

EXTENSIONS OF REMARKS

THE MAKING OF A UTILITY
COMMISSIONER

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Saturday, January 24, 1970

Mr. METCALF. Mr. President, most electric, gas, and telephone rates and services—and in some cases insurance rates, as well—are regulated by State utility commissions. Hearings last year on S. 607, the utility consumers' counsel bill, elicited a wide range of comment regarding the efficacy of these commissions.

Generally speaking, although with exceptions, the commissioners and the regulated industries spoke well of the present system. Some commissions were characterized as well-meaning, quasi-judicial bodies, hampered mainly by the system—which S. 607 would correct—under which only the utilities' viewpoint is presented to them. Less charitable witnesses, from other States, declared that in reality the commissions with which they were familiar simply ratified the wishes of the utility before them, excluding the public and its representatives from deliberation and consideration.

Mr. President, from time to time, I have praised particular commissions or commissioners for substantial accomplishment, despite the handicaps of the system and the budget within which they operate. I have praised the California commission as one of the best, if indeed not the very best, of the State commissions.

It excluded executive featherbedding from the operating expenses of a telephone company.

Reversing a previous commission policy, it determined "henceforth to exclude from operating expenses for rate-fixing purposes all amounts claimed for dues, donations, and contributions," thereby requiring utilities to pay for the charity for which they take credit.

And it attempted—alas, unsuccessfully, in view of the State statute—to require the refund of utility overcharges.

None of these noteworthy actions of the California commission occurred during the past 3 years. The commission has changed. It changed because the Governor of California changed.

The Governor of California selects the members of the commission, a procedure with which I have no argument. He changed the policy that had been set by his predecessors—Governors Warren, Knight, and Brown.

The manner of the selection of a California commissioner has been chronicled in the Bay Guardian, a sprightly young newspaper which grew out of the San Francisco newspaper strike and which devotes itself to coverage of issues found unnewsworthy by the institutionalized San Francisco papers, an ambitious undertaking which the Guardian staff is nevertheless and nobly attempting to

fulfill. I desire to share this account with Members of the Senate, and of the House, too, if they read this portion of the proceedings, as well as with members of the press, who on occasion turn to the RECORD in search of information which may be pertinent to legislative efforts and of interest to their readers.

I submit this article in sadness, because it indicates what has happened to the best of the State commissions. One wonders what has transpired in States where the commissions did not have so high a previous standard, and in which there is no Bay Guardian.

Mr. President, I ask unanimous consent to have printed in the RECORD the February 16, 1968, Bay Guardian article, "Utilities 'Man' on PUC," written by Ivan Sharpe.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UTILITIES "MAN" ON PUC
(By Ivan Sharpe)

In a bombshell admission that may reverberate around the Reagan administration, a utility company executive frankly conceded to the Bay Guardian this week that utilities got their own man appointed to the State Public Utilities Commission.

Commissioner Fred P. Morrissey, one-time associate dean of the UC Graduate School of Business Administration at Berkeley, was recommended to Gov. Reagan after a hush-hush meeting of utility company attorneys in San Francisco's Bohemian Club in December 1966.

This meeting, which was hinted at and denied Jan. 25 in the final day of PUC hearings into PT&T's massive \$181 million rate increase application, was confirmed to me by Sherman Chickering, general counsel and vice president of San Diego Gas & Electric Company.

"Utilities got together, as anybody has a right to do, to screen candidates for the commission," said Chickering, senior partner of the prestigious San Francisco law firm of Chickering & Gregory, 111 Sutter St.

"Most of the principal utilities had representatives at the Bohemian Club meeting," added Chickering. "We passed on our list of candidates to a screening committee headed by Joe Knowles, the Governor's representative here."

Chickering also confided that he was a member, along with five others, of that Reagan screening committee, although he claimed that he had never attended any of its meetings.

He said that the utilities had got together in the past to recommend candidates every time there was a pending vacancy on the PUC.

"FIRST TIME"

"This was the first time one of our candidates was chosen," he admitted, however.

