

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 11, 1977

The meeting was called to order at 4:45 p.m. with all members present with the exception of Reps. Bradley and Fagg who were excused.

House Bill No. 394 and 397 were discussed. Rep. Quilici, sponsor, stated it was remedial legislation which the Consumer Counsel drafted. He gave a brief explanation of the bills. He stated that House Bill No. 394 would clarify how many and when temporary rate increases can be made at one time. It is not a bill for granting temporary increases. House Bill No. 397 would stop the pancaking of rate requests.

Mr. Jeff Brazier testified as a proponent. He stated the Consumer Counsel was charged with a duty of no other office. House Bill No. 394 would amend section 70-113 of the Public Utility Act. The result in temporary rate increases was there had been over 30 million dollars pending in these increases. House Bill No. 397 would mandate a utility not to file for an increase until the rate hearing increase is concluded.

Opponents:

Mr. Les Loble stated that House Bill No. 397 has many problems. It is an unsound assumption that only small utilities can go broke. Also, he stated that numerous cases which are pending, the utility is not entitled to fair rate of return (testimony attached).

Mr. Jack Burke strongly opposes both bills. He concurred in Mr. Loble's statements.

Mr. Gene Phillips also concurred in the previous opponent's testimony. He stated the term survival is not defining them all. He recommended to the committee a do not pass recommendation.

Rep. Quilici stated in closing that the opponents do not realize that there is a real problem. The Consumer Counsel has a job to do for the public just the same as the utilities.

House Bill No. 395 was discussed. Rep. Quilici, sponsor, stated that the bill would give the Consumer Counsel discovery powers in contested cases. They thought prior to this bill that they had had discovery powers of dedicating the job's interest and appearing before the PSC on rate cases. During one of the rate cases, Burlington Northern Railroad, they had asked for certain information and did not receive it due to lack of authority. The problem is now in the Supreme Court and they will not have a decision on it until the legislature adjourns. This is the main reason for House Bill No. 395.

Mr. Jeff Brazier testified as a proponent. He stated the word discovery was drawn for Civil Court practices. It is essential for anyone in rate cases. The Consumer Counsel is simply trying to get themselves

involved in doing their job. He also said the Commission has not adopted any minimum requirements. The Commission has not adopted any rules or procedures in order to give a fair hearing.

Opponents:

Mr. Gordon McGowan and Mr. Ron Waterman expressed their opposition to the bill (testimonies attached).

Mr. William Scribner stated the many of the motor carrier cases are combined. They involve facts and figures of a number of carriers. He agreed with Mr. Brazier on the frustration which is implemented on this problem.

Mr. Jack Burke stated that Mr. Brazier will remedy himself into a corner, because in the case of Montana Power he has always received any information he needed. This power is not needed. This bill is unnecessary and dangerous.

Mr. Less Loble stated that Montana Dakota Utilities has never refused any request to the Consumer Counsel. If there is another company which the Consumer Counsel is having trouble with, then he should go to them and get things straightened out.

Mr. Gene Phillips was concerned with the Consumer Counsel taking the disposition of an attorney. He also said he had never refused to show the Consumer Counsel anything that would be beneficial to them.

Rep. Quilici stated in closing that the Consumer Counsel had never been denied any records, but that in one case this did happen. This bill should be passed in order to alleviate the problem the Consumer Counsel is faced with.

Mr. Brazier stated during the questioning period that the Consumer Counsel needs these powers in order to prepare a meaningful defense. He said he would hate to have to go to court everytime they needed to prepare a case.

Rep. Quilici stated he would not mind if other agencies received this discovery power, also. He stated he would like to work it out in a subcommittee.

House Bill No. 396 was discussed. Rep. Quilici, sponsor, stated he would like to see this law implemented. The Consumer Counsel had asked the PSC to adopt rules of practice and procedure in 1974 and it has still not been done. This bill is needed for this could be part of the cause for regulatory lag.

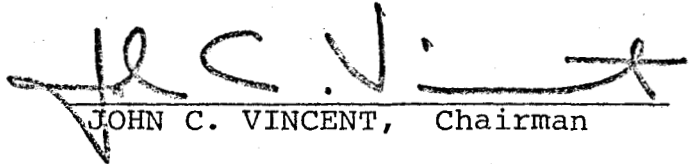
Mr. Jeff Brazier stated this would be the solution to regulatory lag. He said he had given the PSC a set of rules several times, but they keep turning them down. If you put a deadline for the commission to act on this, then there will be no need to take them to court.

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Mr. McGowan, Mr. Waterman, Mr. Phillips, Mr. Scribner, Mr. Burke, and Mr. Hughes all agreed with Rep. Quilici and Mr. Brazier's comments. The Public Service Commission needs to adopt a set of rules and procedures in order to function.

Rep. Quilici stated in closing that if the bill goes into a subcommittee, to consider one very important thing. There are 5 people on the commission which are traveling in 5 different directions. Perhaps they could hire an administrator to coordinate the problems. He also thanked everyone for their support.

The meeting adjourned at 6:00 p.m.

  
JOHN C. VINCENT, Chairman