

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fourth Session
February 26, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:34 p.m., on Monday, February 26, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ocegüera, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Francis Allen
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman William Horne
Assemblywoman Marilyn Kirkpatrick
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman David R. Parks
Assemblyman James Settelmeyer

COMMITTEE MEMBERS ABSENT:

Assemblywoman Barbara E. Buckley (Excused)

STAFF MEMBERS PRESENT:

Brenda Erdoes, Committee Counsel



Dave Ziegler, Committee Policy Analyst
Patricia Blackburn, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Donald L. Soderberg, Chairman, State of Nevada Public Utilities
Commission
Bob Bass, Director, External Affairs, AT & T Nevada
Margaret A. McMillan, Director, Governmental Affairs, EMBARQ
Corporation
Judy Stokey, Director, Government Affairs, Nevada Power/Sierra Pacific
Michael J. Carano, CPA, Director, Rates & Regulatory, Nevada Power/
Sierra Pacific

[The roll was called and a quorum was present.]

Chair Ocegüera:

We have one bill on the docket today. It is Assembly Bill 103. We will open the hearing on that bill

Assembly Bill 103: Revises provisions regarding general rate applications filed by public utilities. (BDR 58-564)

Chair Ocegüera:

Would those wishing to speak in favor of A.B. 103 please come forward.

Donald Soderberg, Chairman, State of Nevada Public Utilities Commission:

With me today is Kirby Lampley, Director of Regulatory Operations for the Public Utilities Commission (PUC). Assembly Bill 103 is a melding of three of our Bill Draft Requests that were combined at the request of the Governor's Office and submitted last summer.

Assembly Bill 103 essentially does two things. It modifies how we do electric rate cases and it deletes two paperwork items that our staff has identified as reports that were put into statute that are no longer relevant and, from what we understand from talks with the Legislative Counsel Bureau (LCB), no one is reading. I will go through that in a moment.

First of all, the more important of the two begins on Page 2, Section 2. Mr. Chairman, as you recall, in the last session you adopted Senate Bill 238 of the 73rd Session, which was a bill that dealt with natural gas

utilities. Originally, that bill had a feature in it to put natural gas utilities on what is known as a "future test year." Currently, utilities in Nevada are on what is called an "historical test year." When a general rate case comes before the Commission, the utility brings forward numbers based on a 12-month period that has already occurred, and we use those numbers to decide the components of their rate. Many jurisdictions are moving to what is known as a "future test year" where things that are verifiable, are projected out. There were a number of stakeholders who had issue with that feature of the bill, and what was eventually passed was that we would have the traditional historical test year for natural gas utilities, but we would have the ability to project out 210 days for things that are known and measurable. Also, you had directed the PUC to investigate in the interim various methods of handling general rate cases in a manner to come back to you in a report with recommendations. That investigation ended about this time last year, and the recommendation was to move all utilities to what we called the "hybrid future test year." This would essentially keep the historical test year framework that we are using now but have an 18-month projection period forward for things that are known and measurable. Over the summer, in discussion with various stakeholders, we concluded that 18 months was not going to work. It was not something that people were ready to do. It is not our intention, unless it is your intention, to have that debate here. Based on those discussions with the various stakeholders, we pulled that feature out of our BDR, and what we are proposing now is to keep the electric companies with the same methods in rate cases as the gas companies, which would be the current practice of using historical test year data with the ability to project out for 210 days things that are known and measurable.

An example of that has been done by the Commission in the past. It is not in statute but it has not been appealed by anyone. We had an instance with Nevada Power a few years back when we had a general rate case, and Nevada Power sold a very valuable piece of land on the Las Vegas strip. That transaction was contracted for during the 12-month test period but it was scheduled to close outside of that test period. We knew that was going to happen. We knew the numbers. That was known and measurable. Had we not taken that transaction into the rate case, people's rates would have been higher. Because we knew it was going to happen, we took that projection of a known and measurable event outside of the 12 months, rolled it into the rates, and it was to the benefit of the rate payers.

