

As of June 1, the policy changes outlined in Koger's letter had yet to be implemented. Nevertheless, Koger's responsiveness and the proposed changes in the Utilities Commission's policy deserve recognition.

Changing Currents at the Utilities Commission

by Betsy Taylor

An article in the spring issue of *N. C. Insight*, "Small Change at the Utilities Commission," recommended measures to help the public get complete information on the business of the North Carolina Utilities Commission. The article proposed:

- Reducing the price of hearing transcripts. (The cost of \$1 a page has been prohibitive for private citizens and attorneys representing citizen groups.)
- Giving, on request, copies of pre-filed testimonies to the press prior to hearings, loaning copies to any interested citizen prior to hearings, and giving free copies to any individual who attends a public hearing. (Witnesses frequently submit testimony in writing prior to a hearing and make no verbal statements during the hearing itself. Consequently, citizens and members of the press have difficulty following the cross-examination of witnesses.)
- Making a minimum of two copies of all hearing transcripts available to the State Library, one to be kept for reference and one to be loaned out. (During business hours, a citizen is supposed to be able to read the official record kept on file by the Chief Clerk at the Utilities Commission. When a member of the Center's staff visited the Clerk's office, however, she found that documents she requested could not be located.)

In a reply (see opposite page), Utilities Commission Chairman Robert K. Koger stated that the article "did not reflect current policies and practices of the Commission..." The article was written in late March and reflected the policies of the Commission that were then in effect. After receipt of Koger's letter, (dated May 22), the Center staff checked on each one of the policy changes he outlined and found that, as of June 1, they had yet to be implemented. Pre-filed testimonies and other documents had not been placed near the hearing room for public perusal.

Betsy Taylor, formerly a teacher in England, is the Center's administrative assistant.

Public notices had not included announcements that trial documents can be obtained through public libraries. And the transcript fee remained at \$1 per page.

Nevertheless, Koger's responsiveness and the subsequent changes in Commission policy deserve recognition and commendation. It should be noted that the Commission does intend to place copies of all trial documents, including written testimony submitted prior to hearings, in regional libraries around the state upon request. The first Public Notice to include a statement of this new policy was released early in June. It is hoped that the Commission will guarantee public access to all trial documents, even if materials must be sent to a county library rather than merely to one of North Carolina's 15 regional libraries.

Placing written testimonies and court documents near the Commission's hearing room for public examination should help citizens and reporters follow the cross-examination of witnesses.

Although Koger said in a telephone conversation that he could not recall ever having loaned a transcript to an attorney representing a consumer group, he affirmed that such loans would be made in the future upon request.

On May 8, the Commission produced a draft bill proposing that the legislature reduce the price of one transcript page from \$1 to 50 cents. The reduced fee was approved by the 1978 legislature. Again, the Commission has been responsive. The fee, however, remains high when the actual production cost for one page is 3.5 cents.

Finally, the Commission's recent decision to experiment with the use of tape recorders and television cameras during public hearings should be applauded. The implementation of this policy will vastly improve the public's ability to analyze hearings that lead to decisions affecting the lives of all North Carolina citizens. □

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State of North Carolina
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May 22, 1978

Dear Ms. Taylor:

We have read your article in the Spring Issue of the *N. C. Insight* regarding the Utilities Commission with interest. While some of your points were well taken, we regret that your article did not reflect current policies and practices of the Commission - some of which were initiated by your inquiry, some by other parties, and some by the Commission itself.

For example, beginning with action taken in early April of this year, the Commission instructed the Chief Clerk and the Public Staff to revise Public Notices in accordance with the following:

- (1) "Based on various requests that the Commission has received over the past several weeks, the Commission decided in Conference last week to require the filing of various material in general rate cases and rule-making proceedings at regional libraries around the State upon public request. To accomplish this, we plan to include in the Public Notices a statement along the lines that follow:

"That upon request, the Commission will place copies of all trial documents in centrally-located public libraries; that the material may be copied without prohibition at the library."

A copy of my memorandum to the Public Staff is attached. *

- (2) In respect to public hearings on any major case or rule-making, we have directed the Chief Clerk to maintain sufficient copies in her office to ensure that one will *always* be available for public inspection. We also will experiment with providing copies for perusal in the small room behind the hearing room on the second floor.
- (3) In respect to your comment regarding Mark Sullivan, attorneys intervening to represent the public or other interests have in the past received copies of all testimonies, briefs, orders, and exhibits free. This, of course, will be continued. Also, transcripts of any hearings will be made available to any attorney representing consumer groups. We have loaned transcripts to members or representatives of such groups in the past and will continue to do so.
- (4) The Commission has recommended to the Utility Review Committee of the North Carolina General Assembly that the fee for transcripts be reduced. We are confident that some reductions will be made, but we doubt that the reduction will be sufficient to accommodate all concerned because of the loss of general fund revenue that would result. That is the reason we are directing the placement of the materials in libraries, adopting a more flexible plan for loaning copies for perusal or reproduction purposes, setting rules for the Chief Clerk to follow in ensuring that one or more copies are always available to the Public in her office, and experimenting with placing copies in a room adjacent to the hearing room.
- (5) The Commission is studying the possibility of allowing tape recorders and television cameras to be used during our hearings. At the present time, we are following the practice of the other courts in North Carolina and are precluding the use of these during the hearing itself. I hope to be able to advise you of our action in this matter soon. I mention this because I believe that normally members of the public are only interested in selected parts of most hearings and might desire to tape these parts as opposed to obtaining a transcript.

I hope that you will have an opportunity to let your readers know that many of the practices and policies that you discussed in your article are not presently being followed by this Commission. We and the Public Staff have and are expending great effort in trying to open up communication lines with the public and we think we have made much progress. I would be happy to discuss other efforts we have made in this area at your convenience. Also, since you used a title for your article which implies to some people that "small changes" may have resulted from the reorganization and reconstitution of the Commission in 1977, I would hope you would consider doing a follow-up article on a broader perspective of our operations.

Sincerely,

Robert K. Koger
 Chairman

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Attachment.

cc: Directors of *N. C. Insight*
 cc: Members of the Commission
 cc: The Honorable Hugh A. Wells
 Executive Director
 PUBLIC STAFF - North Carolina Utilities Commission

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* Author's Note:

This memo, dated April 3, referred exclusively to the first proposed action mentioned in Koger's letter and included a request for the Public Staff's help in implementing this new policy.

The structure of Koger's letter suggests there were actually five "actions taken in early April of this year." However, the only action taken was a decision to publicize the availability of trial documents in centrally-located public libraries.