel free to do so. One of the things we have done to bridge the gap between Washington and home is the hot line. We can't solve all of the problems, but the number is there and as long as you have a phone, you are only a phone call away from the office. If we can help you, your friends, neighbors, we will go to bat for you.

#### STATEMENT OF EUGENE DANIELL

Mr. DANIELL. I am on the record.

The things I want to add are first, in all my various conflicts with Public Service Co. and fuel charges and things of that nature, I have found that my most effective enemy has been the attorney general. Nothing I say in any way reflects on the present attorney general because I have never seen him at a rate hearing.

Senator DURKIN. It was my experience as insurance commissioner, that every time we had a half decent case to proceed with against the insurance industry, the attorney general's office dropped the ball. When

I was in State government they never won a consumer case. That is how they represent the consumer interest.

Mr. DANIEL. The things developed through your hearing otherwise indicate that not only do we have a possibility of criminal action here, but we have a possibility of suit to recover for excessive fuel charges which are apparently illegal. If we read the release or reports from the FEA. I have—

Senator DURKIN. The FEA has not established itself as having great concern for the consumer. When they find a potential violation it has to be the size of that pile of coal before they will move.

Mr. DANIEL. They are moving at the present time if we can believe the reports. I am sure you read the article that came out in the "Monitor" yesterday relative to—

Senator DURKIN. There is another one today and they are both in the record.

Mr. DANIEL. I haven't read today's but I shall. I would like very much to go down to FEA sometimes and see whatever they have to offer.

Attorney Brown indicated a desire to do the same, either in person or by representative. I wonder if you can open anything up for us there. A consumer representative, I suppose, has to go in the back door to begin with, but I am not sure.

Senator DURKIN. We will do what we can. The FEA regional office who has an abominable record. It is understandable when the director of the regional office is a refugee from Exxon Oil—manager of Exxon Oil, Pakistan. It is difficult to expect much from the FEA when it is dominated by members of the oil industry and oil familiars lease. I voted to abolish them.

Mr. DANIEL. Apparently that heated up their seats. If their memo is truthfully quoted, they are taking potshots at Sprague Electric.

Senator DURKIN. Sprague Oil—don't get confused.

Mr. DANIEL. Sprague Oil; I am sorry.

The thing that interested me is that the whole thing is slanted at Sprague Oil. Sprague Oil doesn't sell more than a quarter of the fuel oil that Public Service Co. buys. To my mind, the party that is really at fault for our excessive rates is Conoco Oil which sells 80 percent of the oil used by Public Service Co.

Also Sprague Oil went through the form of competing for bids which has been invited by the company. Whether that was a phony exhibition on the part of Public Service Co. or not, I can't say, but it looked legitimate on the surface. Conoco has never made any bids. Conoco negotiates contracts confidentially in the office of Mr. Merrill.

I have tried to obtain the notes. I thought it was particularly significant that they do have a contract which was signed back in 1972 with deliveries in the beginning of 1974 and ending in 1978. It involves an obligation to buy, sell fuel oil amounting to something like \$200 million. It provides over a period of 4 years for a delivery of up to 4½ million barrels each year. It provided for certain limitations as to quality of oil, source of oil.

The interesting thing is that, in 1975, Conoco wrote Public Service Co. a letter and said, in the future this contract will be voidable for hardship by either party. If, at the end of 30 days, the parties haven't

agreed, then the contract is dead. It voided the contract. Why, I don't know.

The further significant fact is that they never even bothered to sign the contract which annuls the previous contract. In fact, the letter of understanding is a proposal for an amendment or it really amounts to a brand new contract. They never went further. Conoco wrote them a letter and said, this is it. They took it and apparently they haven't bothered to have it signed by Public Service Co.

The proposal is signed by a representative of Conoco. I can't see better proof of a conspiracy than something of this nature. You have a contract involving fuel oil of \$200 million and they don't bother to sign it. It is like when they bought the mercury plant; they didn't sign that contract either. They were doing business with General Electric, and that is that.

Senator DURKIN. The track record is not one of vigilance and tough business practice. The record is replete with evidence that even in the most charitable description, the Public Utilities Commission has been less than aggressive.

Mr. DANIELL. That is true. To me, it indicates that Public Service Co. hasn't any say in these contracts. They take the contract that is offered them in the private confines of the office on the 20th floor of 1000 M Street.

Senator DURKIN. If we knew who owned Public Service, it might explain a lot of dealings. The trouble is, today we don't know who owns Public Service. Does Sprague Oil own it? Conoco, Exxon, Sohio—who owns them?

We don't know.

Mr. DANIELL. What we are interested in is control and what is the method of control. Conoco furnishes something in the vicinity of 80 to 85 percent of the fuel furnished to Public Service Co. No bids, as far as I know, have ever been submitted on those contracts. It is entirely a closed deal between Conoco and—I am not familiar with Conoco but it has been written up in a few books as being one of those companies representing the best traditions of oil industry and truths and the like.

I haven't had a chance to make that further investigation.

Senator DURKIN. Why do you have to make that investigation when we are paying for three public utility commissioners and staff members? They can lobby against public hearings, against consumer advocates. Why is it you have to bring these things to our attention?

Mr. DANIELL. I told you yesterday, Public Service Co. is God to the public utility commissioners.

If you defile the name of Public Service Co. or the staff of the commission, you will be sent to Haverhill, N.H., or possibly to Pittsfield. This is the fate of anyone who defiles Public Service Co. when you are on the commission or staff. It doesn't matter how much money you spend on the staff but you will not get effective control until the Governors or others demand that the commission staff be allowed to function as they should.

The staff wanted to bring out the matter of the overcharge on coal but they were prevented from doing that.

Senator DURKIN. We both know that silence can be criminal conduct, especially when there is an obligation to divulge.

Mr. DANIELL. I don't know Mr. Sauter by reputation or otherwise. I hope he will be an improvement on some we have had in the past. Hope springs eternal, as far as I am concerned. There is a little good in every one of us.

Senator DURKIN. So does the fuel adjustment surcharge.

Mr. DANIELL. Occasionally an oil executive will backfire if he gets into another job. I want to say that it does seem to me that even if he is only a figurehead, a representative of the attorney general's office should be slightly interested in a \$4½ million overcharge and the facts that have come out in the "Monitor" indicating a much larger overcharge for oil.

Senator DURKIN. The record will show that the attorney general had time to meet with Public Service to find out how they were going to proceed after Public Service "snuck" into superior court to get the injunction at Seabrook. The record will show that the attorney general had time to meet with Public Service then.

I find it as you do, a little shocking that the attorney general has not taken action with respect to the misplaced coal. It is hard to sweep a coal pile that size under the State house dome.

Mr. DANIELL. I think the smell is something you can't keep under the State house dome. It is all over the State if you want to recognize it. I do know this from my personal experience with the Governor and those who work under him, if the Governor wants the attorney general to take an active interest in this fraud on the ratepayers of New Hampshire he will get it immediately. If there is one thing that has been demonstrated by our present Governor, it is absolute control over his underlings. If they don't jump through the hoop when he hollers then they are no longer held in that position.

It is for this reason that I have, today, written a letter to the Governor and council. If you will, I would like to read it in the record.

This is to Governor Thomson and council.

Re Fuel clause hearings and requests for participation by the attorney general.

Gentlemen, as you probably know there have been developments concerning fuel charges to the Public Service Co. that indicate overcharges for oil have been vastly larger than \$4,500,000 already admitted for coal. The FEA have made serious charges concerning relations between the Public Service Co. and the C. H. Sprague Oil Co. My own information is that the relationship between Public Service Co. and Conoco Oil is much more questionable. This company furnishes all the coal and 75 percent of the oil. I believe there is evidence tending to show criminal conspiracy to defraud the ratepayers.

So far, the attorney general has taken no part in these fuel hearings. I believe it is extremely important that he should and that is why I write this letter. I further feel that he should be given special funds to enable him to make an extensive investigation. There is a possibility that antitrust action should be taken which involve triple damages. All these and many more facts that I have not the time to outline make the attorney general's appearance imperative.

This letter in no way is a criticism of Attorney Brock who has represented the Governor at the last hearing. He has neither the time nor the staff to properly represent the public.

Should you desire my appearance before your next meeting, I should be glad to be there if you will let me know of your wish.

Senator DURKIN. The attorney general hopefully will read the new antitrust law that was enacted this year and most reluctantly signed by the President. It gives additional power to the attorneys general in the various States to proceed with respect to antitrust violations which occur within the confines of a State or a couple of States.

We know the original need for the Governor's council arose when the English Crown sent the Governor over to the colonies. The council was there to make sure that the King's appointee didn't steal the colony. We no longer receive our Governors by virtue of the English Crown. But doesn't the Governor's council have a responsibility? Aren't they supposed to be ombudsmen? Aren't they supposed to look after the various agencies of the executive department, such as the PUC, insurance department, bank commission? Isn't that the responsibility of the council rather than counting the number of pencils that go to a particular agency? Aren't they supposed to individually and collectively look after and insure that State agencies do their jobs?

Mr. DANIELL. The council can bring these matters up but the only person that can initiate action is the Governor.

Senator DURKIN. Even in a situation where a Governor is very, very friendly with the public utilities interests? Is it not the responsibility of the council to stand up and speak out and look after the functioning of the State agencies and look after the Governor's functioning with respect to those State agencies?

Mr. DANIELL. I would feel so, but it has become a tradition that they are sort of handmaids to the Governor and add a little decorum to the judgments he makes.

There have been exceptions to that rule. They have been able to appropriate funds for special purposes and I think the real tragic thing is these hearings on the fuel adjustment clause and other things to do with rate hearings is that few people have complete understanding of the tremendous amount of work that has to be done if you are really going to accomplish a long-range benefit to the ratepayers. It is not something to do with the best intentions in the world. It takes a year and hard work to do a good job, it takes funds as well.

Unfortunately, there are few funds for those who fight for the consumer. The Governor and council have the power if they wish to assign the attorney general to this matter.

Senator DURKIN. We spent 3 years on the Blue Cross hearings, 3 years with some outstanding assistants from personnel in the insurance department. It took 3 years.

Mr. DANIELL. I spent a year in 1950 on the utility rate fight at that time. We had a good decision which came out. I think we had Ed Hunter, Thornton, and Larriba. The company didn't appeal it but they brought new rate hearings and at the new rate hearings we had two new members on the commission.

Senator DURKIN. That has happened more than once.

Do you want to stick that in the record?

Mr. DANIELL. I would like to. The thing with oil is B.t.u. per barrel and that runs from 6,500,000 to down below 5 million B.t.u.'s. But the specifications for Conoco are much lower than those apparently offered when they made the bids which sensibly resulted in the Sprague Oil Co. contract.

I can't think anybody has seen that contract and I shall certainly apply for it at the next meeting and what the loopholes may be I do not know.

Senator DURKIN. It is unbelievable that the public utilities commissioners haven't seen it. Maybe that is what Commissioner Stevenson meant when he explained in the "Monitor" that wet oil and wet coal burns with less heat than dry oil and dry coal.

Mr. DANIELL. Of course this is true. They ascribe their overcharge to the fact that they didn't figure the right moisture content to the coal which is picked up as it is in storage in their pile. I am not enough of an expert to testify on that. I don't know that I have never seen stronger—I have no proof that Conoco has any power over Public Service Co. at the present time other than the results.

If you see a figure out here that has strings going up to the ceiling and as the strings move the figure moves you know there is control; who controls utilities, I don't know. We know there is a control here by the result. A \$200 million contract and the public utilities commission doesn't have the letter of agreement under which they are doing business at the present time.

Senator DURKIN. We know the three commissioners aren't in control. They have not exercised any control over Public Service Co.

Mr. DANIELL. I would only say that they have the control if they want it but they have defaulted in their control and it is unbelievable the procedures that have been followed.

I think that is all I have. I wanted to bring out the fact that it is so involved. The only person really qualified to handle this thing effectively is a sincere attorney general with \$50,000 to \$100,000 to expend, investigating the background of Conoco, Sprague Oil, and the various negotiations of the companies with regard to this oil and coal contract.

Remember always that the coal that is sold here is really sold by Conoco. Consolidated Coal is nothing more than a wholly owned or completely controlled subsidiary. I wanted to ask if you can help me get hold of some of the memos. I would go to Boston if that would be of any help.

Senator DURKIN. We will see what we can do. FEA is not the most responsive governmental outfit that we have done business with.

Mr. DANIELL. Thank you very much. I think you have done us a great favor by giving all of us interested in this field a little forum.

I regret with you that those who should be here as well are not. But the reasons are obvious.

Senator DURKIN. It says more than their testimony could say.

We will have Peter Brown.

In response to what Gene has said, it may well be the responsibility of the State law enforcement officials. But the fact that the Public Service Co. and the public utilities commission didn't dare to come into the hearing has to raise a question of whether there is a violation of any Federal laws.

Mr. DANIELL. If I could add one more thing.

If you read the article in the Monitor it points toward Sprague Oil, that they are overcharging and that FEA is going to recover for Public Service Co. the overcharge. The significant thing is Conoco is charging more than Sprague Oil and they haven't seen fit to fool with Conoco at all.

Conoco is selling higher priced oil with lower specifications than Sprague. Sprague is in hot water. Why isn't Conoco?

[The material referred to follows:]

In answer to your request, we submit the following :

OCTOBER 6, 1976.

Re No. 6 fuel oil.

Source : Union Petroleum Corp.

*Net terminal price at Newington, N.H.*

Date :	Per barrel
May 21, 1975	\$11.00
Aug. 8, 1975	11.35
Sept. 30, 1975	10.85
Dec. 19, 1975	10.2564
Mar. 18, 1976	10.4564
June 4, 1976	10.1564
June 20, 1976	10.0064
July 1, 1976	10.2219

NOTE.—\$10.2219 per barrel firm through Dec. 31, 1976.

Respectfully,

GEORGE R. DEZIEL,  
*Purchasing Officer.*

COST/BARREL AS REPORTED BY PUBLIC SERVICE CO. IN MONTHLY FINANCIAL STATEMENTS, P. 42

	Schiller	Manchester	Daniel Street	Newington
June 1974	11.24	13.76	11.57	
July	11.24	14.96	12.75	12.75
August	11.24	12.35	14.67	12.78
September	11.25	11.55	14.68	12.75
October	11.27	11.70	11.56	12.79
November	11.40	11.79	11.32	12.78
December 1974	11.66	11.79	11.48	12.27
January 1975	11.65	11.75	11.50	11.42
February	11.57	11.72	11.67	11.97
March	11.77	11.79	11.55	12.03
April	11.78	11.92	11.50	12.01
May	11.48	12.04	11.50	11.76
June	11.41	12.15	11.51	11.77
July	11.42	15.80	11.78	
August	11.42		11.75	
September	11.22	12.22	12.13	
October	10.83	12.51	12.51	11.81
November	10.76	12.25	12.17	11.56
December 1975	10.64	12.15	12.04	11.25
January 1976	10.57	11.39	11.59	11.50
February	10.77	11.23	11.87	10.68
March	10.78	11.18	11.31	10.91
April	10.78	18.06	11.13	10.95
May	10.62	11.10	11.08	
June	10.45		10.77	11.02
July	10.27		11.92	11.05
August 1976				

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, OIL COSTS

Month	Average delivered cost of oil per barrel				
	Newington	Schiller	Daniel Street	Manchester Steam	Merrimack
June, 1976	\$10.8142	\$10.3868	\$10.6563	\$10.85	
July	10.8161	10.20	10.62		
Transportation (cents per barrel)	40		17.1	40	40

STATEMENT OF PETER BROWN, PROFESSOR OF LAW AT FRANKLIN  
PIERCE LAW CENTER

Mr. BROWN. It is a pleasure to be here. I would like to reiterate Representative Daniell's remarks that you are doing the State of New Hampshire and this region of New England a service by holding these hearings here.

