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SENATE COMMITTEE ON FINANCE
JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT
CLOSING REPORT
PUBLIC UTILITIES COMMISSION

VOLUME I – COMMERCE & INDUSTRY – PUBLIC UTILITIES COMMISSION
(224-3920) PUC-1:

THE SUBCOMMITTEE CLOSED THE BUDGET ON APRIL 16, 2003 WITH THE FOLLOWING RECOMMENDATIONS:

THE SUBCOMMITTEE CONCURRED WITH THE GOVERNOR'S RECOMMENDATION TO ADD A NEW UNCLASSIFIED HEARINGS OFFICER POSITION. THE APPROVAL IS CONTINGENT UPON THE 2003 LEGISLATURE REPEALING SECTION 28 OF ASSEMBLY BILL 661 (2001) THAT EXPANDS THE PUC FROM THREE TO FIVE COMMISSIONERS EFFECTIVE OCTOBER 1, 2003. SENATE BILL 102 AS AMENDED INCLUDES A PROVISION TO REPEAL SECTION 28 OF A.B. 661 (2001). SENATE BILL 102 IS CURRENTLY IN ASSEMBLY COMMERCE AND LABOR AND WAS LAST HEARD ON MAY 2, 2001 WITH NO ACTION TAKEN. THE HEARINGS OFFICER POSITION WILL ASSIST THE COMMISSION WITH CONDUCTING ADMINISTRATIVE HEARINGS, PRE-HEARING CONFERENCES, HEARINGS, RULEMAKING WORKSHOPS AND CONSUMER COMPLAINT HEARINGS IN THOSE FILINGS THAT DO NOT HAVE LARGE RATE OR POLICY IMPLICATIONS. THE EXISTING THREE COMMISSIONERS WILL CONTINUE TO HEAR DEFERRED ENERGY CASES, MAJOR RATE CASES AND OTHER FILINGS THAT HAVE SIGNIFICANT IMPACTS ON THE UTILITY AND TELECOMMUNICATION CUSTOMERS IN NEVADA. THE SUBCOMMITTEE RECOMMENDS A LETTER OF INTENT BE ISSUED DIRECTING THE PUC TO SUBMIT THE APPROPRIATE WORK PROGRAM CHANGES TO THE IFC INCREASING THE PUC FROM THREE TO FIVE MEMBERS SHOULD THE

2003 LEGISLATURE NOT REPEAL SECTION 28 OF A.B. 661 (2001). THE SUBCOMMITTEE ALSO RECOMMENDS INCLUDING IN THE LETTER OF INTENT THAT SHOULD THE PUC EXPAND TO FIVE MEMBERS THAT THE WORK PROGRAM CHANGES INCLUDE ELIMINATING THE FUNDING FOR THE HEARINGS OFFICER POSITION. SINCE THE HEARINGS OFFICER POSITION IS UNCLASSIFIED, THE SUBCOMMITTEE RECOMMENDS THE POSITION BE INCLUDED IN THE UNCLASSIFIED PAY BILL, AND THE RECOMMENDED SALARY OF \$89,092 BE FORWARDED TO THE UNCLASSIFIED SALARY COMMITTEE OF SENATE FINANCE AND ASSEMBLY WAYS AND MEANS FOR CONSIDERATION. INCLUDING THE HEARINGS OFFICER POSITION IN THE UNCLASSIFIED PAY BILL WILL ALLOW THE PUC THE OPPORTUNITY TO RETURN TO IFC TO RESTORE FUNDING FOR THE POSITION IF THE AGENCY EXPANDS TO FIVE MEMBERS AND THE AGENCY IS ABLE TO JUSTIFY THE NEED FOR THE POSITION AT A LATER DATE.

IN RESPONSE TO CONCERNS RAISED BY STAFF DURING THE BUDGET REVIEW PROCESS REGARDING THE AGENCY'S PROJECTED RESERVE LEVEL, THE SUBCOMMITTEE APPROVED THE PUC'S AND BUDGET OFFICE AMENDMENT TO REDUCE THE MILL ASSESSMENT FROM 2.50 MILLS AS RECOMMENDED IN THE EXECUTIVE BUDGET TO 2.25 MILLS. THE REDUCTION IN MILL ASSESSMENT REDUCES REVENUES BY \$634,592 EACH YEAR, WITH A CORRESPONDING REDUCTION IN PROJECTED RESERVES AT THE END OF FY 2004-05 FROM \$3.8 MILLION TO \$2.6 MILLION. THE AGENCY TESTIFIED DURING BUDGET HEARINGS THAT THE OPTIMUM RESERVE LEVEL IS BETWEEN \$1.8 MILLION AND \$2.4 MILLION. THE COMMITTEE SHOULD NOTE THE PUC HAS STATUTORY AUTHORITY (NRS 704.033) TO ADJUST ITS MILL ASSESSMENT ANNUALLY BUT CANNOT EXCEED 3.50 MILLS. SHOULD THE PUC INCREASE TO FIVE MEMBERS EFFECTIVE OCTOBER 1, 2003, THE AGENCY HAS SUFFICIENT RESERVES IN FY 2003-04 TO FUND THE INCREASED COSTS ASSOCIATED WITH THE EXPANSION, AND CAN ADJUST ITS MILL ASSESSMENT IF NEEDED IN FY