Chickering described Morrissey's selection by the utilities was "natural one."

"I had read several of his articles about utilities and I knew what his views were. He was objective in his thinking. If somebody else hadn't put his name up, I might have done so myself," he said.

Chickering also said he was disappointed there were not more utility company representatives on the Knowles committee.

"There were people like Knowles who knew very little about utilities," he added.

Knowles, a taciturn stockbroker little known outside his office on the second floor of the State Building here, at first denied there

were any utility men on his screening committee, which he called a talent search subcommittee.

After I pointed out Chickering's utility connections, Knowles said: "I didn't know that. I just know him as an attorney and a very good one."

Asked the names of his committee members, he replied: "I can't even recall who was on the committee now. It was over a year ago."

He said there were six on the committee including himself.

"I CAN'T REMEMBER"

Knowles, again, at first emphatically denied that he had got names of possible candidates from the utilities. But, when told of Chickering's admission, he conceded: "I can't remember now."

He added: "All I did was to try to get names of people who were interested in being appointed to the commission. I had a whole sheaf of names with resumes and biographies."

Despite the biographies, Knowles claimed that he did not know that Commissioner Morrissey was a former paid consultant for Pacific Telephone.

Chickering's startling disclosure drew a predictably sharp comment from PUC Commissioner William M. Bennett, whose persistently probing questions during the final day of telephone rate hearings into the circumstances of Morrissey and Commissioner William Symons' appointments led to angry exchanges.

"As a Californian and one who must take utilities' services, such as gas, electricity, telephones, I don't like a system that permits California public utilities to pick commissioners," he said.

"I think it is a terrible thing when the Reagan administration is consulting with California public utilities to select commissioners who are supposed to protect the public interest and oppose those utilities in their rate applications."

"THE SAFEST CANDIDATE"

"Realistically, those utilities aren't going to recommend anyone but the safest candidate for them," declared Bennett, a Democratic holdover who does not expect to be reappointed when his term ends this December.

The circumstances of Morrissey's appointment to the \$25,000, six-year-term PUC job assume more damaging and tainted significance when it is remembered that Reagan early last year made the unprecedented comment during the telephone company rate hearing:

"The phone company here in California has been in great difficulty because of some of the actions on the Public Utilities Commission. The PUC is going to have to be more realistic in its approach and its permissions to the phone company."

Lt. Gov. Robert H. Finch also said that the view was outdated that only the public's interest must be protected in regulation of utilities.

Philip M. Battaglia, Reagan's former executive secretary, predicted last year that utilities would get fairer treatment from the PUC in the future.

This week Battaglia told me: "We had certainly heard a lot of complaints during the campaign that the PUC needed a balance. If the thinking was oriented one way, it should be balanced out with some fresh thinking."

However, Battaglia said he would be "very surprised" if the utilities had, in fact, recommended Morrissey.

In any case, Commissioner Morrissey him-

self feels there is nothing to be perturbed about.

If the utilities had put his name forward to Governor Reagan, he said this week, "I don't know whether it would be improper or not. Whether they did or didn't is substantially indifferent to me. I would vote independently in any case."

He said he found Chickering's admission "frankly hard to believe."

"What has happened here is that there has been a concerted effort on someone's part to label me as pro-utility. I just don't think this is so."

"Look through the way I've voted in the past year. I'm sure I've voted on matters which would displease utilities."

TWO ARTICLES

Morrissey said two articles he wrote in the Public Utilities Fortnightly in April and November, 1966, were "more pieces of research rather than pro-utility."

"I still look upon myself as an academician," he added. His paid work for the telephone company was in the 1950s, he said.

Tom Reed, Reagan's former appointments

secretary who quit at the end of Reagan's first 100 days in office, denied that utilities had any say in Morrissey's appointment.

"They made no recommendations to me," he said.

Reed, who runs a mining and land company in Nevada County and lives in San Raphael, said he had given Reagan five or six names for the PUC appointments, with Morrissey and Symons getting his personal recommendation.

He recommended Morrissey, he said, after his name had been put forward by the major appointments task force, by a senator and after canvassing college faculties.