I'm Peter Brown, professor of law at Franklin Pierce Law Center. I'm counsel to Voice, a low-income consumer group which has its headquarters in Nashua, N.H.

My experience in the public utility field in New Hampshire has been to represent Voice in a number of proceedings before the public utilities commission and also to involve myself with my neighbors in a water company case of which I will explain more later.

The proceedings that I am involved in before the commission at this time are the rate structure investigation that has been underway now for 21 months. We are the only public interest intervenor in that proceeding. So far on the basis of 21 months of proceedings, the staff of the commission has not seen fit to either offer testimony or to participate in the cross-examination to any great extent.

The second proceeding we are involved in is the monthly fuel surcharge hearings. We have been involved in those proceedings since their inception in May.

Third, we have proposed regulations to the public utilities commission concerning service termination, involving landlord and tenant situations.

Fourth, we were the first public interest group to propose a broad ranging investigation of a fuel adjustment clause back in May of 1976.

We filed a petition in May of 1976 before the commission saying that there were a number of features, including fuel procurement that had to be investigated, because there were questions raised by the Touche-Ross audit obtained by virtue of a consulting contract between the commission and Touche-Ross and there had not been independent examination of the fuel adjustment clause since 1972.

Finally, we are involved in what is called the fuel adjustment fold-in which is a proceeding, rather esoteric in nature and it is a proceeding which the commission has ordered on its own motion.

With respect to every one of these proceedings, with respect to the representation of middle-income consumers, I believe the water company case, I have found that the public utilities commission here in New Hampshire is singularly unresponsive to either the views, suggestions, or the requests of public representatives before that body.

Senator DURKIN. From what we heard in the past couple of days, you are being charitable.

Mr. BROWN. I will say this, when I came to New Hampshire, I was told that the regulatory climate in New Hampshire was not unsatisfactory. I came from Pennsylvania where the commission in Pennsylvania had considerable problems and was being accused on a whole variety of fronts of being unresponsive to the needs of consumers.

I saw what went on in that commission, being a Democrat appointee to the counsel of that commission, a Republican-dominated commission. My view was that there was very little I could do in the context of being the lawyer for the commission, except to try to make sure that the consumers had access to the commission. But on the basis of my observations of what the commission was doing and its other bureaus were doing, I found that was a particularly unresponsive agency.

I came to New Hampshire with the idea that perhaps the public utilities commission here, because it had less responsibility in terms of the size of the utilities it regulated, that it would be more aggressive, better able to handle its caseload and better able to respond to the interests of the consumers.

I, unfortunately, have to conclude after approximately 1 year of work before that commission, that they are no different, no better, in fact, they are probably worse than the Pennsylvania commission.

This is particularly troubling to me, because if you look at the whole theory of regulation, the whole set of principles, the regulatory agency is the only thing that the consumer has between it, he or she, and the hard cold world of public utilities that have to aggrandize profits and serve the interests of the stockholders.

That is all we have. If that system doesn't work, then we are in real trouble. The commission is supposed to be the substitute for competition. We have given utilities the monopoly status, because economic theory has taught us that that is the kind of status that this type of industrial organization should have.

At the same time the theory is that the commission or the regulatory agency is going to stand in the stead of competition. Unfortunately, it hasn't worked. In the last 4 or 5 years it hasn't worked.

Senator DURKIN. In the 1960's when there were generally declining utility costs, people didn't pay much attention. Now, when costs are going up, it becomes apparent that the system doesn't work.

Mr. BROWN. I would like to tell you a story, Senator, about something that actually happened to me. It is something that brought home to me some of the problems that we are facing. That is, I live and my family lives in a neighborhood that is served by a very small water company in Bow, N.H.

Senator DURKIN. Is that the water that was getting in the coal?

Mr. BROWN. I don't know. The water company was getting to be an annoyance, significant annoyance to some of my neighbors. One day through the mail we received a notice that they were going to increase their rates 40 percent. And, of course, my neighbors who were aware that I taught public utility law at Franklin Pierce Law Center, came to me and said, couldn't you do something to help? I said, well, if we can get some people to work on some testimony and to work on some of the information that the company has to give us, I would be glad as a pro bono thing to provide representation at the hearing.

The neighbors became animated and excited about this prospect. They were concerned that their rates were going to go up.

Some had been told by the water company that the rates would never go up, the more people that got on the system, the lower the rates would be, don't worry about a thing and we will take care of everything for you. We went to hearings and 25 or 30 of my neighbors attended these hearings, and these people took time out from their jobs to come.

They were all there, and we proceeded to cross-examine the company witnesses. The first company witness was the accountant. We asked the accountant what the story was on a note which was evidence of indebtedness of the water company to a bank in New Hampshire. And the note was for, I think, approximately \$40,000, and the accountant said, yes, that is a note, at a rate of 9½ percent interest, and we have mortgaged the property of the water company for that note.

I said it looks from your balance sheet that \$20,000 worth of that note has gone somewhere. Will you explain that? He said we lent the \$20,000 of the \$40,000 we received from the bank to someone else. I said, would you mind telling me who that someone else is?

He said it is the so-and-so realty company. I said, is that the same company that owns all of the stock in the water company? He said, yes, it is.

In other words, the subsidiary lent money borrowed from the bank to the parent. Then I asked what is the interest on the loan from the subsidiary to the parent. He said the interest is 6 percent. I said the subsidiary is paying 9 percent on \$40,000, but the parent is only paying 6 percent? He said, that is correct.

I said, is the note to the parent secured? No, it is not. I said, what could the parent borrow at for \$20,000? Would it be higher than 6 percent? He said, yes. I said, would it be higher than at the time the note was issued to the parent? He said, yes.

Next question was they had done a water supply study, because the system was leaking. They paid something on the order of \$1,600. They wanted the ratepayers to pay for it. I asked the president of the company who did the water supply study and he said so-and-so. I said who is so-and-so? He said, he is my son. I said, has your son got an engineering degree in hydraulics? No, he has not.

Did your son ever do a water supply study for a water company before? No, he has not.

Have you done anything with this water supply study? He said we have done a few things. I said what? There was some questions as to whether they had, in fact, carried out the recommendations of the water supply study or even if they made sense.

At that, the close of that—by the way the president of the company, who was a cousin, didn't have a meter and the vice president of the company also didn't have a meter, so they were not paying for their water.

Senator DURKIN. They had a lifeline rate.

Mr. BROWN. That is the pure lifeline rate.

Senator DURKIN. Fred Harris wants to get the rich off welfare.

Mr. BROWN. We put on our own testimony. We had a master in business administration get up and testify. He had done a billing analysis and he said they had understated their revenues by \$2,000 or \$3,000.

Finally, some of the people who were with us, 25 or 30, who had stayed for about 2 hours, wanted to testify. I made an offer of proof to the commission and the testimony was not really that relevant. They wanted to say, we don't like what is going on. We don't like it that we are going to have to pay 47 percent increase in rates. It turned out to be 47 rather than 40 percent. We were told we wouldn't have to pay higher rates and that the rates would go down, and they wanted to get on the stand and say, this is something bothering us.

Senator DURKIN. That is what utilities sold electric homes with.

Mr. BROWN. I told the commission they should conduct an investigation of the company to determine whether or not the company was operating properly within bounds. It is a small company. The revenues aren't big. The books aren't voluminous. It wouldn't take much to go in and say, in a day or two have an accountant take a look. They took that matter under advisement. That is one of the things they do a lot. They came back and 2 months later gave the entire rate increase to the company.

That is the end of the story, because we didn't have the money to appeal. I didn't have the time.

I think the reaction of the people in my neighborhood is, well; who got to them? That doesn't make sense to us. And the cynical reaction is, what do you expect. That is the way it happens. That was one shocker to me. We have had motions before the commission, petitions before the commission for months.

They don't act on them. We have made application to the commission to borrow a copy of each transcript coming out of the rate structure investigation, so that we could copy it and return the copy of the transcript to the commission. The transcript cost \$100 to \$150 a booklet, when you are at commission hearings.

That motion was denied. They claimed the stenographer had a property to the material in the transcript. I have talked to copyright experts who have taught at my law center. They said that that opinion was completely off the wall. To date, we have not been able to get copies of the transcript. Usually, in these situations where you have low-income people, you can proceed. Even in Pennsylvania we provide access free to the transcripts in Pennsylvania, when we had low-income people appearing at a hearing. I have come to the conclusion in terms of dealing with that agency, the best thing to do is to pay close attention to and shore up the consumer advocate that has just been appointed to represent the interests of the consumers before that commission. That is the way to get around the big stumbling block. If it is the consumer advocate that has to do the job, the commission has failed to do. Instead of having a one-step process where the commission will decide what should be done, ultimately the consumer advocate will have to take appeals. The consumer advocate is funded to the tune of \$40,000. That is a minimal appropriation at this time. I think that the very least Federal assistance to locally establish consumer advocates is the most important kind of Federal assistance that can be given to the consumers at this point.

I note also that there was energy legislation recently passed re-establishing the FEA and that title 2 of that energy legislation authorizes \$2 million to be funded through FEA to local and State consumer advocates.

I also have received a consumer letter from the Consumers Federation of America saying that Frank Zarb is not going to appropriate or seek an appropriation for the \$2 million. I have heard—

Senator DURKIN. Now that Earl Butz has left the scene, Frank Zarb is clearly part of Nixon's revenge—or he is the other half of Nixon's revenge on America.

The FEA has a less than distinguished record in representing the consumer. In fact, most of the staff at the FEA is recycled oil executives anyway.

Mr. BROWN. That doesn't make me too hopeful in getting \$2 million appropriated. I would appreciate it if the Senator would write Mr. Zarb and express your interest in seeing that that money is appropriated.

Senator DURKIN. Since I asked Mr. Ford to fire Zarb, I don't have very much influence with Mr. Zarb. Whatever little I had, I think I extinguished it.

Let me ask you a question. You have studied utility law. You are a professor of utility law. You have worked under the law of Pennsylvania. You have worked under the law here. You have experienced the various State laws. Is there adequate authority in the New Hampshire State law for the Public Utilities Commission to aggressively represent the public?

Mr. BROWN. Oh, yes. Without question.

Senator DURKIN. Then this statement that we hear second- and third-hand from the part-time commissioners that their hands are tied, because the legislature hasn't given them authority, is so much nonsense.

Mr. BROWN. That has to be in error, because you go through the enabling legislation for the commission and they have broad-ranging investigative policy. They can go to the company's place of business any time, and they are given statutory access to the books, records, accounts, and personnel of the company.

If you wanted to draw the analogy, draw the analogy between the Department of Justice of the United States of America and their powers under civil investigative demands in antitrust cases and the powers of the PUC under the present legislation in New Hampshire and the powers of the PUC under the present legislation in New Hampshire are considerable. Not only do they have the broad-ranging investigative power, but they also have the power to subpoena. They have the power to subpoena on commission motion, records and documents of persons, organizations, companies, which are not under their jurisdiction for regulatory purposes.

Senator DURKIN. They have all of the legislative authority, all of the legislative power, all of the statutory authority they need to aggressively regulate the utilities in the public interest and their failure to do so at best is a failure of will.

Mr. BROWN. That has to be my conclusion. They have the power.

Senator DURKIN. What about internal decisions? Here is a fuel adjustment surcharge sheet. I understand since you people have pressured them that they do give these out 48 hours before the proceeding. The ones who come closest in guessing the number of tons of coal in a pile are allowed to testify. They don't go beyond this. A ninth grade math student with a calculator can add up to see if the figures are correct.

Mr. BROWN. They are going beyond that now.

Senator DURKIN. They had the authority all along to go behind that and go behind that pile of coal.

Mr. BROWN. That is correct.

Senator DURKIN. They had the authority to go behind the contracts Gene Daniell is talking about, authority to go behind the Sprague contract, and they have not.

Mr. BROWN. That is my understanding. With regard to this, one of my cocounsel in this proceeding calls it the dog and pony show. Those are the monthly add-up, the number hearings. There is no question that they started out at the PUC with the idea that the public interest would be served by having the company come in, add up the numbers and we would go home and pay our fuel adjustment clause bill for the following month.

That was the danger we foresaw in May, when we filed a petition saying we wanted an investigation. We pressed the commission for an investigation for a considerable period of time, 3 months and they kept telling us they had the matter under advisement. As a result of several different things coming together, one, the city of Nashua—there is no question that the city of Nashua did everyone a service by saying to its counsel, "Intervene in those proceedings at the PUC because we don't like the fuel adjustment clause." The coal pile came along on August 13. That helped. That almost shook somebody loose over there at the public utilities commission.

Senator DURKIN. It should have cost somebody a job.

Mr. BROWN. The city of Franklin is in, Governor Thompson is in. Now, it has become apparent to the commission that there are more people beating on their doors than the low-income group with its headquarters in Nashua, N.H. That is very important.

I suppose in order to get the attention of the donkey, you have to get the baseball bat first. These intervening parties have given us the baseball bat. Now, we have to get the attention of the donkey. I think we have. They have now started to hold hearings on an "inquiry into the fuel adjustment clause." We will see what happens in those proceedings. We are certainly for seeing that these proceedings will last for a considerable period of time. We will try to do a careful and thorough job.

Senator DURKIN. That is another problem. As insurance commissioner, we were faced with the problem that the insurance companies can wear down any consumer group. They can take weeks. They get paid. They get their expense account. They appear at the hearings. They drag it on and on. They can drop 15 pounds of mathematical data on a table almost every morning. The consumer groups and their advocates, unless they have assured funding, generally can be worn down. They wear down not only the consumer advocate or would-be consumer advocate, but also the commission itself. How do you protect against that?

Mr. BROWN. What do you do is, first of all, make sure that the consumer group or advocate is staffed and funded which is the first problem. The second problem is you make sure the consumer groups have access to information. Information is power, as you know. It is most important that the consumers have the same access to information that the company has. My feeling is that the Federal Government certainly can take steps, maybe not necessarily to directly dabble in internal state affairs, but to provide necessary information, necessary studies to consumer groups when you are talking about matters as complex as electrical rate structure design, matters as complex as forecasting problems for electric utilities, reserve requirements, reliability equations, all of the things that come to bear in determining whether or not a utility is doing its job. There are literally a dozen significant issues facing electric utilities today.

Senator DURKIN. Could you outline those issues and what the New Hampshire Public Utilities Commission has done on those issues. It would be helpful to have this in the record.

Mr. BROWN. I will do that. One of the major issues we face today is forecasting, determining what the load growth will be, what demand

will be for a particular electric utility or gas utility or what have you for the near term, next three—to 4 years and for the long term, over 10 years. Every utility and every good company will plan at least 10 years down the road for construction of plant to provide the necessary service to the customers.

Right now, forecasting is in a great state of disarray. There are real difficulties, as the report by the New England Regional Commission indicated in the present forecasting methodologies not only of the Public Service Co. of New Hampshire, but the entire New England Power Pool. There needs to be new methodology, consumer access to those methodologies and understanding of them.

At this point, the public utilities commission basically accepts things at face value in New Hampshire. The forecasting is done by the Public Service Co. of New Hampshire. My experience with the Rates and Research Division of the Public Service Co. of New Hampshire is that they have competent people, but they are fairly conservative and they are bound up in old industry methodologies. The old industry methodologies are historic projections and they don't work anymore. The second thing is, you have to determine, it is very important, as a matter of fact, because it reflects directly in the rates customers pay, what the reserve capacity is at any given moment in time for a particular public utility. If you talked about an electric utility, you talk about what they have in terms of generating capacity available to serve when that demand shoots up at any particular time of day. We don't know what is a proper reserve requirement. They have reliability factors which they have been using for the last 5 or 10 years that I think need to be reexamined. These reliability factors are based on probabilistic evaluations by statisticians and economists which, frankly to me, leave me high and dry. They are difficult to understand.

