

CWIP:

Was It Part of 'A Swap-off'?

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A UTILITIES FINANCING LAW quietly passed during the closing days of the 1977 Legislature has come to haunt consumers, who will soon begin paying for it, and the Hunt Administration, which has been embarrassed by it. The Administration has found itself on both sides of the controversial issue called CWIP.

CWIP—"Construction Work in Progress"—is a new law that allows electric power companies to bill consumers for the costs of power plants under construction but not yet producing electricity. The law was passed in 1977 and went into effect on July 1, 1979 following an unsuccessful fight for repeal.

CWIP was criticized in the last issue of *N.C. Insight* for conscripting ratepayers as investors in the power companies as well as for distorting utilities' incentives and encouraging overconstruction of power plants. The article, by economist Dr. John Neufeld, was accompanied by a report quoting the statement of Gov. James B. Hunt Jr. that he opposed CWIP when it was passed, still opposed it, and would support legislation to repeal the law before it went into effect. The article was followed by newspaper editorials blasting CWIP as "unfair" and "insidious" and by front-page reports of Hunt's firm opposition to CWIP.

Then came some discordant notes from within the Administration. *The Charlotte Observer* noted that Gary Pearce, the Governor's press secretary, had recently said Hunt took no position on CWIP and "doesn't think it's that bad." In an *Observer* article headlined "Hunt Straightens It Out: He Dislikes Utility Law," Pearce was quoted as describing the inconsistent statements as "a mess."

There were more serious discrepancies. Hunt Administration officials had made a deal with the power companies in 1977, according to an account by the Associated Press published after this year's unsuccessful effort to repeal CWIP. The AP report quoted



Gene Payne of the *Charlotte Observer*

the chairman of the 1977 House Utilities Committee—Rep. J.P. Huskins, D-Iredell—as saying "he and Hunt Administration officials agreed then to accept the CWIP provision in return for agreement by the utility companies not to oppose creation of the commission's public staff." The creation of a "consumer advocate" Public Staff of the Utilities Commission had been promised by Hunt during his 1976 campaign.

"It was a swap-off," Huskins said.

In an interview done for this article, Pearce, the press secretary, neither confirmed nor denied such a "swap-off" took place. "It is clear there may have been a tacit agreement . . . I said *may have been*." When asked whether the Governor himself had known about or been involved in such a "swap-off," Pearce only reiterated that the Governor had always opposed CWIP. Pearce declined to relay the question directly to the Governor, but an opportunity for the question arose at the Governor's press conference following the adjournment of the legislature. The AP account was repeated to the Governor and he was asked: "Could you tell us to what extent you had personal knowledge of or involvement in the deal at the time it was struck?"

Hunt replied: "That is not true." But he added, "You can't ever know" what is said among people negotiating on a bill. "The Governor's position was and continues to be that CWIP is not a good idea for this state."

The man whom Hunt appointed as head of the Public Staff, Hugh Wells, was a supporter of CWIP until the recent flurry of negative publicity and Hunt's announcement of opposition. Wells has since modified his position to one of neutrality. Wells contributed to the 1977 legislative deliberations both on CWIP and on the creation of the Public Staff itself. Wells said in an interview that, as counsel to the Senate

Utilities Committee, he helped write the bill that created the Public Staff and, at the request of the House Utilities Committee, commented upon the proposed CWIP legislation.

Pearce, however, said that Wells' comments on CWIP in 1977 were not neutral. "He didn't stand up and say 'pass this bill,'" said the press secretary. "But in his explanation of CWIP it was clear he thought it was a good thing. He was saying in the long run it will save consumers' money. So the legislators naturally said, 'O.K. That's great.'"

Wells said that he had not played a role in getting the CWIP bill passed. He had recommended the addition of safeguards in the CWIP legislation, he said, in order to allow the Utilities Commission discretion in allowing CWIP charges in rates and to guard against "double dipping" that might have resulted from the addition of CWIP charges to charges CWIP was meant to replace.

"His recollection is different from mine," Wells said of Pearce's account. The favorable evaluation of CWIP had actually originated with the staff of the Utilities Commission, he said. "I simply articulated what the Commission staff had produced. That's what Gary is referring to. What they produced was favorable in this sense--in the short run CWIP costs more; in the long run it costs less." Asked whether this is debatable, Wells replied, "Certainly it's debatable, but that's what the numbers tended to show." Wells added that the long-run benefits are debatable because CWIP would tend to take money from ratepayers in the near-term and pay them back at some future time in depreciated dollars. Consideration of this and other related factors was not mentioned in the Commission staff's analysis.

Dell Coleman, formerly chief accountant with the Commission staff and now with the Public Staff, performed the analysis, which he referred to as "some very rough calculations of income requirements with CWIP in the rate base... figures roughed out on a yellow tablet." Asked whether the figures showed that CWIP "costs less in the long run," Coleman said, "No analysis like that was done. There was no analysis whether CWIP is less beneficial in the short run or in the long run is more beneficial.... That may have been an interpretation Mr. Wells made from the data."

Coleman's thumbnail analysis was requested by the Governor's office. Hunt's economic advisor Ken Flynt said in an interview that he had hoped to put together a more thorough analysis of CWIP's impact but got only "bits and pieces" of information from the Commission staff, consultants, and the utility companies themselves.

The recent bill to repeal CWIP was defeated in the House Public Utilities Committee following a public hearing in which citizen groups heatedly attacked CWIP and power company spokesmen argued that their multibillion dollar construction programs could not be financed without it. The overwhelming defeat came on a voice vote, but the sponsor of the repeal bill, Rep. Thomas Rhodes, R-New Hanover, supplied the names of those who, he said, voted against CWIP. (See box.)

According to the AP, members of the utilities committee said they had not been contacted by the Governor about the bill, and Hunt's chief lobbyist, Jack Stevens, said he had not worked on behalf of repeal. "I did no work on that," Stevens said after the vote. "He didn't tell me to do any work on it."

—Brad Stuart

The Vote on CWIP

"It wasn't hard to tell who voted for it," Rep. S. Thomas Rhodes (R-New Hanover) said of his bill to repeal CWIP. He said he was joined in voting for the bill by only two other members of the House Public Utilities Committee--George W. Miller Jr. (D-Durham) and Robert H. Hobgood (D-Franklin). Bobby R. Etheridge (D-Harnett) joined the other three legislators in an unsuccessful move to have the effective date of CWIP delayed.

Other members of the committee, who either voted against repealing CWIP or did not vote, were: Dwight W. Quinn (D-Rowan), A. Hartwell Campbell (D-Wilson), Porter C. Collins Jr. (D-Alleghany), Robert Z. Falls (D-Cleveland), Chris S. Barker Jr. (D-Craven), David W. Bumgardner Jr. (D-Gaston), Howard B. Chapin (D-Beaufort), James M. Clarke (D-Buncombe), James Worth Gentry (D-Stokes), Richard R. Grady (D-Wayne), J. P. Huskins (D-Iredell), Tom B. Rabon Jr. (D-Brunswick), J. Guy Revelle Sr. (D-Northampton), H. Horton Rountree (D-Pitt), Margaret Tennille (D-Forsyth), and Ben Tison (D-Mecklenburg).