2004-05. THE PUC CAN SUBMIT A WORK PROGRAM FOR REVENUE ADJUSTMENTS ASSOCIATED WITH CHANGES IN THE MILL ASSESSMENT.

THE SUBCOMMITTEE RECOMMENDS APPROVING AN AMENDMENT REQUESTED BY THE PUC AND THE BUDGET OFFICE THAT CHANGES THE TITLE OF AN UNCLASSIFIED SUPERVISING ADMINISTRATIVE ATTORNEY TO THAT OF AN ADMINISTRATIVE ATTORNEY. THE CORRESPONDING SALARY IS RECOMMENDED TO BE REDUCED FROM \$60,870 PER YEAR TO \$54,157. DURING THE MARCH 17, 2003 BUDGET HEARING BEFORE SENATE FINANCE, THE AGENCY WAS DIRECTED TO SUBMIT A SEPARATE WRITTEN REQUEST FOR UNCLASSIFIED SALARY ADJUSTMENTS FOR THE DIRECTOR OF REGULATORY OPERATIONS AND THE GENERAL COUNSEL POSITIONS. THE PUC RECOMMENDS INCREASING THE SALARY FOR THE DIRECTOR OF REGULATORY OPERATIONS FROM \$91,704 TO \$93,332 PER YEAR, AND INCREASING THE GENERAL COUNSEL'S ANNUAL SALARY FROM \$93,344 TO \$93,547. THE SALARY ADJUSTMENTS ARE RECOMMENDED TO ADDRESS SALARY COMPACTION ISSUES FOR THE RESPECTIVE POSITIONS. THE SUBCOMMITTEE RECOMMENDS FORWARDING THE UNCLASSIFIED SALARY ADJUSTMENTS AND TITLE CHANGES FOR THE THREE POSITIONS TO THE UNCLASSIFIED SALARY SUBCOMMITTEE OF SENATE FINANCE AND ASSEMBLY WAYS AND MEANS.

THE SUBCOMMITTEE CLOSED THE REMAINDER OF THE PUC'S BUDGET AS RECOMMENDED BY THE GOVERNOR WITH TECHNICAL ADJUSTMENTS PROPOSED BY STAFF.

Title: PUBLIC UTILITIES COMMISSION
Account: 224 - 39202003 - W02
Wrkng Ver #2

Adjustments to Revenue

Dec Unit	Cat	GL	Description	FY2004	FY2005
			Adjust Balance Forward for reduction in assessment revenues based upon		
3-000	00	2511	reduction in mill rate	0	(634,592)
3-000	00	3315	Reduce assessment revenues to reflect reduced mill rate	(634,592)	(634,592)
3-300	00	2511	Adjust Balance Forward for revised changes in computer software pricing	0	(145)
3-710	00	2511	Adjust Balance Forward for revised computer and printer pricing	0	(443)
Sub-Total				(634,592)	(1,269,772)
Line Item Changes to Revenues				(634,592)	(1,269,772)

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	FY2004	FY2005
			Adjust reserve for reduced assessment revenues based upon revised mill		
3-000	86	9000	rate	(634,592)	(1,269,184)
3-300	26	7000	Increase expense for revised computer software pricing	145	0
3-300	86	9000	Adjust reserve for revised computer software pricing	(145)	(145)
3-710	26	8000	Adjust expense for revised computer and printer pricing	443	(1,741)
3-710	86	9000	Adjust reserve for revised computer and printer pricing	(443)	1,298
Sub-Total				(634,592)	(1,269,772)
Line Item Changes to Expenditures				(634,592)	(1,269,772)
Total				0	0

OVERVIEW

The Public Utilities Commission (PUC) is comprised of three commissioners whose responsibilities are to balance the interests of customers of public utilities to receive safe and adequate service with reasonable rates while providing shareholders of public utilities the opportunity to earn a fair return on their investment. The PUC is also responsible for railroad safety and natural gas pipeline inspection programs. Assembly Bill 661 (2001) increases the commission from three to five members effective October 1, 2003.