Again, the public utilities commission, I think, accepts this at face. Whatever the Public Service Co. determines to be an appropriate reserve, they accept it at face and then accept the reliability factor that the Public Service Co. utilizes. I think in that area you are talking about a situation where the public utilities commission doesn't have the expertise, the resources to engage in the kind of sophisticated analysis that has to be done.

Senator DURKIN. The record in this hearing shows that the only time the PUC goes to the legislature is to lobby against bills that would give the public more access to the proceedings and the right to be represented at the hearings.

Mr. BROWN. I don't know if there is any evidence that the commission has gone to the legislature to beef up its technical staff. I know that the commission went to the legislature last year to get a general counsel hired at \$21,000. I haven't seen any effort of the commission to go to the legislature and say, "We need a hot shot out of the Tuck School or Whitmore School; let's get him in here." I found in my experience in government in Pennsylvania that if you get young people out of graduate school, law school, who are really aggressive, they want to see the job done. They don't want to stay in one place. They don't want job security. They want to see a job get done. These people come in and they may not know as much as a utility engineer, but they will learn and learn fast, because they will put in 7 days a week, 12 hours a day.

Senator DURKIN. That is why we have young people in the office.

Mr. BROWN. I commend you for doing that. They can do it and I'm sure that there are people—I guess a business administration degree is a premium degree nowadays. There should be people around, if you sell your program correctly, that can come out of those schools and do a good job for you. They would love to get involved in forecasting problems and reserve requirements and reliability factor problems.

Senator DURKIN. There is enough talent in the State, State universities, Dartmouth College. You get a feeling that anyone who has a new idea is looked upon as if they have leprosy. New ideas range about the same as leprosy, cancer.

Mr. BROWN. New ideas are the modern social disease, I suppose. I don't see the Commission—I think the Commission is basically taking the position that things are going to be all right. Let's get over this hump; this problem that we have now and then, they will be all right. We can go back to the way it was. The way it was was kind of quiet. The only thing you worried about was whether or not you should be asking the company to come in for a rate decrease. That was in the 1960's.

Senator DURKIN. I think the fact there were three public utility commissioners was one of the better-kept secrets in State government and the fact that they had responsibility to effectively regulate was an equally well-kept secret.

Mr. BROWN. I'm sure the Public Utilities Commission could go to the Whitemore School and talk to Dick Mills and to Dick Bower and say, "We have a problem." The Whitemore School and Tuck school have computers that they could use to obtain data. There are no secrets about determining what the appropriate reserve requirements should be, what the reliability factors should be for public service company should be on its own and as part of the New England Power Pool. Again, the question is, do they have the creativity to think along those lines?

Senator DURKIN. You mentioned planning and forecasting. What are the other inadequacies?

Mr. BROWN. This is where the industry captures the market on this information. The industry is doing a lot of stuff in this area. The industry associations in this area, the Edison Electric Institute and Electric Power Research Institute. Edison Electric Institute has been under the dominance of the investor-owned utilities. Electric Power Research Institute has now permitted public power groups and organizations to take membership. They are getting the advantages of that research there.

The National Association of Regulatory Utility Commissioners has one economist. They are not that aggressive in doing research and they basically depend on the Edison Electric Institute and Electric Power Research Institute to do research. There you are back with the utilities on the research part of it. Some of the other issues are a basic examination of load management techniques. Load management techniques will be very important especially if we come in with new rate structures. I think this country's expert is in New Hampshire, Dr. Thomas LaaSperre.

Senator DURKIN. How do you spell that?

Mr. BROWN. L-a-a-S-p-e-r-e. He has studied load management techniques of all of the European countries that have experimented—

Senator DURKIN. What is his first name?

Mr. BROWN. Thomas. Load management, as you may know, is a method by which utilities and their customers seek to control the demand that they impose on the system at any given point in time and ultimately also the amount of electricity they consume, but the most important utilization of load management techniques are to control demand. If consumer groups are going to argue for new, better, more adequate rate structures of public utilities, we have to know what there is that will enable the public service company and the customers to implement the new rate structure. What can be done to assist a customer, to help that customer make maximum use of an offpeak rate?

Senator DURKIN. Let me jump ahead a minute. Yesterday, we had testimony from Dr. Bower and Bob Gross and others. A concern arose in my own mind. Dr. Bower argued that the Federal Government should not get involved because national regulation would become a weight around the neck of the rate payer in due time and that you wouldn't get the imagination and innovation that you would from 50 State commissions. But, when you go to, say, off-peak load management and so forth, if New Hampshire goes first and Vermont goes 3 or 4 years later, are we going to create an economic competition and imbalance or is that not a problem?

Mr. BROWN. I think it is a problem. This is where Dick Bower and I disagree. He does not believe that there should be national minimum ratemaking standards. I happen to believe that that is important. I think that if Vermont goes for innovative rate structures and New Hampshire and Massachusetts stay the same, there is going to be pressure created on Vermont, by perhaps those people who understand electricity the best, to either abandon those rate structures, and there is pressure over there to do that now, or at the very least, Massachusetts and New Hampshire will perceive that they have an economic advantage over Vermont to retain the business that they have or to attract new business that may settle in Vermont, but because of the innovative rate structures that people don't understand, they will take the traditional structures in New Hampshire and Massachusetts. I think the important reality here is the perception of business people and the regulators that, if you do change from the traditional, when somebody else has it or when all of the States around you have it, then you are going to lose business or you are not going to be able to attract it.

For that reason and almost for that reason alone, I would favor national minimum standards of ratemaking. The second point is—

Senator DURKIN. So that we don't get these imbalances?

Mr. BROWN. So we don't get these diseconomies. We have that situation right now. Regardless of how much talk or how much has been written about peak load pricing, marginal cost pricing, we do not have many commissions in the United States that have gone to it. Those that have gone to it have been almost bludgeoned into it by consumer groups who have come in and said, "We want a flat rate for everybody." The businessman pays 5 cents a kilowatt-hour and the residential customer pays 5 cents a kilowatt-hour. Because that is horrifying to the public utilities and business people, somebody says, "We have to do some-

thing. We can't have these people arguing for a flat rate and winning; we better throw somebody a bone; so, let's do something." That is what is happening in Massachusetts.

In all of the States where there has been voluntary movement to changes in rate structure only in Wisconsin and Vermont. In California, they went to a lifeline rate which I have some trouble with, because lifeline out there can mean 1600 kilowatt-hours a month. That is a subsidy to the rich or at least to a person who is a very heavy consumer of electricity. There the California Commission started to move to rate structure reform, because the legislature stuck it to them by saying, "Here is what your lifeline means; it means 1600 kilowatt-hours a month." So, I see that as—

Senator DURKIN. How do you get around the problem with lifeline that you are going to be subsidizing the out-of-State resident who has a summer home or second home?

Mr. BROWN. If you want to go the lifeline route and I'm inclined to say that lifeline has more difficulties than benefits—lifeline seems to be an easy solution to a difficult problem. My particular position is that you can get as close to lifeline using marginal cost pricing as you want to get.

Using the present data from the Public Service Co. that we have been hearing in New Hampshire, there is no question that the moderate users of electricity, those who are using between 300 and 600 kilowatt-hours of electricity a month are subsidizing the higher volume users and we did some studies which indicated to us that there is a very strong correlation between the amount of electricity used in that block, 300 to 600, 250 to 600, and marginal income.

Your modest income people, 5 or 6 percent fall in that area, so by going to an economically justified rate structure, using time of day and seasonal differentials you will eliminate that class of people giving these other people a subsidy and you will give them a break.

If you have a person using between 400 and 500 kilowatt-hours a month you are talking about 18 or 19 percent of reduction in the electric bill if you go to a time of day, as an option and seasonal differential as your base rate.

Senator DURKIN. Let's say 5 o'clock is a peak use time. How do we prevent it becoming 9 o'clock, just before the Thursday night movie starts or whatever it is? We will have a same problem, but at a different time on the clock.

Mr. BROWN. That is a danger and you have to be aware of it. The problem is that the companies want the absolute complete answer now. Before they do anything they are saying, "We want to be told exactly what is going to happen today, tomorrow, and 5 years from now. We won't do it unless you tell us."

The problem of shifting a peak is a problem with time of day rates but you expect the changes and the utilities running the rate structures to pay attention. If you can see that the peak is beginning to shift, do load research and check it out and you can see you are starting to shift the peak, so you change the rate.

I don't think the peak is going to be shifted here in New Hampshire significantly in the next 2 or 3 years. You are talking about 2 or 3 years. The companies say that means you will have unstable rate

structures. You will have a rate structure that lasts for 2 or 3 years and then you will change it.

Well, they have written increases every year. Two or three years is a time frame that anyone can work in. I think you will reduce that peak secondly. That will be really to the ultimate benefit of everybody.

Senator DURKIN. Peak power is the most expensive power to generate.

Mr. BROWN. That is correct. It is the most expensive. In terms of consumption of fossil fuel it is the highest consumer of fossil fuel. When you shave a peak you can avoid construction costs of a peaking plant over the long term. Those long term capital investments would be significant savings as well. I say it has an opportunity to work. I perceive the situation as being basically the companies don't want to take the chance now. They don't want to go to something that is risky. They don't know what will happen.

My position on that is we can tell you how to run the race, that the race is going to go around the track 10 times and the track is 35 feet wide and it has a bank on it but we can't tell you what is going to happen every step of the way.

Senator DURKIN. It would take the fun out of it.

Mr. BROWN. That is right. With regard to the lifeline question, if you want to do a lifeline and you can do it here, it seems you could avoid the seasonal home problem by requiring the companies to identify the seasonal home and just not make them eligible. That is one of the arguments used by people against lifeline.

It seems the utility companies can look at their billings to determine a seasonal home and that home would not be eligible.

Senator DURKIN. Just like in insurance regulation, ideas which benefit insurance companies proceed immediately. If they benefit the consumer, they are ill conceived, need more study.

The utility industry isn't that much different. What about a 6-year term? Do you think the Commissioners should have a 6-year term and be allowed to practice law on the side?

Mr. BROWN. I think they should be full time.

Senator DURKIN. What about disclosure by the Commissioners? Should they disclose their law clients?

Mr. BROWN. Yes; I think Commissioners should have no more than a 3-year term. There should be five instead of three. I think they should be full time. There should be full disclosure of financial assets.

Senator DURKIN. Why five? I think three get in enough trouble.

Mr. BROWN. If you want to do things with the Commission, you can have panels, instead of having all five Commissioners sit. You can establish panels, three and three handle maybe not double your workload, but 50 percent more.

Senator DURKIN. If you multiplied the three we have now to five they would find a way to increase costs. Those two would be plotting further increases somehow or further abdication of concern for the public or maybe that is my conservative streak.

Mr. BROWN. One of the things you want to do is make sure they are full time, make sure there is full financial disclosure, that is, make sure you are not giving them a long term of office.

Finally, what you want to do is through whatever organizations that exist, such as Common Cause, or others, the Consumers Federation or

consumer groups in the State, make sure when you hold those legislative hearings on confirmation that there is full exposure of the nominee to that process and to questions from not only consumer groups, but Common Cause and the like.

What are you going to do when you get on there? Whom have you worked for in the past? What is your philosophy on this and that? The Senate of the United States is not the world's most perfect legislative body, but they do on judicial nominations give access to public interest groups concerned about the nominee. That has got to happen at the State level.

Senator DURKIN. Under the leadership of the chairman of the Commerce Committee, Chairman Magnuson, the Commerce Committee has led the way as far as requiring a thorough investigation of all appointees that have come before the Commerce Committee en route to confirmation, rejection, withdrawal, or what-have-you. Some of the other Senate committees are now belatedly beginning to follow the lead of the Commerce Committee and Chairman Magnuson. It is a fairly exhaustive process and the Commerce Committee has investigators doing the work. They go out and don't just take the matter or rhetoric at face value.

This last week, several appointments in the Commerce Committee died because they were midnight appointments.

Mr. BROWN. That is the way it has to be done. I'm not that familiar with the way the legislature operates in New Hampshire. I'm familiar with the way it operates in Pennsylvania.

One of the difficulties is that sometimes legislatures meet in places where there is no exposure to the media that is necessary. Herb Dennenberg told me he thought the Pennsylvania Legislature should meet in Philadelphia or Pittsburgh because they had at least newspapers and television stations. In Harrisburg you have nothing.

Senator DURKIN. We get the wire service in Concord.

Mr. BROWN. It is not a bad place from the point of view of media exposure.

Senator DURKIN. We are interested in obtaining the testimony from Concord later. Mr. Hollis, whose firm last year garnered \$116,000 in legal fees, expressed in a letter which has been made part of the record, his regret that he couldn't be with us and that he didn't have time to prepare for the hearing. It leads me to the question that if someone has garnered \$116,000 for legal representation, how much should they have to prepare to explain what they have been doing over the last several years?

The whole question of conflict—we had representatives in the back of the room taking notes although they didn't want to appear and testify. The New Hampshire Co-op says when rates are too high. Why don't we hear from Concord and Exeter & Hampton Electric Cos.?

Mr. BROWN. I don't know the answer to that. I don't. My understanding is that they do contest rate proceedings before the FPC. That is something you ought to look into, the FPC.

Senator DURKIN. That is another can of worms.

Mr. BROWN. They are a difficult agency to deal with. Thank God they didn't permit construction in progress to be included in the rate base. I wouldn't want to speculate here as to the reasons. I'm not sure

that they don't contest the Public Service Co. before the FPC. I think they do. I'm not that familiar with all of the proceedings that have involved Public Service Co. and its wholesale customers before the FPC. I'm aware of one or two particular proceedings, the rate increase request for Public Service Co. for its wholesale customers that went into effect subject to refund last spring and the fuel adjustment clause fold-in proceedings that occurred just recently at the FPC level. All of those, I think, Concord Electric are involved in. I think they have taken an adversary position.

It seems to me, however, that New Hampshire Electric Co-op is carrying the ball in opposition to the fold-in case before the FPC.

Senator DURKIN. Do VOICE or any of your clients get involved with the interlocking directorates of the companies? We see the same people over and over.

Mr. BROWN. We haven't. You almost have to say—I don't understand how close that position is. Mr. Hallis is a major stockholder of Public Service Co., he is president of Concord Electric. He is on the board of Public Service Co. of New Hampshire. There is an exemption provided to him by the FPC for that activity. It is a rather long-standing arrangement. We have not involved ourselves in that.

In the proceedings we are involved in, you really have to worry about the numbers. What is the bottom line in terms of dollars and cents that it is going to cost the consumer.

Senator DURKIN. If they are managing the utilities and are regulating the utilities and doing it with mirrors, then that is going to have an impact on the numbers.

Mr. BROWN. It is hard to say how it is going to impact.

Senator DURKIN. We have the bottom line. We have one constant, that New Hampshire has the highest electric rates in New England. Working back from that I wonder how the question of interlocks or the existence of interlocks affects rates.

Mr. BROWN. I'm not sure how that impacts.

Senator DURKIN. I'm not, either. I'm not sure it does impact. It is a question that naturally comes to mind.

Mr. BROWN. I have heard theories voiced to me that because of the large representation of major financial institutions, insurance companies and commercial banks on the boards of directors of public utilities companies, they always make the decision to go capital intensive. The decision is to go to the bigger rate base, to go to the additions to the rate base, which, No. 1, creates a market for money which they have to go to and get and, No. 2, it ultimately requires the consumer to pay additional rates to cover the rate of return on that rate base.

Senator DURKIN. Then the banks and insurance companies are there to provide the money.