The other feature with rate cases has to do with the cycle of rate cases. As you recall, in 2001 when the omnibus energy bill was passed, a number of things were done with regard to how we regulate rates and electric utilities. Electric utilities in this State were put on a 24-month or two-year rate case

cycle so rates come before the Commission every two years for adjustment. In discussions with the Consumer Advocate and the utilities themselves, we feel that two years is too often. Clearly, the customers of the electric utilities think every two years is too often. We propose, in this bill, to move the utilities out to a three-year cycle, so they would come before the PUC for a general rate case once every three years as opposed to the current two.

In that regard, we have an amendment that has been submitted ([Exhibit C](#)). Because these BDRs start so far ahead of the schedule for us, quite frankly, we were drafting this a year ago and have modified it since. We have had discussions with the stakeholders over the last month, and we found that the dates that we proposed could be fine-tuned a little bit. We have a proposed amendment that essentially uses a different date on which electric utilities would file. It would still keep the three year rotation, but instead of an October date for one utility and a November date for the other, December 3rd would be the filing date for each of the utilities when their year comes up.

The second feature of this bill has to do with Section 1. In a mandated report, we bring you various numbers concerning money that we have spent in practicing before the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC). In researching this I cannot find the reason for this report. Staffers in our agency take time to prepare it, and they send it to the Legislative Counsel Bureau (LCB). I am not aware whether anyone reads this report. There are employees who have to take this, accept this, and file it. If LCB needs to know this information, we could get that information to them within 48 hours. It was our thought that this was probably one of those things in statute that does not need to be there. I reference page 8 of the bill and a text of the repealed section. This is another one of those types of reports. When you adopted *Nevada Revised Statutes* (NRS) chapter 704B, which allowed certain sized customers to actually leave the utility and procure their own energy, you asked that the Commission file a report on that every quarter. That report generally is the same report every quarter, just signed with a different date because not a lot has happened in that area. In 2001 we anticipated a great deal would happen, but only two customers have left the system and they are subsidiaries of one company. Again, this is a report that state employees on our end prepare, state employees on your end receive, and, to my knowledge, no one is reading. This is information that could be received with either a phone call or an email and that information would be brought forward to you within 48 hours of the request. We would ask that it be taken out of statute. With that, Mr. Chairman, I am available for questions.

Chair Ocegüera:

I asked Research and Legal to give me some idea why we were getting these reports and what the history of it is. I have not received a substantial answer to that question. I assume that there is a reason we are getting these reports. If it is taking a lot of staff time for something that is not being used, I can understand your logic. I will turn it over to questions from the Committee.

Assemblyman Anderson:

Are you saying that none of us is interested in reading the material that is submitted relative to the rate development and the background materials as the justification for those rates?

Donald Soderberg:

No, Mr. Anderson, I apologize if I was unclear. The two reports that are in this bill, that we are requesting to take out of statute, have nothing to do with utility rates. They are put into this bill because we had to mix our BDRs together. The first report is the money that the Commission spends to practice before federal regulatory bodies. My guess is that there was probably some angst about a decade ago that we might have been spending too much money on that. That is, of course, a guess. We cannot find any verification.

The other report has to do with which companies are leaving the system. There have been only two since 2001, and they are subsidiaries of the same company. We have been told by the people at LCB who receive these reports that they do not review those reports in detail because they do not provide any information that is relevant. You may be reading those reports; however, our discussions with people at LCB indicate that these reports are not anticipated or gone over thoroughly because they represent policy concerns that are a decade old.

Assemblyman Anderson:

The PUC has been around for a very long time and their history and development have many twists and turns. I am mindful of things that took place during the 1990s when we were dealing with this issue of retail wheeling. It was very important, at that time, to know who was or was not coming in and leaving the system. Perhaps it is the fault of the agency that we do not have the information that we need to draw conclusions. I know that the agency is somewhat able to respond to some of the questions that we ask, but we do not have a hint where to start. How do we know that you are doing what you should be doing? Is there some change, short of removing the reports, that would result in a better situation for the consumer and for our oversight function?