CLOSING ISSUES

1. No provisions for expanding the PUC from three to five commissioners.
2. New Hearings Officer position.
3. Mill assessment/reserves.
4. Unclassified salary adjustments (Budget Office amendment).

DISCUSSION OF CLOSING ISSUES

1. No provisions for expanding the PUC from three to five commissioners: As mentioned in the overview, A.B. 661 (2001) increased the commission from three to five commissioners effective October 1, 2003. The agency's budget submittal did include a request to add two commissioner positions, along with five other positions to support the expansion, in anticipation of implementing A.B. 661. However, The Executive Budget did not include funding for the expansion of the commission from three to five members, in anticipation of the repeal of Section 28 of A.B. 661 providing for the expansion. Senate Bill 414 was introduced on March 24, 2003 proposing the repeal of Sections 28 and 29 of A.B. 661. However, S.B. 414 was indefinitely postponed on April 3, 2003. Senate Bill 102 (declared exempt) was amended and passed in Senate Commerce and Labor on April 10, 2003 that includes a provision repealing Section 28 of A.B. 661. Based upon the status of current legislation, there is still a significant amount of uncertainty whether the PUC will remain at three commissioners or increase to five effective October 1, 2003.

The Subcommittee recommends issuing a Letter of Intent directing the PUC to submit the appropriate work program changes to the IFC should the 2003 Legislature not repeal Section 28 of A.B. 661 (2001).

2. **New Hearings Officer position (E-501, PUC-3&4):** The Governor recommends a new Hearings Officer position to hold administrative hearings on applications for utility services, tariff rates, utility practices, jurisdictional issues and consumer complaints. The position is also expected to write administrative orders; arbitrate disputes between telecommunications providers; and conduct administrative proceedings such as pre-hearing conferences, consumer sessions, workshops, rulemakings and investigations. Documentation submitted by the agency indicates the Hearings Officer will research and analyze evidence while drafting orders and opinions based upon the record as well as state and federal law, which will be reviewed and voted on by the commission. In response to the Subcommittee's request at the March 28, 2003 budget hearing for caseload information, the agency indicates that A.B. 661 (2001) provided for large customers using one or more megawatt of power to buy power from competitive sources. The PUC indicates 13 applications were received in FY 2001-02, and 13 additional applications have been submitted to date in FY 2002-03. These applications require a commission decision within 90 days. In addition, A.B. 661 required additional consumer sessions to be conducted. A total of 26 consumer sessions were held in FY 2001-02 compared with seven in FY 2000-01. Assembly Bill 369 (2001) mandated the return to basic rate of return regulation that reinstated general rate cases and deferred energy filings. The PUC was downsized from five to three members in 1997 in anticipation of restructured energy markets that eliminated general rate cases and deferred energy filings. **Based upon the information submitted by the agency, the recommendation for the new Hearings Officer position appears to be reasonable.**

The Governor has recommended the position to be unclassified, with the maximum salary set at \$89,092 per year plus fringe costs. This is the same FY 2002-03 maximum unclassified salary for Assistant Staff Counsel and Assistant General Counsel positions at the PUC. **If approved, the position will need to be included in the Unclassified Pay Bill.**

As mentioned earlier, A.B. 661 (2001) increases the commission from three to five members. In its budget submittal, the PUC indicated the Hearings Officer position is requested if Section 28 of A.B. 661 expanding the commission to five members is repealed. The PUC testified in budget hearings in Assembly Ways and Means (March 10) and Senate Committee on Finance (March 17) that if the PUC expands to five commissioners, the agency recommends not funding the Hearing Officer position at this time. However, the PUC requests that a Hearings Officer position be included in the Unclassified Pay Bill to establish a maximum salary amount. The PUC further testified the agency would return to the IFC if they determine a future need for the position should the commission expand to five members.

The Subcommittee recommends funding for the Hearings Officer position and to include the position in the Unclassified Pay Bill as recommended by the Governor if the PUC remains at three members. The Subcommittee also recommends including in the Letter of Intent previously recommended that the PUC submit the appropriate work program changes to the IFC that would not fund the Hearings Officer position if actions taken by the 2003 Legislature increase the PUC membership to five members.

3. **Mill Assessment/Reserves (Base & Summary, PUC-1&2, PUC-5):** The PUC is 100 percent self-funded; no General Funds are appropriated. The primary source of funding is the mill assessment, statutorily capped at 3.50 mills, on the gross intrastate operating revenues of all public utilities. The PUC also assesses up to 0.75 mills for pass-through to the Attorney General's Bureau of Consumer Protection; assesses railroads a fee of up to one cent for every ton of cargo transported into, out of, or through Nevada; receives a transfer of hazardous waste disposal fees from the Division of Environmental Protection to support the Rail Safety Program; and receives a federal grant supporting the Gas Pipeline Safety Program.