Mr. BROWN. That is right. That is a theory that has been proposed. It is a theory that is consistently held by people who are public power advocates.

I don't happen to be a public power advocate. I think there is room in our system for public power. I would like to see public power and private power compete in the generating phase of the provision of electric service. I would like to see public power made available in New Hampshire to a greater extent than it is. That seems to be one of the public power arguments.

The Federal Government is involved in running major power projects through the Department of the Interior, TVA. There is nothing to say—I say with regard to that, I am not so sure Government should be immune from competition from private industry.

Senator DURKIN. You think of the Postal Service when the Government gets involved.

Here is a tidbit that fell out of my electric bill.

On one side it has the cystic fibrosis poster girl in an effort to raise money for the cystic fibrosis, which is a worthwhile endeavor, but on the other side we have a self-serving declaration from Self-Service Co. of New Hampshire—explaining away the coal inventory adjustment.

We would have asked the Public Utility Commission or Public Service if they had been there, but could you tell me who pays for this tidbit of information?

Mr. BROWN. It depends. If that is informational as opposed to promotional, you and I pay for it.

Senator DURKIN. Does it have to be factual or can it be polysyllabic hyperbole?

Mr. BROWN. It is all in the mind of the beholder, Senator.

Senator DURKIN. In other words, it is more than likely that we pay?

Mr. BROWN. That is the general rule on determining allowable expenses.

Senator DURKIN. How did this situation come about?

There are three factors which could have contributed. First, it could have been the suppliers' scales.

Do we have a State sealer of weights and measures?

Mr. BROWN. Yes, we do. We are talking about Consolidated Coal Co. scales in Fairmont, W. Va.

Senator DURKIN. Company scales?

Mr. BROWN. I have been told that that could be off.

Senator DURKIN. The amount of moisture pickup.

Does coal only pick up moisture at certain times of the year?

Mr. BROWN. It picks it up all of the time. We pay for it.

Senator DURKIN. Gene Daniell outlined it succinctly yesterday. We pay three times and then we have to pay for this pearl of regulatory wisdom.

The tax normalization procedure from most viewpoints is another tidy loophole which benefits the Public Service stockholders at the expense of the ratepayer. We have heard a lot about tax reform, and we spent 135 rollcall votes in the Senate on tax reform.

Could you briefly explain for the record how and why tax normalization ends up as a rip-off of the consumer?

Mr. BROWN. Tax normalization is a method of accounting that is required under certain provisions of the Internal Revenue Code for certain tax breaks that industry receives.

The tax breaks are the accelerated depreciation allowance and the investment tax credit. I think it is important to remember here that utility companies are not taxpayers. They are tax collectors.

The allowable expenses for all utility companies include all taxes that they pay and if they are allowed expenses, then they go into the determination of what the rates should be and the ratepayers pay those taxes, and they collect them and transfer them to the Federal Government.

That is problem No. 1.

The stockholders don't pay the taxes, but we pay the taxes.

Problem No. 2, is if you give the electric utilities or any utility a tax break in the form of an accelerated depreciation allowance or investment tax credit to stimulate their capital investment, you are probably doing an unnecessary thing. They have to invest in capital anyway.

They are a very capital-intensive industry, and they don't need those incentives.

The third thing is because of tax normalization, what happens is they compute what their tax will be for purposes of filing their returns with the IRS, and they take advantage of the accelerated depreciation allowance and the investment tax credit when they do that.

Their tax liability may be less than 15 percent of their income. Then they put together another set of books and these are what they call their books of account for ratemaking purposes, and they compute what their tax would have been absent the tax credit and the accelerated depreciation allowance, and then they say to the regulatory agency, "This is what our taxes are for purposes of ratemaking." That is an allowable expense, those normalized taxes.

You put that in the rates and require the ratepayers to pay it. Now, what that means, is that the ratepayers are providing, in terms of revenues to the company, an interest-free loan for use by that company for whatever.

Senator DURKIN. In unvarnished terms, they are collecting at one rate, collecting one sum ostensibly for Uncle Sam and the IRS, but they are paying Uncle Sam at a lower rate, a smaller amount.

Mr. BROWN. That is correct.

Senator DURKIN. In Las Vegas that is called skimming, isn't it?

Mr. BROWN. Something like that. It is basically providing interest-free capital to utilities, and it is a very tricky way to do it.

If you want to provide interest-free capital to utilities, say so. If you want to provide interest-free capital to utilities, you come out and say,

Now all of you people paying utility rates, this is what we will ask you to do. We will ask you to guarantee the bonds for the indebtedness of the company, or whatever, and we will use tax money to do that.

Instead they put in difficult and arcane provisions in the income tax laws, which takes an accountant and tax lawyer to read for 3 days to find out what is going on.

I have read these things and the regs.

Senator DURKIN. They are difficult, but the net or bottom line is the average citizen doesn't benefit.

Mr. BROWN. That is right.

Senator DURKIN. After you wade through the regulations, it is the special interest or affluent who benefits and not the average citizen.

Mr. BROWN. As you know, as a result of this most recent tax reform legislation that was passed, how easy it is and how vulnerable the public is, unrepresented public is to income redistribution through tax loopholes and tax revisions.

That is the whole danger in this area.

Senator DURKIN. Senator Clark and I sponsored the amendment to take the word "reform" out of the bill. It failed, as the reform failed.

Mr. BROWN. I, myself, do not favor having the utilities pay any Federal income taxes at all.

Senator DURKIN. I am not sure I don't part company with you on that one.

Mr. BROWN. Basically, my position, and it has been a hard one for me to come to at this point, is because utilities do not pay taxes, they collect them. What you are saying is indirectly utility customers, you pay those taxes. I am not so sure with electric utility rates rising the way they are, and other utility rates rising the way they are, why we should have to pay their taxes or, at least in terms of those persons who are of marginal middle income, or people who have their wife working and husband working and the husband has two jobs—if they are paying taxes through their utility bills, my position is let's make it easier for them.

Senator DURKIN. The tax laws should reflect that. There shouldn't be a hidden subsidy to one group in utility accounting. That is one reason the utility industry is held in the same high regard that the tax collector was held in biblical days.

I want to thank you.

We will leave the record open. I would appreciate your keeping the Commerce Committee and my office informed. I appreciate the help you have been to our office.

It is apparent that the only way that we are going to bring the Public Utility Commission dragging, kicking, and screaming into the real world of the hard-pressed consumer is to keep the spotlight on them.

It is a shame they weren't here today. They might have realized what we heard today wasn't an environmental group. It wasn't any particular group. It was senior citizens, people on fixed income, small business people, people from all ends of the State, Berlin to Salem, Keene to the sea coast. Municipalities; Nashua is involved, Keene is involved.

Hopefully, more municipalities will stand up and announce they are through being ignored by the Public Utility Commission. It shocked me that 73 percent of my fuel cost are charged through the fuel-adjustment clause and that the Commission which is supposed to be protecting me has just granted more automatic increases.

I think it is more than coincidental that the earnings-per-share for Public Service has gone up 40 percent in the last year. Utility stocks are a preferred stock item.

It is distressing to find that the Governor vetoed Senate bill 44 and that his energy watchdog has been nowhere in sight these last couple of days. The Governor has opposed and his office has opposed regulatory reform, opposed opening up the regulatory procedures so that consumer groups could appear and testify. And I think everybody in the State of New Hampshire should ask where the Public Service Co. has been these past couple of days? Where have the part-time Public Utility Commissioner been, and where was the Governor's office? Where was the attorney general? Where was the person the Governor appointed to look after energy matters?

I think it is unfortunate that people have had to come at their own expense to testify that his watchdog is not doing a job, and it is awful that he has said these people are grandstanding.

We will again make effort to contact the Public Utility Commission and Public Service and see if they will reconsider what can only be classified as the latest chapter in extreme arrogance and malperformance by these two groups.

I might suggest to the Public Utility Commission and to the executives of Public Service that if they continue to hide from Senatorial hearings, they may well get the opportunity to testify before some other body before the final chapter is written.

I want to thank everybody who came and took this time.

Senator DURKIN. The record remains open.

This is the first couple of days in what will be a fairly extensive hearing record in an effort to bring regulatory reform to an area that obviously needs it.

Thank you, Peter.

[The following information was subsequently received for the record:]

GRANITE STATE ELECTRIC Co.,  
Lebanon, N.H., October 6, 1976.

Hon. JOHN A. DURKIN,  
Dirksen Senate Office Building,  
Washington, D.C.

DEAR SENATOR DURKIN: I wish to acknowledge the invitation of this week from your office to submit testimony to your Senate Commerce committee hearings in New Hampshire on Friday, October 8, 1976.

On April 28, 1976, Donald G. Allen, Vice President of New England Electric System, testified before the Senate Committee on Commerce in Washington on S. 3310 (Electric Utility Rate Reform and Regulatory Improvement Act) and S. 3311 (Electric Utility Coordination Act). Mr. Allen presented New England Electric's views which includes Granite State Electric Company in New Hampshire along with Massachusetts Electric, Narragansett Electric in Rhode Island and New England Power Company, which is our bulk power supply company.

I appreciate the opportunity of resubmitting this testimony to your Committee at this time. I am sorry that, due to the short time between notification of the hearings and the actual hearing, additional comments could not be compiled.

I further ask that you submit the enclosed testimony for the record.

If I can be of further assistance, please call me.

Sincerely,

R. A. HOLDEN, *President.*

#### STATEMENT OF DONALD G. ALLEN

I am Donald G. Allen, Vice President of New England Electric System. I should like to present my company's views on S. 3310 and S. 3311. Mr. Crawford has presented an over-view of the two bills from the point of view of the Edison Electric Institute, and Mr. Baucom plans to concentrate his remarks on the bulk power supply provisions of S. 3311. Accordingly, my remarks will be directed primarily to the retail rate reform provisions of S. 3310.

New England Electric System is a registered holding company which, together with its operating subsidiaries, has been found to constitute an integrated public-utility system within the standards of the Public Utility Holding Company Act of 1935. Our system is unique in that all bulk power supply operations are concentrated in our wholesale generation and transmission subsidiary, New England Power Company; and all retail sales are made through our distribution subsidiaries located in Massachusetts, Rhode Island and New Hampshire. Thus, while I believe our views are within the main stream of electric utility industry thinking, they are necessarily colored by our own organizational set-up and the regulatory precedents established by the Federal Power Commission with respect to wholesale rates and by our three state commissions with respect to retail rates.

I plan to group my remarks under four general headings: an assessment of the central objectives of S. 3310, detailed comments on its principal provisions, a brief comment as to the potential impact of S. 3311 on my own, company, and finally suggestions as to alternative means of accomplishing the objectives of S. 3310.

## I.

As we understand it, the central concept of S. 3310 is that electric rates designed on marginal cost principles, which will assess higher charges for use during peak periods, will provide more accurate economic signals to consumers and will therefore result in lower construction budgets for the utilities and minimize increases in the electric bills of consumers. Further, that this approach to rate design will spread the total costs of electric production and distribution more equitably among classes of consumers.

As an a priori matter, we have no difficulty with the first proposition. The electric utilities have for many years recognized that improvements in load factor will result in lower costs for consumers. In the past decade, inflationary forces have changed our industry from a decreasing to an increasing cost industry. As a result many utilities, my own included, are exploring all feasible means of reducing peak demands and using our existing plant more intensively. But we are acutely aware of the practical difficulties involved.

First, we think it unrealistic to believe that a change in rate design, by shifting to peak responsibility pricing, even if reinforced by other load management techniques, will eliminate the need for additional construction. If so, our ability to finance this new construction must be strengthened or our customers will not have the "adequate supply of electric energy at reasonable rates" (S. 3310, section 101) which is vital to serve their needs and the needs of the local and national economies.

The ability of the electric utilities to finance new capacity has been commented upon at length during the House hearings on H.R. 12461, in particular by Mr. Shearon Harris and Dr. Irwin Stelzer. Investors in utility securities are indicating emphatically that they need greater assurance that utility earnings will fully reflect the higher unit costs of new plant additions and the continuing upward pressure of inflation on operating costs. Lacking that assurance, new investment funds will be available only at higher cost, thus contributing to higher rates for our customers in the future. Investor confidence will be increased if rates are fixed on a forward-looking basis; if needed rate increases are granted without undue regulatory lag; and if utility revenues show reasonable stability so that equity earnings will at least keep pace with inflationary trends.

S. 3310 does not address the overall rate of return on utility investments and thus the utilities' continuing ability to finance. We suggest that these questions are an inescapable part of any major program for assuring the stability and cost of electric service for the future: first, because the need for national minimum standards for ratemaking are at least as urgent here as in the areas addressed by the bill; and second, because the shift to new rate design principles mandated by the bill will result in unpredictable swings in revenues and earnings, and the work load imposed by the bill on state regulatory authorities will increase, rather than reduce, the regulatory lag and the consequent erosion of rates of return. In short, S. 3310 standing alone will increase the risks assumed by investors in electric utility securities and, without offsetting provisions designed to stabilize utility earnings, will result in higher costs of capital in the future.

Second, we think it unrealistic not to recognize that a shift to peak responsibility pricing will increase the electric bills of many consumers. An electric rate structure designed from the outset on marginal cost principles might well represent an equitable approach to sharing the total costs of producing and distributing electricity among customers with different use characteristics. But equity involves comparative, as well as absolute values; traditional concepts of equity and fair dealing suggest that business decisions taken by consumers in reliance on established practices should not be undercut by abrupt changes without adequate time to accommodate to a new regime. Thus a more gradual approach to peak responsibility pricing than is mandated by S. 3310 would be desirable.

Third, we think it unrealistic not to recognize that the results to peak responsibility pricing have thus far been assessed only in terms of conceptual analysis. The benefits of this new approach to rate design depend vitally on consumer response to new economic signals, and we have no valid data from experience to predict consumer response to higher rates during peak periods (in economic parlance, demand elasticity at peak). Similarly, we have no data from experience to predict the costs of this shift in rate design in terms, first, of cost to the utilities and, second, of cost to individual customers and the possible ripple effects on local and national economies that may result from a major redesign

of commercial and industrial rates. Finally, though the basic principles are clear, the detailed calculus for determining marginal costs and for translating those costs into peak responsibility rates, is a matter of intense debate even among the cognoscenti. These considerations suggest that we have a long and arduous learning curve to surmount, and, again, that this can best be accomplished by a more gradual approach than that mandated by S. 3310.

## II.

We are sympathetically aware of the immense drafting difficulties involved in working out the basic concepts underlying S. 3310, and have followed with interest the successive revisions that have appeared in the original companion bills, S. 2502 and H.R. 10100, in the revised House bill, H.R. 12461, and in the present S. 3310. We are particularly heartened by the major revisions in the present bill, including its new approach to lifeline rates, to fuel adjustment clauses, and to construction work in progress as an element of rate base. But the concerns expressed above remain; and we would reinforce the comments on specific provisions of S. 3310 which were made during the recent House committee hearings on H.R. 12461.

### MARGINAL COST PRICING; PEAK RESPONSIBILITY (TIME-OF-USE) RATE DESIGN

The new rate design regime mandated by S. 3310 requires an analysis of customer usage on a daily, seasonal and annual basis, followed by an adjustment of customer rate classifications with an eye to their contribution to peak demands; a concurrent analysis, on marginal cost principles, of the costs of operating the utility's total system at various levels of demand, followed by an allocation of total costs to each rate classification; and, finally, the design of peak responsibility (time-of-use) rates which will assess full marginal costs to usage during times of peak demand, with appropriately reduced charges for usage at other periods.

S. 3310 provides the mechanics for this analysis as follows:

"Marginal cost" is defined in broad terms in section 202(1). Two alternative definitions are given, which may produce dramatically different results.