Donald Soderberg:

My job is to identify processes at the Commission that I believe are wasteful. We are funded by the rate payers of the State. If it is the feeling of this Committee or your equivalent Committee in the Senate that there is some use for these reports, we are fine with that. It is my job to bring these forward and suggest them to you. If you feel these are important reports, then they are important to you. We tried to find where there was a certain level of policy relevance. We thought that the people producing these reports on a regular basis could better use their time in other places. That is why we have asked you to take these reports out of statute. If that is not the feeling of this Committee, we are not upset.

Assemblyman Conklin:

On page 4 of the bill, the suggestion by the PUC is that we change the general rate case filing from 24 to 36 months. What do you anticipate the outcome to be for the rate payer? Last session we took up the cost of energy through the deferred rate case so that utility companies could file more often, so that the market could be closer to "true to cost" and reduce the amount of interest that consumers pay as part of the rate case filing or future rates. Is there any such potential by extending the general rate case filing out so that there would be an increased amount of interest and deferred costs to the consumer or does that apply specifically just to the energy costs?

Donald Soderberg:

Your assertion at the end of your question is correct. Energy costs are passed through on an annual basis, and if the account is behind, interest goes on it. In the general rate case side, we are talking about the utility's costs of operating and their capital expenditures. A general rate case that might go too long is a large capital improvement that the Commission granted and that would start earning prior to service. We were concerned going into this area that we would have some big capital expenditures for both Nevada Power Company and Sierra Pacific Power Company that would be stranded for about a year and start developing interest. When we talked about this concept and the dates with the Consumer Advocate, he actually went back and charted everything that had been approved by the PUC and checked when they would be in service. He has expressed to me that he is comfortable that the dates that we have put in here, the years when Sierra Pacific goes and the years when Nevada Power goes, eliminates that problem. It was his concern that we get the Tracy plant in as soon as possible so that rate payers are not paying interest on that while it is operating for a year. The same is true with other items that are in Nevada Power's plans.

Assemblyman Conklin:

There is another question that comes to mind immediately. You have asked for 36 months from 24 months. The hybrid future test case is seven months. Seven months from 24 is a third of the time you are projecting out. Is this some prelude to the next piece of legislation that will ask for future test case changes? The farther we stretch this out, the more inaccurate it is going to be. You have not asked to extend the future test case for those things that we know are known and measurable. I would like to know what the dialogue was. Was it simply political or is there some underlying thought process here?

Donald Soderberg:

These are two different parts of an equation. In discussions with the stakeholders, it was the thought that a lot of jurisdictions do not have a mandatory rate case cycle for utilities. In fact, gas companies are not on a rate case cycle. Sometimes they have come frequently, and people have not liked that. Sometimes they have come too infrequently, and the Commission has chastised the utilities for waiting so long. In 2001, recognizing the changes in the market, knowing that the utility would need to build again—which they had not done much during the 1990s—and considering the electric utilities' financial condition, the rate cases needed to come in on a frequent basis. In the discussions with the Consumer Advocate and the utility, it was determined that coming in more often than normal was a good business practice.

The projection dates were a little political. We had an 18-month period which was hybrid. In my discussions with the other stakeholders, I did not think there was going to be support. In discussing it with those stakeholders, they thought that if the gas companies had a 210 day projection, should they not be the same? That is how the figure of 210 days was decided on. The gas and the electric industries should be handled as closely as possible unless there is a distinct difference that would substantiate that difference.

Assemblywoman Kirkpatrick:

For the Committee's record, I was on the working utility group and we spent close to nine months on this. This was a huge topic of our first discussion. We looked at other states around us in the West to see how they were doing things and how, ultimately, Nevada could work with the states surrounding us. I have the research on this. One of the things we discussed was the time and the costs to do these particular reports and one of the things that we concluded was that we could then pass that back to the rate payers as opposed to spending those dollars on an unused report. We felt, as a Committee, that the rate payers would benefit if we could pass this amount on to them.