The Executive Budget recommends retaining the PUC assessment at 2.50 mills (in effect since May 2002), and the Bureau of Consumer Protection assessment at 0.75 mills. The 2001 Legislature approved the Governor's recommended FY 2002-03 ending reserve balance for the PUC at \$615,031. The FY 2002-03 work program as displayed in The Executive Budget estimates an ending reserve balance of \$5.0 million. For the 2003-05 biennium, the Governor recommends an ending reserve of \$3.8 million. During previous budget hearings, the PUC testified the optimum reserve is between \$1.8 and \$2.2 million. Subsequent to budget hearings on March 28 the PUC and the Budget Office submitted an amendment reducing the assessment from 2.50 to 2.25 mills.

The amendment decreases assessment revenue by \$634,592 each year, with an offsetting reduction to reserves of \$1.27 million in the 2003-05 biennium. With the recommended reduction, the FY 2004-05 ending reserve balance is projected to be \$2.55 million. The budget amendment reducing assessment revenues and corresponding reserves are displayed in this closing document for Committee consideration. **The Subcommittee recommends approving the budget amendment submitted by the PUC and the Budget Division reducing mill assessment revenues and corresponding reserves by \$634,592 each year based upon a reduction in the mill assessment rate to 2.25 mills.**

The Committee should note that the PUC has statutory authority to adjust the mill assessment annually prior to notification of the assessment amount to the regulated entities. If the PUC membership increases to five, the PUC does have the ability to submit a work program to increase revenues should reserves not be adequate to support the additional costs of increasing the PUC to five members.

4. Unclassified salary adjustments (Budget Office amendment): Subsequent to the budget hearings for the PUC, the Budget Office submitted amendment #112 that changes the title of an unclassified Supervising Administrative Attorney to that of an Administrative Attorney. The recommended salary for the position is reduced from \$60,870 per year to \$54,157. The PUC has testified that they do not use the position in a supervisory capacity, and desire to place the position on an equal footing with the other administrative attorneys. The Administrative Attorney position and corresponding title are already included in the existing Unclassified Compensation Schedule. **The Subcommittee recommends approving the budget amendment changing the position title from Supervising Administrative Attorney to an Administrative Attorney, along with the reduction in unclassified salary and associated costs.**

During the PUC's budget hearing in Senate Finance on March 17, 2003, the agency indicated they were requesting unclassified salary adjustments for the Director of Regulatory Operations and the General Counsel positions due to compaction issues. The agency was directed by the Committee Chairman to submit a separate written request to Fiscal Analysis Division staff for the salary adjustments, along with justification for the changes, for consideration in the Unclassified Pay bill. The agency's response indicates the adjustments are needed to address concerns with compaction issues for each of the positions. The response increases the annual salary for the Director of Regulatory Operations from \$91,704 to \$93,332, which is the same amount as the highest paid subordinate (Staff Counsel) supervised by the director. The agency recommends increasing the salary for the General Counsel from \$93,344 to \$93,547 that would provide for a five percent salary differential over the highest paid subordinate staff. **The Subcommittee recommends communicating the recommended unclassified salary increases for the Director of Regulatory Operations and General Counsel to the Unclassified Salary Subcommittee of Senate Finance and Assembly Ways and Means.**

OTHER ITEMS

1. Decision unit E-300 recommends reserve funding of \$33,281 in FY 2003-04 to replace 95 copies of Microsoft Office 2000 with Microsoft Office XP, three copies of MS Project and three copies of Adobe Acrobat. **Staff recommends technical adjustments to reflect revised software pricing as provided by the Purchasing Division.**

2. Module E-710 recommends reserve funding of \$103,680 in FY 2003-04 and \$70,645 in FY 2004-05 to replace three vehicles (two in the Rail Safety Program and one in the Gas Pipeline Program), five printers, nine laptop computers, and a total of 58 desktop computers in the 2003-05 biennium. The agency documentation indicates existing computers will be at least four years old at the time of scheduled replacement. **Staff recommends technical adjustments to reflect revised computer and printer pricing as provided by the Purchasing Division.**
3. Decision unit E-720 recommends reserve funding of \$6,400 in FY 2004-05 for four new printers. Confirmation with the agency indicates the printers are replacements and should be considered in Module E-710. **Staff recommends technical adjustments to reflect revised computer and printer pricing as provided by the Purchasing Division.**

The Subcommittee approved the other items recommended by the Governor with technical adjustments recommended by staff.