Under section 205(a) the state regulatory commissions are given two years to promulgate cost of service manuals, dealing in precise detail with all the conventional questions of allowable costs and also with the new questions involved in restating total costs on a marginal cost basis and providing for the allocation of those costs to customer classes. Although not explicitly mandated by section 205(a), a regulation of such sweeping impact on both utilities and consumers will undoubtedly require extensive rule-making proceedings.

Meanwhile, section 205(c) requires each utility to gather extensive information on customer usage on a daily, seasonal and annual basis, and on the individual elements of system costs which will later provide the basis for designing the new rates. The Federal Power Commission is given six months to provide a manual for this information-gathering process, and the first utility reports are required in approximately one year, and annually thereafter. A formal rule-making proceeding by the Federal Power Commission is expressly required.

Based on the information thus assembled, section 203(a)(2) apparently requires an adjustment of existing customer rate classifications, based on the timing of customer demands for electricity and the costs of system operation at various levels of demand. The stage is then set for putting the pieces together and producing a new set of rates which will meet the basic standard of section 205(a)(1); that the rates for each class shall reflect the marginal and time-of-use costs of service.

Section 204 apparently provides a means of pre-viewing the new rates. Each state regulatory commission is required to convene an evidentiary hearing within a year after enactment of the bill to consider alternative load management techniques, and to mandate the prompt implementation of those which it finds to be cost-effective. Heading the list of possible load management techniques is the use of "time-of-use peak-load pricing structures based on marginal cost determinations". However, the timing of this initial review of load management techniques is such that the state commission will not have before it either its own new cost of service manual or the specific information on customer usage and costs gathered by utilities pursuant to section 205.

Zero hour arrives with the first rate increase filed with the state regulatory commission two years after enactment of the bill. At that time, section 205(b)

requires the commission to consider not only the particular rate being increased, but to commence an evidentiary proceeding to review the information supplied by the utility with respect to the timing of customer usage and the appropriate allocation of total marginal costs to each class of customers. Read in conjunction with section 203(a) (1), this will require the utility and the commission to revise the entire rate structure as a precondition for any increase in an individual rate. And if there were any doubt as to this conclusion, it is dispelled by section 209(a) (1), which expressly requires total conformance to all the rate-making requirements of the bill at the end of two years; and by section 209(f), which permits any electric consumer to bring action in the Federal District Court to enjoin any possible shortcutting of this procedure.

This is an impossible schedule. It makes demands on the state regulatory commissions which cannot physically be met within the two-year time-frame required, even without consideration of their existing workloads and the added requirement for a generic review of life-line rates to be conducted simultaneously. It requires information from the utilities which cannot be provided without complete new metering systems; for our own company (which represents slightly less than 1% of the national picture) we believe than an automatic meter-reading system would be required, involving a capital expenditure of not less than \$125 million and approximately eight years for company-wide operation. It involves extensive rule-making proceedings by both the state regulatory commissions and the Federal Power Commission, which cannot be concluded on the time schedule assumed by the bill. And the requirement that after two years no new rate increase can be allowed until a total new rate structure has been filed and approved inevitably means that a period of years will elapse before any needed rate increases can be allowed, with serious if not catastrophic effects on utility earnings and credit standings.

We suggest that the objectives of the bill would be better served by a more evolutionary, step-by-step process, rather than by a quixotic attempt to vault to the top of the learning curve before data and experience are available.

#### EXCEPTIONS TO MARGINAL COST PRICING

The bill provides two exceptions to the basic requirement of section 203(a) (1), that all rates shall reflect the full costs of providing service to each class of customers: first, "life-line" rates (section 204(a) (3)); and second, variances from the new rate schedule in case of extreme economic hardship (section 203(c)). The bill is silent as to how these unrecovered costs will be assessed to other customer classes, a question certain to engender controversy and on which, therefore, statutory guidance would be desirable.

#### LIFE-LINE RATES

S. 3310 marks a departure from previous drafts of the bill, which mandated below-cost rates for all residential customers sufficient to cover a subsistence quantity of electricity for domestic lighting and food refrigeration. The revised provisions of section 204(a) (3) make such a rate optional, require each state regulatory commission to conduct an investigatory hearing within one year of enactment of the bill, and leave details to the discretion of the state commissions with the admonition that any such rate must be limited to low-income consumers.

This revision is responsive to the views expressed before the House committee (by Mr. Herbert Cohn and Dr. Joe Pace, among others) that the life-line provisions of H.R. 12461 would inevitably benefit a large number of customers other than the intended low-income beneficiaries. But it fails to reach low-income consumers uniformly, particularly those whose utility services are included in rental payments and those who use other fuels for cooking, water-heating and space-heating. In view of the deep involvement of the Federal government in income-maintenance programs for the aged and disadvantaged, we pose the question whether these uneven effects of electric life-line rates will not require compensatory adjustments in other state and Federal programs; and as a consequence, whether the intent of this provision could not be better served by a direct action program administered by the Department of Health, Education and Welfare.

## EVIDENTIARY HEARINGS; AUTOMATIC ADJUSTMENT CLAUSES

Section 203(b) (1) (A) requires an opportunity for a full evidentiary hearing on any rate increase filed two years after enactment of the bill, with two exceptions: fuel adjustment clauses; and rates made effective on an interim basis, subject to refunds if required at the conclusion of the evidentiary hearing.

This section poses two latent issues of substance.

First, the definition of an "evidentiary hearing" in section 103(a) (11) contemplates a fully deliberate adjudicatory hearing, with no time limits for its conclusion. Many state statutes, on the other hand, presently provide express time limits for rate decisions; Massachusetts, for example, requires a final decision within ten months. Based on familiar principles of Federal supersedure, it would appear that these state time limits will no longer be effective. If so, a useful means of minimizing regulatory lag will have been removed, and electric utility securities will appear more risky to investors whose funds will then be made available only at higher costs. In view of the use of a similar time limit in section 302 of S. 3311, as a means of expediting Federal agency decisions on facility siting and licensing, we suggest that this apparent result of section 203(b) (1) (A) may have been inadvertent and should be clarified.

Second, the sweep of section 203(b) (1) (A) makes it evident that all automatic adjustment clauses are forbidden, with the single exception of a fuel adjustment clause. We believe that this is unwise. One means of reducing regulatory lag, while still maintaining full consumer protection, is to adopt a "two-track" rate review procedure. This involves the expanded use of carefully designed automatic adjustment clauses, buttressed and checked by a periodic and in-depth review of all elements of the total cost of service of the utility. The advantages of such a two-track system lie in the stability of utility earnings and the reduction of regulatory lag, and in freeing the state commissions for a deliberate and in-depth examination of all elements of the total cost of service of each utility. The testimony of Mr. J. D. Geist before the House committee describes the effective use of this approach by the New Mexico commission. We suggest that section 203(b) should be revised to permit the continued use of such two-track rate review procedures.

## FUEL ADJUSTMENT CLAUSES

Prior drafts of the bill cast aside the long industry and regulatory experience with fuel clause design, and substituted a cumbersome procedure applicable to all automatic adjustment clauses. In addition, the recovery of fuel costs above an annually determined base was limited to 85% of additional costs above a 5% neutral zone. The difficulties with this procedure were pointed out by numerous witnesses in the House committee hearings, including Mr. Gerald Browne and Mr. Jack Weiss.

We are gratified that S. 3310 moves back toward established and time-tested precedents and, in particular, that it permits full recovery of fuel costs above an established base. Our reservations with respect to the treatment of fuel clauses in sections 203(b) (2) and (3) go to drafting ambiguities and matters of procedure.

First, we assume that the new provisions will include in the "fuel component" (section 201(9)) all identifiable elements of fuel cost, including the fuel component of purchased power. But the emphasis on fuel purchasing procedures in section 203(b) leaves matter in some doubt.

Second, the provisions for an annual independent audit and an annual evidentiary hearing to review fuel practices, coupled with a reserved power to disallow fuel costs retroactively (sections 203(b) (2) (B) and (C) and section 203(b) (3) (A)) may have the untoward result of inhibiting efficient purchasing initiatives, by suggesting that no contracts can prudently be entered into without the prior approval of the state regulatory commission. This would tend to shift the decisional responsibility for fuel procurement from the utility to the commission. Further, it would drastically reduce the possibility of advantageous purchases in the spot market, and might well inhibit the acquisition of a long-term supply of fuel in competition with industrial and foreign users.

Third, we feel that a presumptive rule that all fuel purchases should be made by competitive bidding is disadvantageous in a sellers' market, such as characterizes the uranium, coal and oil markets today (and seems likely to continue so

long as the OPEC cartel remains intact). Under extreme conditions, competitive bidding may result in no bids at all; and so long as a sellers' market exists it seems probable that nimble and aggressive fuel purchasing will result in a more secure fuel supply at lower costs to consumers. Using our own company as a case example, the attached letter to Senator Brooks will illustrate the desirability of direct purchases in today's volatile and unpredictable residual oil market.

Finally, we suggest that the review procedures detailed in section 203(b) can better be handled as a part of the overall review of the total cost of service which is an inescapable part of every general rate case. The review procedures specified in the bill are already used by the regulatory commissions when fuel acquisition practices are brought into question; and would most appropriately be a part of a more generally applicable two-track system which permitted the use of a wider variety of automatic adjustment clauses, as suggested above.

#### LOAD MANAGEMENT TECHNIQUES

As we have indicated, many utilities are currently investigating methods of limiting the growth of peak demands and increasing the load factor of system operations. Moreover, we recognize that beyond voluntary methods, such as optional rates rewarding off-peak use, many load management techniques cannot be adopted without regulatory commission sanction. Our reservations with respect to section 204, therefore, go more to the time schedule required for commission action and to the test of cost-effectiveness which, despite revision in S. 3310, appears too broad.

First, as we have pointed out with respect to one of the load management techniques listed in section 204(b) (1), "time-of-use peak-load pricing structures", it seems unlikely that state commissions will have a sufficient data base within a year after enactment of the bill to make any detailed evaluation of the costs and benefits involved or to order a particular set of rates into effect. We believe that the same comment is valid with respect to the use of the other load management techniques listed in the bill. Thus our recommendation here, as with rate reform, is for gradualism rather than a sudden quixotic vault into the future.

Second, it appears that the test of cost-effectiveness is to be applied to each individual load management technique examined. Missing is any requirement that the sum total of the load management techniques mandated will not prove unduly costly to consumers and to the local and national economies; or, put another way, that the load management techniques mandated will provide a positive balance of benefits over costs to the utility's consumers. Two examples will illustrate our concern. Possible load management techniques might include (1) a policy forbidding the utility to attach new services or to upgrade existing services; and (2) a policy mandating a reduced reserve margin, with instructions to meet any capacity shortages at peak periods by rotating blackouts or by physical interruption of service to selected industrial or commercial customers. Either of these policies would appear to meet the "cost-effective" standard of the bill; but we doubt that either would meet the test of showing net benefits to the communities served. Thus we suggest that the test should not be "conservation for conservation's sake", but should include a requirement for balancing total costs of load management techniques against the public benefits to be realized.

#### ADVERTISING EXPENSE

The bill's provisions with respect to advertising appear to be based on a series of oversimplifications and misapprehensions: first, that left to their own devices, utilities will engage in promotional advertising designed to increase the growth of peak demands; second, that utilities have no need (and possibly no ethical right) to communicate with the public or their customers except on a very limited list of topics; and third, that any advertising expense charged to stockholders is without cost to consumers.

None of these assumptions is correct. First, most major utilities have already withdrawn from appliance merchandising and promotional advertising of on-peak service in order to limit future growth and any unnecessary construction of higher-cost additions to capacity. Second, during the current period of rising prices, the utilities need more than ever to communicate with the public and their customers—and, indeed, as quasi-public agencies feel an obligation to explain their policies to their constituents. Third, unlike the case of an unregulated business, any advertising expense borne by stockholders cannot be recouped

by an increase in price; in the case of a utility, any advertising expense charged to stockholders will result in a down-grading of utility stocks and be reflected in an increase in the cost of capital to consumers.

For these reasons, we suggest that the advertising strictures in section 203 (a) (5) should be deleted, leaving the review of advertising expense to the informed judgment of the state regulatory commissions who for many years have critically examined this area in the course of rate reviews; or, alternatively, that the present overly restrictive provisions be replaced by a top limit on advertising expense as a percentage of gross revenues.

#### CONSUMER REPRESENTATION

Sections 208 and 209 of the bill raise two separate questions: first, whether existing laws adequately provide for consumer representation in rate proceedings and subsequent court appeals; and second, whether additional financing is required to make those rights effective in the public interest. These questions were examined in-depth in the testimony of Mr. George Rives before the House committee.

As to the first question, it seems abundantly clear that consumers, consumer groups, and public officials representing the public interest have well established legal rights to full participation in rate proceedings and court appeals; and that the provisions of the bill reinforcing and adding to these rights are at best unnecessary, and at worst may result in a conflict of appellate reviews.

As to the second question, a review of the current scene hardly suggests that the consumer interest is likely to go unrepresented for lack of financial support. In recent years, inflationary costs have resulted in a sharp rise in rate increase applications and a correspondingly sharp rise in public concern. The consumer interest is ably represented in most rate cases by the staff of the state regulatory commission, in many cases financed by substantial assessments on the utilities. In recent years, state attorneys general and other public officials have participated actively in major rate cases to a degree unknown in earlier, less inflationary periods. Similarly, the past few years have seen the formation of numerous consumer groups, many of whom have demonstrated an ability to raise substantial funds in support of rate interventions and legislative activities. To this, the bill would add the FEA Electric Utility Ratemaking Assistance Office in an ombudsman function, and a program of financial assistance to state regulatory authorities (Section 207 and Title III).

Under these circumstances, we suggest that the bill's provision for additional financing of consumer intervenors in rate proceedings is not needed (the funds provided would, we assume, constitute a rate expense to be included in the cost of service); and that section 208(b) (1) as presently drafted may well have undesirable side-effects which run counter to the public interest. We believe that this section should be deleted from the bill.

#### III.

If S. 3311 had been in effect during the past five year, it would have bankrupted my own company and seriously crippled many other major investor-owned systems.

Section 204 forbids an investor-owned utility from filing a rate increase so long as the FPC has pending before it for final determination any rate schedule previously filed by the utility. Section 205 outlaws all automatic adjustment clauses except those re-filed in a new, prescribed form; and requires an initial, thereafter an annual, hearing on the rate schedule embodying the new adjustment clause.

Since 1970, inflationary costs have required our wholesale subsidiary, New England Power Company, to file annual rate increases in order to maintain required bond indenture coverages and to provide a minimum return on the equity investment. To date, none of these cases has been finally determined by the Federal Power Commission. To the extent that any of the proceedings have been concluded, this has been done through settlement agreements negotiated by the parties. If S. 3311 had been effective during this period, section 204 would have had the perverse effect of eliminating any possibility of settlement, leaving our investors and consumers in the position of helpless observers watching the deterioration of service while awaiting the final determination of the first of this series of needed rate increases. And under S. 3311 this result would be continued for the indefinite future, since section 205 mandates an annual proceeding on any

restructured fuel adjustment clause, with the result that there is likely to be a "rate schedule previously filed by the public utility pending before the Commission for final determination" at all times. In view of the Federal Power Commission's admittedly overwhelming work-load, the effect of section 204 would be catastrophic for a system such as ours, where the total revenues supporting bulk power supply operations are subject to FPC jurisdiction; and only slightly less damaging for the typical, integrated utility whose ability to finance has already been eroded by inflationary pressures, and for whom prompt rate relief for the 10 percent of revenue derived from wholesale sales is therefore critical.