Assemblyman Settlemeyer:

I understand Mr. Anderson's concern about removing the reports from statute; we could insert something along the lines of "reports shall be available upon request to the Legislature within two business days."

Chair Oceguera:

Are there other first time questions or comments? I see none. Mr. Lampley, would you like to testify?

Donald Soderberg:

Mr. Lampley was here to answer any technical questions about rate cases that were over my head.

Chair Oceguera:

I see that there are amendments. Mr. Bass?

Bob Bass, Director, External Affairs, AT & T Nevada:

With me is Dan Jacobsen, Executive Director of Regulatory for AT & T. Mr. Jacobsen deals with the Public Utilities Commission. He is here in case there are questions relating to that. Also with me is Margaret McMillan from EMBARQ. We have an amendment ([Exhibit D](#)). It is a clean-up amendment. We propose removing the references to Plan of Alternative Regulation (PAR) carriers. AT & T in the north and EMBARQ in the south are PAR carriers. That means that we operate under a plan for alternative regulation. This legislative body provided for recognizing the competitive nature of our industry, and the Plan for Alternative Regulation was adopted. This bill is intended for gas and electric utilities and their rate cases. We found that in the Commission's report to this Legislature that they looked at rate cases for telecommunication companies and found they were a relic of the past.

AT & T has not had a rate case since 1996. EMBARQ's date is 2001. The marketplace in place today is very competitive, and a rate case does not make sense for AT & T. I will let Ms. McMillan speak for EMBARQ.

Section 2, subsection 13, deals with business services and our business customers. The Commission declared those services to be competitive. Having that section in the bill is moot.

Chair Oceguera:

Are there questions or comments?

Assemblywoman Allen:

This is not directed towards Mr. Bass, but perhaps someone could address whether or not the PUC agrees with this language removal.

Donald Soderberg:

Yes, the telecommunications companies spoke to us, and we consider their amendment a friendly amendment.

Margaret McMillan, Director, Governmental Affairs, EMBARQ Corporation:

We support the amendment.

Chair Ocegueda:

Are there any questions? Are there others wishing to testify in favor of the bill?

Judy Stokey, Director, Government Affairs, Nevada Power/Sierra Pacific:

With me today is Mike Carano who is our Director of Rates and Regulatory Affairs, if you have any specific questions for him. We are here in support of the bill with the amendments that Mr. Soderberg put forward.

Chair Ocegueda:

Mr. Conklin, were you satisfied with the answers from the PUC or do you have other questions?

Assemblyman Conklin:

I do have a question concerning the original bill without the amendment proposed by Mr. Bass. I understand that general rate case filings are quite expensive. I would like clarification that the cost of the rate filing is passed on through the general rate case filing to the consumer, and if that is the case, does that mean that there would be a negative impact since we have reduced the number of rate case filings over a period of time?

Michael J. Carano, CPA, Director, Rates and Regulatory, Nevada Power/Sierra Pacific:

Yes. Reducing the rate filing schedules from two years to three years, would have a reduction in cost. The majority of cost incurred by the utilities is through the use of internal labor. There are also a substantial number of external consultants that are required in order to file the case. Those costs would be reduced by extending the number of years from two to three. Those reduction costs would be passed through by the means of not being incurred on a more frequent basis.

Assemblywoman Kirkpatrick:

I just want to clarify. We have two different amendments, and they both have different dates. One is October 1, 2007, proposed by Mr. Bass and the other proposed by the PUC is December 3, 2007. Which date would the friendly amendment apply to?

Judy Stokey:

The dates are December 3, 2007, and December 3, 2008.

Chair Oceguela:

Are there further questions? Anyone else wishing to testify? We will close the hearing on A.B. 103.

Seeing no further business before the Committee, the meeting is adjourned at 2:06 p.m.

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

APPROVED BY:

Assemblyman John Oceguela, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: February 26, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Sign In Sheets
A.B. 103	C	Donald Soderberg, Chairman PUC	Proposed Amendment
A.B. 103	D	Bob Bass, AT & T	Proposed Amendment