SCREAM VIOLENT OBJECTIONS

He conceded that utility companies didn't "scream violent objections" to Morrissey's nomination.

"I thought then, and I still do, that both Morrissey and Symons were intelligent, impartial and fair guys who were concerned with the best interests of the people," said Reed.

Symons, a rancher, whose Mono County GOP senate seat was swept away by reapportionment in 1966 after serving one year in the Legislature, was recommended by members of the State Senate, disclosed Reed.

"COMPLETE SURPRISE"

Chickering, incidentally, said Symons' appointment came as a "complete surprise" to him and to the utilities, who had not recommended him.

Whatever the political repercussions of Chickering's remarkably frank statements, great doubt is now thrown on the validity and fairness of the Pacific Telephone hearings which ended last month after 82 days and 12,568 pages of testimony.

Pacific, in requesting a \$181 million rate boost, wants to improve its allegedly depressed rate of return on investment by some 30%—to 80% from 6.3%. If granted in full, the request would nearly double some phone bills in San Francisco.

Chickering's remarks also appeared to contradict sworn testimony by Jerome W. Hull, Pacific's executive vice president, who stated: "I do not know of any recommendations that were made to the Governor by any utility group."

HOUSE OF REPRESENTATIVES—Monday, January 26, 1970

The House met at 12 o'clock noon. The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

To this end we toil and strive, because we have our hope set on the living God.—I Timothy 4: 10.

O Thou eternal Father of our spirits, in this quiet moment at the beginning of another week we lift our hearts unto Thee who art the source of all our being and the goal of our noblest endeavors. We pray for strength to carry our burdens, wisdom to see through the problems we face, insight to discover what is right, and courage to walk in right ways.

With all our hearts we pray for our country, for Members of Congress, all who work with them, and for our people scattered far and wide on this land of the free. By Thy spirit may we learn to live together with respect for others in our minds, with good will for others in our hearts, and crown our good with brotherhood from sea to shining sea. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, January 22, 1970, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested.

S. 30. An act relating to the control of organized crime in the United States.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 23, 1970.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's Office at 1:15 p.m., on Friday, January 23, 1970, and said to contain a message from the President wherein he transmits a study of instructional television and radio pursuant to Section 301 of the Public Broadcasting Act of 1967.

With kind regards, I am,
Sincerely yours,

PAT JENNINGS, Clerk.

COMPREHENSIVE STUDY OF INSTRUCTIONAL TELEVISION AND RADIO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

Section 301 of the Public Broadcasting Act of 1967 authorized the Secretary of Health, Education, and Welfare to conduct a comprehensive study of instructional television and radio. Former Secretary Wilbur Cohen appointed a Commission to conduct such a study. The report of that Commission is transmitted herewith.

This Administration will transmit its views on instructional television and radio and related matters at a later date.

RICHARD NIXON.

THE WHITE HOUSE, January 23, 1970.

ATOMIC ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Joint Committee on Atomic Energy:

To the Congress of the United States:

Pursuant to the Atomic Energy Act of 1954 as amended, I am submitting to the Congress an authoritative copy of an amendment to the Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes of July 3, 1958, as amended. The Amendment was signed at Washington on October 16, 1969.

The Agreement as amended included a provision (Paragraph A of Article III bis) under which the Government of the United States agreed to transfer to the Government of the United Kingdom for its atomic weapons program prior to December 31, 1969 in such quantities and on such terms and conditions as may be agreed non-nuclear parts of atomic weapons and atomic weapons systems as well as source, byproduct and special nuclear material. A second provision of the Agreement (Paragraph C of Article III bis) stipulated that the Government of the United Kingdom would transfer to the Government of the United States for military purposes such source, byproduct and special nuclear material, and equipment of such types, in such quantities, at such times prior to December 31, 1969 and on such terms and conditions as may be agreed.

Under the Amendment submitted herewith the period during which the provisions of Paragraphs A and C of Article III bis of the Agreement for Cooperation remain in force would be ex-