The treatment of automatic adjustment clauses in section 205 of S. 3311 raises additional problems. So far as fuel adjustment clauses are concerned, it seems clear that this provision should be revised to reflect the changes made in S. 3310. But in the wholesale field, the definition of an "automatic adjustment clause" is so broad as to outlay a wide range of essential transactions which are priced to track actual costs as they are incurred: for example (1) unit sales, where a portion of the capacity and output of a new generating unit is sold to neighboring utilities on a cost-of-service basis; (2) cost-of-service sales by a jointly-owned generating company to a group of interconnected owner utilities; and (3) economy exchanges of power, which are customarily made on a split-the-savings basis based on actual costs as incurred. Since each of these transactions is an essential tool for coordination and power pooling agreements, the proposed treatment of "automatic adjustment clauses" would invalidate a host of intercompany agreements which benefit consumers through lower power costs and which benefit the nation by promoting conservation.

The treatment of automatic adjustment clauses in section 205 has further untoward results when applied to inter-company transactions within a registered holding company system. Section 205 not only outlays wholesale contracts which automatically track costs; it also prohibits tracking any costs incurred by an affiliated company. This further provision would outlay virtually every mechanism for pooling intra-system costs, and would totally frustrate the underlying mandate of the Public Utility Holding Company Act of 1935, that the operations of registered holding companies and their subsidiaries shall be conducted so as to produce an "integrated public utility system".

These drastic, and presumably unintended, consequences of sections 204 and 205 of S. 3311 were more fully analyzed by Mr. Thomas Debevoise and Mr. Gerald Browne in testimony before the House committee. Section 204 can stand only if the Federal Power Commission is ordered to reach a final determination of all electric rate cases within the five-month suspension period provided by section 205(e) of the Federal Power Act. Section 205 must be wholly recast if coordination and power pooling agreements are to survive, and if the Public Utility Holding Company Act is to stay on the statute books.

#### IV.

Our criticisms of the pending bills, particularly S. 3310, have focused on the need for gradualism: the bill mandates too much, too soon. We say this against a background of intense ferment and widespread activity in exploring new approaches to rate design and load management techniques which will provide a better understanding of the costs and benefits involved, and a basis of experience to move more securely toward the objectives of S. 3310.

Consumers are pressing state regulatory commissions with suggestions for peak responsibility rates and life-line rates. The utilities are independently exploring means of limiting the growth of peak demands and making more intensive use of their plant and equipment. Many state commissions have explored new approaches to rate design in generic hearings. Experimental programs have been ordered, and others have been launched on a voluntary basis with financial support from the Federal Energy Administration. The National Association of Regulatory Commissioners has requested an in-depth study by the utility industry which is now in progress under the guidance of the Edison Electric Institute and the Electric Power Research Institute, drawing on the collective expertise of rate experts from all segments of the industry—the investor-owned utilities, the publicly-owned utilities, and the regulatory commissions themselves. Parallel studies are under way by the Federal Energy Administration and the Energy Research and Development Administration. The pendency of the present bills has provided an added spur for this wide-spread activity.

It seems abundantly clear, therefore, that passage of S. 3310 at this time is not required to promote a full exploration of the new rate design and load management techniques which are the central objectives of the bill. On the contrary, the widespread activity now in progress promises a firmer basis for later, more deliberate consideration by the Congress of the actual result of state commission initiatives, of the costs and benefits involved, and of the need for establishing minimum national standards for rate-making.

This suggests a series of options which the Congress may wish to consider:

1. The Congress, having expressed its desire for meaningful progress in exploring new rate structures through the hearings on the pending bill, could responsibly defer action to a later session, and mandate national rate-making standards only if that step appeared necessary to accelerate the initiatives already underway or to provide a needed degree of national uniformity.

2. The Congress could provide a firm factual basis for its later review of these matters by providing now for an analysis and report to be made at a specified date. The National Association of Regulatory Commissioners (of which the Federal Power Commission is a member) would seem an appropriate vehicle to provide such a report; or a special commission could be separately established and funded.

3. If the Congress believes that minimum standards of ratemaking are essential in the interests of national uniformity, it could press this last suggestion one step further, and charge NARUC or a special commission with the responsibility of suggesting a model code for rate-making. If such a model code appeared necessary and workable, the Congress might then delegate to an appropriate Federal agency the responsibility of promulgating the code, modifying it from time to time as required by new developments, and authorizing exceptions to its provisions to accommodate cases of hardship or differences in state and regional needs.

We urge the Committee to consider these and similar options before reporting S. 3310 to the Congress for action at this session.

NEW ENGLAND ELECTRIC SYSTEM,  
Westborough, Mass., April 16, 1976.

HON. EDWARD W. BROOKE,  
Russell Senate Office Building,  
Washington, D.C.

DEAR SENATOR BROOKE: I appreciate the opportunity to comment on the proposed legislation you are submitting to the Senate concerning requiring competitive bidding by utilities in fuel acquisition. I have read the proposed wording provided us by Ms. Meg Power. While I support your efforts to try to reduce the cost of electricity to consumers by reducing fuel costs, I must say that I think the method you are proposing will be counterproductive.

Let me explain why. When an oil company responds to a request for competitive bids, it is our experience that you will receive quotations which are invariably higher than those you are able to obtain through detailed negotiations. I believe this is so because the bidding is by companies usually servicing other customers in your area. They obviously would not be inclined to under-bid their current contracts. In negotiations we are often successful in getting oil companies to reduce their prices and to adjust favorably such things as shipping costs, discounts for prompt payment, extra allowances for the size of our dock facilities, providing importation at a discount utilizing import "tickets" insuring the pass-through of entitlements on our imports, etc. These are the types of things they would not do if required to submit written competitive bids that would be available to their other customers and their competition.

For example, the municipal utilities in Massachusetts have experienced very high fuel costs partly because of their regulations requiring competitive bids. At their urgent request, the Massachusetts Legislature last year relaxed the requirement for two years in competitive bidding for fuels by the municipals of the Commonwealth. We believe that they acted in the best interests of the consumer in doing this.

I do have one suggestion that I think could accomplish the objective you are after—reducing fuel costs. This suggestion is to publicize, in April of each year, the fuel buying results for each utility for the previous year. This information is already available at the Federal Power Commission. Your Bill could be amended

to require the FPC to publish fuel prices for each utility, grouping the utilities by geographic region and by environmental (sulfur regulation) class. It is my belief that this publicity would help ensure maximum efforts by utility buyers to achieve minimum fuel costs.

I want to assure you that at New England Electric we are constantly seeking ways to lower our cost of fuel. Over the past two years we were able to lower the cost per barrel by approximately \$1.00 per barrel at our Salem Harbor generating station, since the state and the Environmental Protection Agency agreed to increase the allowed sulfur restriction from 1.0% to 2.2%. We feel that this was largely due to actions initiated and pursued by New England Electric. Also, thanks to your active support, we are buying fuel oil and receiving, in some but not all cases, the full \$.90 "importer" entitlement under the recent amendment to the old oil entitlements program.

We continue to actively push for elimination of import duties (\$.0525 per bbl.), import license tickets (\$.63 per bbl.) and a pass-through of a complete entitlement ticket (\$3.00 per bbl.) instead of the \$.90 we are currently receiving. As you can see, all of these areas are within the purview of the Congress and each of them has a much greater impact on the cost of fuel to utilities than the very best negotiating efforts with any oil company can hope to produce.

I do appreciate the opportunity to comment on your proposed legislation. I stand ready to assist you in any way possible in attempting to lower the fuel cost of utilities. Our objective is the same as yours—to lower the cost of electricity to the ultimate consumer.

Sincerely,

---

STATEMENT OF WILLIAM C. TALLMAN, PRESIDENT, PUBLIC SERVICE CO. OF  
NEW HAMPSHIRE

Public Service Company of New Hampshire shares the growing concern of the consumer and our elected representatives in the high cost of electricity. We are equally concerned about the continuous availability of a reliable supply of electricity. These two problems, cost and supply, are interdependent and should not be separately discussed.

Although these hearings have been limited to costs, and have specifically been designed to exclude a discussion of nuclear power, it is an inescapable fact that nuclear power is a major factor in finding solutions to the inseparable problems of price and supply. Without arguing the point further, we must say for the record, that the greatest single action Public Service can take to hold the line on electric bills and to counter those inflationary factors over which the Company has no control, is to proceed as rapidly as possible with the construction of Seabrook Station.

An aggressive energy policy based on nuclear and coal for the production of electricity is the most realistic approach to insuring a reliable supply of electric energy at the lowest possible cost for the next 20 years. These sources plus prudent conservation efforts can buy us the time necessary to develop other alternatives which I will discuss later.

Returning to the matter of costs and the price of electricity to the consumer, we must comment on recent statements concerning electric bills in New Hampshire, as compared to the region and the nation, and relate the level of Public Service bills to these indices.

You might want to know that Public Service's electric rates are not the highest in New England. There are five major New England companies with higher rates at the 500 kilowatt-hour per month residential level and twenty-eight companies with higher rates nation-wide. Exhibit No. 1, a ranking of electric bills by the National Association of Regulatory Utility Commissioners, dated July 1, 1976, presents an accurate and full picture of rate comparisons.

Our rates, and the average rates in New Hampshire and New England are comparatively high, but statements that Public Service's rates are the highest are false.

The reason for the relatively high position of the region, the State and Public Service, in rate comparisons, is the inordinately high cost of the fuel we use to generate electricity.

To illustrate this point, if you were to calculate an electric bill for 500 kilowatt-hours based on today's electric rates but adjusting those rates to reflect 1971 not

1976 fuel costs, a 1976 electric bill would be 41 percent higher than a 500 kilowatt-hour bill in 1971—a 41-percent increase in five years. Interestingly, the consumer price index has increased 41 percent in that period—exactly the same amount.

Clearly, increases in the price of electricity, aside from the inflationary factors which have affected all consumer costs, have been due to the outrageous increase in the prices of oil and coal.

We are as concerned about these inflationary factors, fuel costs and the price of electricity as you are and believe that we are doing all we possibly can to hold down electric bills. However, we urge you in the name of the Company and the over 600,000 consumers we ultimately serve, to act for us in those areas over which we have no control.

- (1) Develop a realistic non-partisan, national energy policy
- (2) Provide appropriate incentives for the private sector to develop and expand our own country's energy resources
- (3) Enact legislation which will provide the proper balance between the environmental objectives of our nation and our energy needs.

Let me now address the matter of rate reform as a solution to the problems of energy supply and price:

Most every student of economics knows that the costs incurred by an electric company to produce and deliver electricity to the consumer must be met, and that the only mechanism for meeting these costs is through electric bills. No amount of rate reform can alter the simple axiom that all the costs of electricity must be paid by those who use the electricity. Unlike the government, an electric company cannot print money to pay its bills.

Present rates are established on the principle that each customer group pays its share of costs in proportion to the service received by that class customer. A restructuring of electric rates will not reduce these costs, only redistribute them in different proportions.

Public Service believes that certain rate changes can be made to improve on the "cost-of-service" principle and we will support these changes as study and logic prove them to be warranted. However, to institute changes in electric rates whereby a class of customers or group of customers, within a class, subsidizes the electric bills of another class or group, is little more than using the market place as a tool to accomplish some unrelated social goal. This manipulation of prices in a segment of our economy, solely because that segment, the electric utility industry, is regulated by the government, is improper and inconsistent with principles of our free enterprise system.

If subsidies for a class or group of customers is necessary for the good of all society, those subsidies should be provided directly by the government, not through the mechanism of electric rates.

In any case, let it be understood that rate reform does not lower the unit cost of a barrel of oil, or a line truck, or a power plant, or a length of electrical wire, by one cent.

It is true that certain load management techniques which improve the load factor of an electrical system can reduce capacity requirements per unit of electrical energy and eventually produce savings to the consumer. However, these savings will not be realized until any reduced growth in electrical demand catches up with the system capacity already in place or committed. Since this is a long term situation involving several years to adjust itself, we should not be led to believe that immediate rate reform will immediately reduce the price of electricity.

Costs must be met and must be borne by the consumer as they occur.

It should be noted that although our costs continuously increase, our electric rates, with the exception of the fuel adjustment, have remained unchanged since January 1, 1975.

Since that time, it has been the investors who have absorbed the impact of inflation.

There are costs over which the Company exercises some control. We can and have introduced many efficiencies in our operations. I will address this later. The list is lengthy. However, in an inflationary period, these measures only tend to delay the inevitable day when rate increases become absolutely necessary. The load management programs we have in effect and under consideration are a part of our program to offset inflationary pressures and to make the most of resources required to meet the public's increasing demand for electricity. But again, these are only offsets and have no influence on the prices we pay for the resources we use.

Turning to the specific areas of interest outlined in Senator Magnuson's letter to me, let me discuss them in order and identify them numerically as they were listed in that letter.

- (1) THE ACTIONS AND PLANS OF PUBLIC SERVICE CO., BOTH PRESENT AND PROJECTED, AIMED AT CONTROLLING THE INCREASING COSTS OF ELECTRICITY, INCLUDING THE EXTENT TO WHICH YOU ARE CONSIDERING RATE STRUCTURE REFORM, DIRECT AND INDIRECT LOAD MANAGEMENT TECHNIQUES, RESTRUCTURING THE FUEL ADJUSTMENT CLAUSE, AND RECONSIDERATION OF EXPENDITURES ALLOWED IN THE RATE BASE AND FOR THE COST OF SERVICE

Public Service Company is presently involved and participating in a number of New Hampshire Public Utilities Commission proceedings aimed at controlling the increasing costs of electricity as follows:

(1) In the Matter of the Rate Structures of New Hampshire Electric Utilities DR75-20.

(2) Electric Utilities Fuel Adjustment Charge Fold-Ins DR76-123.

(3) Fuel Adjustment Clause Inquiry DR76-124.

(4) Monthly Fuel Adjustment Charge Hearings DR76-46.

In an effort to control the increasing costs of electricity, Public Service Company of New Hampshire has undertaken numerous economy measures since 1972. (See Exhibit No. 2.) These range from deferred distribution line tree trimming, less advertising, deferred personnel additions, reduced capital expenditures, to elimination of retail store sales and consolidation of operating districts.

Public Service Company has spent thousands of dollars and thousands of hours developing rate structures based largely on cost of service in an effort to fulfill one of the basic obligations of a public utility; that is, to serve all on equal terms and without discrimination or preference as to either service or charges. The Company believes its present rate structure is equitable, does not oppose improvements or beneficial changes but firmly believes all changes in rates structures should be reasonably related to the cost-of-service (see Exhibit No. 3).

As far as controlling the increasing cost of electricity, Public Service is currently in the process of developing information for hearings before the New Hampshire Public Utilities Commission on rate structures, including time of day and peak load pricing.

At the present time there are the following load management provisions in its existing rates: (a) optional off-peak residential water heating; (b) optional off-peak provisions in large power rates, whereby the customer is billed for one-half of the off-peak demand; and (c) a "ratchet" provision in two of the large power rates to discourage infrequent occurrences of excessive peak demands.

Current load management studies include: (a) an analysis of the Company's hourly system loads for the past five years including peak demand and energy use characteristics and system load factors; (b) contributions to the one million dollar NARUC/EPRI/EEL national study of desirability, feasibility and implications of various load management alternatives; (c) study of thirty-five electrically heated homes; (d) study of thirty-five uncontrolled water heating customers to determine the effect on electrical requirements and; (e) a load study of sixty-six homes without electric heat, to determine residential electric use characteristics.

The following off-peak thermal storage test demonstrations are underway: (a) home-size megatherm units in 20 homes to test storing off-peak energy in tanks of pressurized water at 260° F.; (b) test of large off-peak water heaters; (c) a "deep-heat" commercial slab type building space heating demonstration and (d) experimental rate to supply off-peak energy to a solar house. An extensive load management educational program is also conducted. (See Exhibit No. 4 for further information.)

The fuel adjustment clause has allowed Public Service Company of New Hampshire to recover the extraordinary increases in the cost of fuel above the amount allowed in the base rate. The current cost of fuel is over four times what it was since the year ending August 31, 1971 which is the cost of fuel allowed in the base rate of Public Service. Without a fuel adjustment clause to enable the Company to pay for fuel which has increased 300 percent, the Company would be unable to continue in business and to supply electricity to the State. Exhibit No. 5 is a copy of related testimony.

The Company favors a restructuring of the fuel adjustment clause to update the base cost calculation to a more current year and fold into the base rate an amount equal to the increase in fossil fuels in that period. Exhibit No. 6 provides further discussion of fuel adjustment clause revisions.

(2) RECOMMENDATIONS WHICH THE PUBLIC SERVICE CO. COULD SUPPORT IN MAKING THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION MORE EFFECTIVE AS A REGULATOR OF ELECTRIC UTILITIES

Public Service supports augmentation of the staff of the New Hampshire Public Utilities Commission and adjustment in the salary levels of the Commission and staff to insure that their compensations are commensurate with the salaries and wages of positions in the job market that involve comparable skills, education, training and responsibilities.

Although the dollar costs involved would be met through assessments to the utilities after approval by the legislature, improvements in the effectiveness of the Commission through augmented staffing and improved salary and wage levels would be in the best interest of both consumers and Public Service.

The Interim Committee To Study Restructuring of the Public Utilities Commission and the Electric Energy Review Committee, both established by the New Hampshire Legislature, are currently reviewing this matter and will make appropriate recommendations to the Legislature.

(3) THE FULL CIRCUMSTANCES SURROUNDING THE DISCOVERY OF A SUBSTANTIAL COAL SURPLUS AT MERRIMACK STATION, ITS CAUSES, REMEDIAL ACTIONS TAKEN BY THE PUBLIC SERVICE CO., AND ITS PLANS TO PREVENT A RECURRENCE

Considerable publicity has been given to the coal inventory adjustment at Merrimack Station. Perhaps because this is a complex matter, the publicity has not been accurate or complete. The record should be set straight.

In 1975, the Public Utilities Commission retained the accounting firm of Touche, Ross and Company to perform an audit of the Company's application of the fuel clause. Touche, Ross made certain recommendations including one calling for an annual survey of the coal pile at Merrimack Station. While we felt that our accounting of the amount of coal burned and the amount in the pile was of sufficient accuracy so that annual surveys might be more often than necessary, we immediately contracted for a survey which was conducted in November of 1975. Surveys are conducted by aerial photography and computer analysis. Each survey costs about \$4,000. The results of the November survey, received in January, 1976, were such that we decided that a second check survey should be done. This survey had to wait until spring, since a survey cannot be performed when the pile is covered with snow. The second check survey was performed in April 1976. The results generally confirmed the original survey.

Our coal supplier was informed of the results of the two surveys, and in accordance with their contractual right, decided that they wished to have a third, independent check survey made. This survey was made in July. The results received on August 13, 1976 were again generally confirmatory and showed that there were about 127,000 tons more coal in the pile than our books indicated.

Accordingly, it was agreed with the coal supplier that an inventory adjustment of approximately 127,000 tons, representing about 3 percent of the total coal burned during the period since the last inventory adjustment, would be burned without payment to the coal supplier since, in effect, it had been paid for. As ordered by the Public Utilities Commission, the "prepaid" coal would appear in the fuel clause calculation as zero cost fuel and the customer would be compensated by having a lower electric bill for a period of time than otherwise warranted by current fuel costs.

The mere fact that there were 127,000 more tons in the coal pile than had been calculated would not in itself have made any difference to Public Service Company or to its customers because the Company does not pay for coal under its contract merely because it has been delivered to the pile. One of the advantages of the coal supply contract is that Public Service Company does not pay for coal until it is burned, however, the calculations and assumptions used in the coal pile survey indicated that there had been an equivalent mismeasurement of the coal as it was burned, resulting in overbilling by Consolidation Coal and overpayment by Public Service Company, and in those periods when a fuel adjustment had been in effect, overpayment by Public Service customers.

Accordingly, a credit of 10 cents per 100 kilowatt-hours was made to the fuel adjustment rate for all New Hampshire, Maine and Vermont retail electric bills in September, 48 cents was credited in October and 38 cents is proposed for November bills. This will complete the refund to retail customers.

A proportionate credit was made to all wholesale utility customers in August, September and October and to the Vermont Electric Power Company which, by contract, shares in the output of Merrimack Station.

Except for minor adjustments in January, which may be necessary due to the fact that credits have been based on anticipated kilowatt-hours sales, this will complete credits of approximately \$4.5 million in repayment of inventory adjustments amounting to approximately \$2.5 million.

There are four factors which could account for this inventory discrepancy (1) the supplier's scales could have weighed less than actual, (2) the Company's scales which weighs the coal as it goes into the station could have indicated more coal than was actually being weighed, (3) the amount of moisture pick-up in the coal pile could have been greater than the 1.5-percent estimate presently being utilized, and (4) inaccuracies in the coal surveys. Anyone, or all, of these four factors could have contributed to an inventory discrepancy such as we found.

What is this moisture factor? The coal we purchase is so called washed and thermally dried coal. After mining, the coal is actually washed to remove dirt and as much surface (pyritic) sulfur as possible. It then passes through heat dryers to reduce its moisture (water) content to about 3 percent. (Most Eastern coals will absorb water on their surface up to about 8-10 percent.) After being unloaded at Bow and being placed in the storage pile, rain and snow will add to the moisture content of the coal on the surface of the pile. So that we don't pay the coal supplier for water picked up in the pile, a moisture correction, presently estimated at 1.5 percent, is made to reduce the actual tonnage bunkered.

Why wasn't the fact that there was an additional 127,000 tons in the pile readily apparent? Judging the amount of coal in a pile is like asking a dozen weather forecasters what the weather will be like next weekend; you will probably get at least six hedged and different answers. Neither our people nor the coal suppliers estimated that an adjustment of this magnitude would ever be necessary, which is why we believed a second survey was necessary and the supplier insisted on a third.

It should be noted that this inventory adjustment procedure will now be conducted on an annual basis. While this time the pile showed more coal than the books indicated, the next time the survey may show less coal in the pile than on the books. It is virtually certain that the surveys and the book inventory balance will never exactly agree.

This entire matter has and continues to be a subject for discussion at hearings before the Public Utilities Commission. Attached as Exhibit No. 7 is a copy of pertinent testimony to date.

(4) EFFORTS PUBLIC SERVICE CO. IS MAKING TO EXPLORE THE POTENTIAL FOR NONNUCLEAR ALTERNATIVE SOURCES OF ENERGY, INCLUDING HYDROELECTRIC, SOLAR, AND WIND POWER

As previously stated, our emphasis, as a nation, a region, a state and a company should be to maximize our nuclear and coal resources for the generation of electricity. Although solar and wind and other nonnuclear and nonfossil resources can make some contributions in solving our energy problems over the next twenty years, they are realistically neither technically nor economically feasible. We cannot risk the potentially catastrophic effects of a shortage of energy by discarding proven technology with known costs, on the vague but unrealistic promise of lower electric bills.

We cannot jeopardize people's jobs, their health, and their quality of life, all of which are dependent upon a continuous supply of electricity.

The electric utility industry including Public Service is participating in the research of new and improved methods of providing electric energy as aggressively as possible.

Since it would not be prudent for a Company the size of Public Service to pursue, on its own, research and development in a highly complex field, we meet our obligations primarily through contributions to centralized programs. Most prominent of these is the Electric Power Research Institute.

Exhibit No. 8 describes EPRI and outlines the programs under their sponsorship.

Attached as Exhibit No. 9 is a news release by EPRI illustrating their progress in the area of solar energy.

I have also attached as Exhibit No. 10 an extract of FPC Form 1, our report to the Federal Power Commission, which reflects our total expenditures in research and development for 1975 in the amount of \$1,800,358.

As evidence that few nonnuclear or nonfossil fuel alternatives presently exist for the generation of electricity in New Hampshire, I refer you to Exhibit No. 11,

a study by the Massachusetts Institute of Technology, conducted for Public Service and filed as part of our testimony before the Atomic Safety and Licensing Board of the Nuclear Regulatory Commission.

(5) FULL DISCLOSURE OF THE OIL AND COAL PROCUREMENT PRACTICES THE PUBLIC SERVICE CO. HAS FOLLOWED IN THE PAST AND INTENDS TO FOLLOW HENCEFORTH

Public Service Company purchases oil and coal at the lowest possible price consistent with an assured supply which reflects both market and world conditions. Recent fuel clause audits of Public Service Company of New Hampshire have been conducted for the New Hampshire Public Utilities Commission by the Federal Power Commission (FPC) and Touche, Ross & Company. The FPC report said, "The policies and procedures followed by Public Service Company of New Hampshire were adequate to provide for obtaining reliable sources of suitable fossil fuels at reasonable costs." The Touche, Ross audit showed Public Service was in basic compliance with the fuel adjustment clause, recommending six fuel accounting practices: (1) accounting policies to recognize losses at time of occurrence; (2) periodic coal pile surveys; (3) better retention of railroad way-bills; (4) better documentation of price changes; (5) strict adherence to FIFO inventory methods and (6) written reports by independent vendors involving monthly gauging of Newington Station oil tanks. These recommendations all have been put into effect.

All Public Service fuel procedures are being reviewed by the New Hampshire Public Utilities Commission in the Fuel Adjustment Clause Inquiry, Docket DR76-124.

Exhibit No. 12 provides further detail on Public Service fuel purchasing practices.

(6) THE RELATIONSHIP BETWEEN THE PUBLIC SERVICE CO. AND THE NEW ENGLAND POWER POOL, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

A. *The specific obligations and responsibilities imposed upon PSC by virtue of its membership in NEPOOL as they affect PSC's New Hampshire operations*

In 1971 the major New England utilities formed the New England Power Pool (NEPOOL), an organization dedicated to the design and operation of a reliable bulk power system with the maximum practicable economies. All the large, and a good many of the small, utilities in New England are now members of this organization, one of the most advanced power pools in the country. The specific obligations and responsibilities imposed on Public Service Company of New Hampshire by NEPOOL are contained in the New England Power Pool agreement. (See Exhibit No. 13.)

B. *To what extent peak load policies, generation capacity requirements and rate policies of other NEPOOL members affect PSC's New Hampshire rates and service*

There are times when generating unit outages on a Company's system are of such magnitude that they cannot be replaced by other units on the system. However, the same automatic back-up is there—waiting through NEPOOL. To contemplate having enough reserves to cover these circumstances would place an unwarranted burden on the ratepayer because of the extra carrying charges associated with the additional capacity that would have to be carried. This type of operation would result in higher prices to the ratepayers and deprive them of one of the fundamental Pool benefits. (See Exhibit No. 14 for more details.)

C. *The extent to which PSC's NEPOOL membership affects its policy and practice of purchasing wholesale electricity and the resultant cost of the residential ratepayer*

One of the benefits of the Pool is a centralized computer dispatch of all the generating units in New England to produce the most economical power available from moment to moment. It is possible that at some times some system in New England which normally generates all or part of its own power needs could be importing all of its power requirements from other parts of New England through the New England Power Exchange, the operating arm of NEPOOL. In this event, the final cost of power to the consumer in that area would be less than if that power had been generated on the system's own equipment.

*D. The impact PSC's membership in NEPOOL has had on New Hampshire electric utility rates*

To summarize, whether a utility member of NEPOOL is purchasing economy power, scheduled or unscheduled outage power, the utility system is achieving the best possible cost alternative available to it. For the customers of Public Service Company, this type of savings amounted to more than \$2,000,000 in 1975.

Also, membership in the New England Power Pool allows members to plan and build generating facilities in concert with other members, thus enabling larger, more efficient plants to be built at lower unit costs to the participating companies. The economies of scale in one large facility over several smaller units of equivalent total capacity are substantial.

(7) BE PREPARED TO EXPLAIN IN DETAIL PSC'S ASSETS AND LIABILITIES AS SHOWN IN ITS LAST REPORT TO STOCKHOLDERS AND IN ITS MOST RECENT FPC FORM 1

Senator Magnuson requested that I be prepared to explain in detail Public Service's assets and liabilities as shown in our last stockholders' report and most recent FPC Form 1. The intent of this request is vague.

Since the Form 1 contains extensive detail and is prepared in accordance with the Federal Power Commission Uniform Classification of Accounts, we believe that it speaks for itself and have attached a copy as Exhibit No. 15.

This total testimony to your Committee is the result of a concerted effort to respond to the Committee's inquiry and to present positive, constructive comments in all areas pertinent to the matter of energy supply and price.

We stress, again, our determination to meet our responsibilities to the people we serve; to provide them with an adequate and reliable supply of electricity at the lowest possible cost.

Public Service has met this obligation for over 50 years and will continue to do so to the best of its ability.

EXHIBITS <sup>1</sup>

1. Ranking of Bills for 500 KWH, NARUC, July 1, 1976.
2. Areas of Company Operations Where Economy Measures Have Been Taken Since September 1972.
3. Rate Structures, Gordon M. McKenney, May 7, 1976.
4. Load Management, Conservation and an Adequate Power Supply, Stanley Clark, September 27, 1976.
5. Fuel Adjustment Clause Inquiry—Statement of R. J. Harrison.
6. Fuel Adjustment Inquiry DR76-124—Statement of Charles H. Stetson, Jr.
7. Excerpt From Transcript "Fuel Adjustment Charge Hearings for September, August 20, 1976" pp. 1-21, Robert E. Patnoudé & Associates, Derry, New Hampshire.
8. EPRI A Status Report, August 1976.
9. Electric Power Institute Press Information Sheet, October 18, 1976.
10. Extract, EPC Form 1, Federal Power Commission, December 1975.
11. Monographs on Alternate Energy and Electric Power Sources, MIT, June 1, 1975.
12. Fuel Adjustment Clause Inquiry DR76-124, D. N. Merrill.
13. New England Power Pool Agreement, November 1, 1975.
14. New England Power Pool, Executive Summary No. 76-2, New England Regional Commission, March 1976.
15. FPC Form 1, December 1975.

SULLOWAY, HOLLIS, GODFREY & SODEN,  
Concord, N.H., October 28, 1976.

WARREN G. MAGNUSON,  
Chairman, U.S. Senate Committee on Commerce,  
Washington, D.C.

DEAR SENATOR MAGNUSON: I acknowledge receipt of your letter of October 18, 1976 notifying me of a continuance of the Senate Commerce Committee Utility Hearings to be held on October 28, 1976 at the Concord Library Auditorium. I discussed this letter with Mr. Nulty on the telephone on October 21 following completion of the case that I was trying on October 20.

<sup>1</sup> The exhibits are in the committee files.

Yesterday I received a call from Mr. Nulty stating that Senator Durkin had decided to postpone the hearing scheduled for October 28, 1976, which was confirmed by a telegram from you received today.

I stated in my letter to you of October 7, 1976, in response to your letter of October 2, 1976, that I did desire to submit testimony in response to your invitation. Accordingly, I enclose three copies of my testimony as I prepared it for submission to the scheduled hearing for the 28th and request that it be incorporated in the Record of the hearings in question.

Very truly yours,

FRANKLIN HOLLIS.

Enclosures.

STATEMENT OF FRANKLIN HOLLIS IN RESPONSE TO LETTERS FROM SENATOR  
MAGNUSON DATED OCTOBER 2, 1976, AND OCTOBER 18, 1976

In view of the manner in which Senator Durkin conducted the Hearings on October 7 and October 8, 1976, as indicated by an editorial appearing in the Portsmouth Herald (copy attached) and in view of the fact that the Commerce Committee Letters clearly give me the alternative of testifying orally or in writing, I have chosen to submit the following testimony in writing. It should also be noted that my request to Senator Magnuson in my letter of October 7, 1976 for a copy of the Committee resolution with respect to the Hearings has brought no response.

The evidence in the court case that I was trying which prevented both my attendance at and submission of written testimony to the hearings on the 7th and 8th, was not closed until October 20, 1976. It is quite obvious that time does not permit a detailed response to the subject matters outlined in Senator Magnuson's letters, much less detailed documentation. In the time available, however, I will try to offer responsive constructive testimony and suggestions in an endeavor to be helpful to the Committee.

The letter of October 2, 1976 asked for certain data or information as to Public Service Company of New Hampshire (Public Service). I understand that Public Service has or is furnishing responses thereto and hence I will not attempt to respond thereon on its behalf. I will, as President of Concord Electric Company (Concord) and Exeter & Hampton Electric Company (Exeter), respond to the requests as they pertain to them.

RATE LEVELS IN NEW HAMPSHIRE

Unfortunately, it is quite true that rate levels in New Hampshire are among the highest in the nation, which is also true of New England generally. The basic reason for this is the cost of fuel. We have to face the fact that domestic oil and gas supplies are not keeping pace with increasing needs and perhaps will never again do so. Most of the fuel oil used in New England is now imported at a high cost level. Coal comes from distant points and New Hampshire therefore must bear the mounting costs of its delivery.

As compared with certain parts of the country, New Hampshire has little or no inexpensive power from hydroelectric generating stations. There is very little undeveloped water power in New Hampshire and what there is would not be inexpensive.

As compared with many parts of the country, New Hampshire rates also suffer from the adverse effects of climate, geography and demography of the costs of electricity. Our severe winter climate and these other factors contribute to make construction and maintenance costs per customer higher than in many other areas of the country.

The foregoing are the basic reasons for the differentials. I suspect that the heavy reliance of municipal and county governments in New Hampshire upon the property tax which is levied upon the bulk of utility property also is a contributing cause.

HOLDING THE LINE ON THE COST OF ELECTRICITY

In today's economy and as far as I can see into the future, inflation with its impact upon cost of constructing and replacing facilities needed to serve the public and on costs of operation will drive electric rates upwards despite our best efforts to hold the line. Although it is not the sole cause of inflation, as long as Congress operates the Federal Government at a severe deficit I can see no relief

from inflation. Obviously the companies in question cannot control inflation and cannot escape its consequences upon operating costs, construction costs and the like.

It is frustrating to me to find that the major costs are for the most part not controllable.

*Taxes.*—State, Federal and local taxes are what they are and locally mount as municipal and county governmental costs increase.

*Cost of Capital.*—The electric business is very capital intensive and we must raise new capital from time to time to finance construction of facilities needed to serve the public. We must pay in accordance with going rates for money.

*Labor.*—To some extent this expense is controllable. No additional or replacement employees can be employed by either Concord or Exeter without my approval as President. Concord is serving many more customers with more electricity with fewer employees than it had 10 years ago. Exeter is doing the same with about the same number of employees. This has been accomplished through vigilance and the introduction of labor-saving machinery and equipment wherever economical. Wages are largely determined as a result of collective bargaining.

*Power Supply.*—I have dealt with this subject elsewhere.

The foregoing are the major items of expense and unfortunately inflation has and is adversely affecting all four.

With the costs of everything we all buy, both goods and services, continually increasing, I do not see how anybody can expect the cost of electricity not to do likewise.

#### CONGRESSIONAL ACTION

In recent years Congress has enacted laws relating to air, water, pollution, etc., and occupational safety all of which, particularly as administered, are serving to increase the cost of electricity. I have no quarrel with the laudable objectives of these acts but I suggest that Congress should carefully examine their administration to determine whether the degree of purity sought to be obtained is really necessary for the protection of all of us. Some relaxation would have a beneficial effect on rising costs.

As is well known, the oil embargo in the fall of 1973 was followed by very substantial increases in the cost of imported oil upon which New England and thus New Hampshire largely depend. Since that time other parts of the country closer to the supply of domestically produced oil have enjoyed substantially lower oil costs for generating stations. Oil has been classified as a national resource, as it truly is. I suggest that Congress should take effective action to the end that somehow the Northeast be given access to its fair share of domestically produced lower-cost oil, which would certainly have a beneficial effect upon rate levels in New Hampshire.

#### RESEARCH AND DEVELOPMENT

Concord and Exeter are too small to themselves finance research for non-nuclear alternative sources of energy such as solar or wind power. Both companies do, however, financially support the well-known Electric Power Research Institute which is doing research in these and other fields. I suggest that the Reports of EPRI should be incorporated in the records of these hearings.

#### RATE BASE

The question as to "reconsideration of expenditures allowed in the rate base" must relate, in New Hampshire, to the method used by the Public Utilities Commission in calculating the rate base upon which the utility is entitled to earn a reasonable rate of return. In New Hampshire the rate base is determined as the amount invested by security holders in property including working capital, devoted to the service of the public. We do not perceive what there is to reconsider as to this method.

#### NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

On behalf of Concord and Exeter I have many times appeared before Committees of the New Hampshire Legislature urging increase in the size of the staff of the Commission and in the level of the staff salaries, as well as those for the Commission, the last time being last spring before an interim committee of the Legislature on the Commission. As you may not know, the Commission and its staff are financed by assessments on the utilities it regulates. It was and is my

thought that with the growing number of problems and cases confronting the Commission and their growing complexity, the Commission should be thus strengthened to make it more effective to the benefit of all concerned.

#### SUPPLY OF WHOLESALE ELECTRICITY

The plans of Public Service to provide itself with wholesale electricity at the lowest possible cost are a matter of public record. By virtue of my connections with Public Service I am enabled to know about their planning for power supply upon which Concord and Exeter are dependent. I know the care with which they analyze the alternatives open to them to meet their capacity and energy requirements at the lowest possible cost. I have gained an insight into the economics of power supply and I am satisfied that they plan soundly.

Over ten years ago I authorized an engineering study made to see whether or not Concord and Exeter could reduce their power supply costs by installing diesel generation to reduce the purchase of peaking power, feeling there might be an opportunity to somewhat reduce power supply costs by this means. Even at the then price of fuel for diesel generating units of the sizes then built, there did not appear to be a significant saving in sight. In view of what has happened to the price of diesel fuel and the environmental problems attendant upon the operation of diesel generating units, our judgment that it would not be wise to try this means of reducing power supply costs has been confirmed.

We have the further fact that over the years so-called peaking units have greatly increased in size and peaking power as well as other types of power can be produced more cheaply from large generating units than from the smaller ones that Concord and Exeter would be justified in building or buying.

From time to time over fairly recent years Concord and Exeter have had the opportunity to buy small pieces of large new generating units, all of which with the current exception of Seabrook were located outside of New Hampshire. We have studied these opportunities and have come to the conclusion that when the costs of getting the power from the point of generation to our territories are taken into consideration, the amount of capital we would have to raise and invest in purchasing our shares of such units and particularly the cost of power resulting from the more recent costly units, the net effect would have been to increase our wholesale power supply costs and thus adversely affect our customers. The basic reason is that the cost of power from a recently built, high-cost unit with attendant back-up power is greater than the average cost of power which Concord and Exeter buy from the blend of new and old units owned and run by Public Service.

I do not claim to be an expert in the economics of power supply, which is a very complicated subject. However, in working with Public Service and its experts in this field as well as engineers available to Concord and Exeter, I have gained an insight into the problem that I would never have gained if I had not worked for all three companies. It is fundamental that electricity can be produced at lower unit cost from large generating units than small ones. Concord and Exeter do not have the financial resources to build big units. It is, therefore, wise for them to purchase from Public Service from its nearby generating units.

#### RATE REFORM

"Rate Reform" has become a catch phrase upon which very different connotations are placed by almost every person who uses the phrase. There are many who advocate restructuring rates to achieve what they believe to be socially desirable objectives although such rates would not reflect costs of service. It is my view that rates should reasonably follow costs of service and that the socially desirable objectives should be achieved through the taxing power. Alleviation of the burden of the increasing cost of electricity upon our less advantaged customers is being achieved to some extent along with other rising costs of living by means of the taxing power. Concord and Exeter would be glad to cooperate in administering a stamp plan for electricity akin to the food stamp plan.

Day/night and/or seasonal rate differentials are being urged on the ground that such rates would more closely follow the costs of service.

Seasonal rate differentials are sought to be cost justified by charging all capacity cost to high consumption months. I do not accept this concept for various reasons including the fact that the result would be to permit the thousands of summer visitors to New Hampshire to escape bearing their fair share of the capacity costs of the plant built to serve them.

Exeter has had a so-called on-peak/off-peak or day/night rate for customers with storage-type electric hot water heaters for over twenty years. It has not been used by a large number of its customers. We have presently under consideration either expanding this rate or creating a new rate to supplement it, which would be available to all customers. A day/night differential can be cost justified. I am hopeful that day/night rates will come out of the Rate Structure Investigation being conducted by the New Hampshire Public Utilities Commission although I suspect that a cost justifiable differential may not be as great as many might think.

One problem in this field is the fact that all kinds of theories are being advocated, proposed and changed about how costs should be computed in connection with designing rates. For example: the F.E.A. urged in the New Hampshire Rate Structure Proceedings that pricing should be done on the basis of so-called Long Range Incremental Costs; it now seems clear that F.E.A. has now abandoned this position and agrees with my position that rates should be based on current and immediately prospective costs.

Concord and Exeter have studied the economics of the so-called ripple control method of reducing the daytime peak demand, thus reducing the demand charges that they pay for purchased power. The theory here is that by reducing daytime load (which may or may not be shifted to the nighttime) purchased power costs may be reduced. We must balance the potential reduction in the cost of purchased power against the substantial cost of a ripple control system. I have been advised by our engineers that in view of the present amount of load that could be so controlled by Concord and Exeter it would be uneconomic to install such a system. We are, however, following a F.E.A. subsidized test of this method in Vermont with great interest and if it proves to be economical and beneficial to our customers we will certainly adopt it provided we can raise the necessary capital. We have to remember, however, that if such a system is installed, it will increase the rate base upon which the companies are entitled to earn a reasonable rate of return.

The subject of rate design and direct and indirect load control is very complex and I refer you to the New Hampshire Rate Structure Investigation of the Public Utilities Commission for further details.

There is presently pending before the New Hampshire Public Utilities Commission a proceeding looking towards folding into present rates all or substantially all of the fuel charges of Concord and Exeter, which we favor. This cannot, however, be completely achieved until Public Service does likewise in its wholesale for resale rate upon approval by the Federal Power Commission.

#### POTENTIAL CONFLICTS OF INTEREST

The positions that I have held for many years in the Companies and the legal services rendered by me and our firm to the Companies have been a matter of public record before the N.H. Public Utilities Commission and elsewhere for many years. The stock holdings of myself and my wife in the three Companies have likewise been a matter of public record for many years before the S.E.C. and elsewhere.

There is no federal or state statute which prohibits my holding the positions in question or the stocks in question.

So far as competition between Concord and Exeter as againsts Public Service is concerned, the applicable laws of New Hampshire quite effectively prevent competition in that each Company is assigned by the Commission a certain territory to serve and is limited to serving within its assigned territory. The only possible load that could conceivably be subject to competition is industrial load, but even here each Company is required by law to serve all industrial loads at their filed rates. The record of history will show that each Company has received a share of new industrial loads arising in New Hampshire.

It is a fact that for many years Concord and Exeter have purchased all the electricity they sell from Public Service on rates approved by the Federal Power Commission. Quite a few years ago when it became apparent that Public Service would have to go to the Federal Power Commission for an increase in rates, I told its President that neither I nor the firm of which I am a partner could represent them before the F.P.C. under the circumstances and, accordingly, they retained Washington counsel for this purpose. Concord and Exeter have both retained Washington counsel to represent them before the F.P.C. in Public Service rate cases. I might add that in the current rate proceeding of Public Service before F.P.C. I caused to be employed the Rate Department of Chas. T. Main to evaluate the filing and to assist us and our Washington counsel in the matter.

The reason why Concord and Exeter buy all their power requirements from Public Service is quite simple: as before indicated, as a matter of the economics of power supply it is a well-known fact that large plants which can be built by Public Service in view of its size, can produce electricity at a substantially less cost than it could be produced from small plants of the size that Concord and Exeter might justify in view of their size; since the F.P.C. requires that Public Service sell its electricity at cost properly computed, it is obvious that it is to the financial advantage of the customers of Concord and Exeter that they buy their power requirements rather than to try to produce power themselves.

[From the Portsmouth Herald (N.H.), Oct. 11, 1976]

#### WE REGRET OUR SUPPORT

Probably few business concerns in America have done more, perhaps unconsciously, than Public Service Company of New Hampshire to merit the opprobrium being heaped on its corporate head.

PSC has shown for years, as has often been noted here, a marked talent for complete indifference to the public, despite the use of the word in its title.

In essence, through the last 30 years, the company's management has displayed so completely an attitude of "the public be damned" that its executives might easily have been tutored by old Commodore Vanderbilt himself.

But the present state of affairs, in which the company has become the target for every mudslinger in the state, has become so bad that PSC, it would seem, is being senselessly destroyed.

Every headline grabbing politician in the state is trying to get in on the action, apparently believing that the only way in which he can convince his constituents of his devotion to their interests is to stomp all over Public Service.

Of course the company has faults. So do the politicians who are cutting it up only because it's the political "in thing" this season.

It's also our firm conviction that of recent months, Public Service has been making a firm effort to become more consumer-oriented, although it frequently falls quite short—as in the coal pile fiasco.

Despite how severely the company has been lambasted, the criticism has been plunged to new depths by the intervention of U.S. Sen. John A. Durkin.

The senator's performance at a Senate Commerce Committee hearing into energy matters has been demagoguery at its worst, and has clearly demonstrated why the insurance industry in New Hampshire heaved a sigh of relief when he was eased out as insurance commissioner.

In the first place, there is no reason for the hearing that Durkin is conducting. There is no legislation pending before the Senate Commerce Committee, or before the Congress itself for that matter, dealing with energy.

Actually there's no legislation pending before the Congress on any subject because the Congress that adjourned has already passed into history. Issues may be revived for the next Congress to consider, but there is nothing active.

So why Durkin is staging this quasi-kangaroo court is a mystery, unless the observer accepts the obvious and that it's for the aggrandizement of one John A. Durkin, the 100th ranking U.S. senator.

Durkin has excoriated not only the Public Service Co., but also the Public Utilities Commission for failing to cooperate with his three-ring energy circus.

Both the PUC and PSC were informed of Durkin's request for their presence before him on Oct. 6 and Durkin started the hearing on Oct. 7.

Furthermore, the materials, witnesses, fiscal data and the like requested by Durkin—with one day's notice—were so numerous that a PUC spokesman estimated that it would take a full staff two weeks to assemble them, but he wanted it in less than two days. Incidentally it took a PUC spokesman three minutes to read over the phone the list of things Durkin wanted.

Saturday Willam C. Tallman, president of PSC, lashed back at the senatorial gaffly. Unfortunately, as usual, Tallman's language was too stiffly formal to get much readership. But then, Tallman is a courteous man, not given to telling it like it is in the kind of words someone like John Durkin would understand.

As far as we're concerned, based on his performance as a senator since September, 1975, The Herald sincerely regrets its support of Sen. Durkin.

[Whereupon, at 5:30 p.m., the hearing was adjourned.]

The following is a list of the names of the persons who have been elected to the office of Justice of the Peace for the year 1900. The names are given in alphabetical order of their surnames. The names of the persons who have been elected to the office of Justice of the Peace for the year 1900 are: [illegible names]

[illegible text]

[illegible title]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

