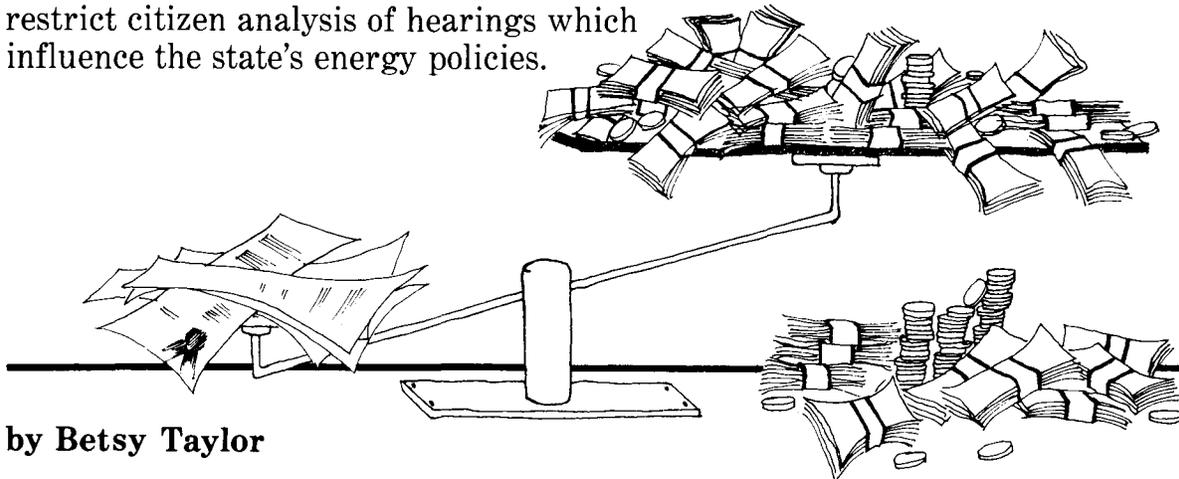


# “Small change” at the Utilities Commission

The Commission’s policies and practices restrict citizen analysis of hearings which influence the state’s energy policies.



by Betsy Taylor

Every person in North Carolina is touched by the work of the state Utilities Commission. Decisions are made by the Commissioners which affect everything from the cost of turning on an electric light to the construction of mammoth and potentially dangerous nuclear power plants. The business of the Commission is clearly the business of the people of this state. But how are the people to find out what the Commission is doing?

In theory, the work of the Commission seems accessible. Anyone may attend its formal hearings, and transcripts of such hearings are public documents. Commission policy allows anybody to purchase a transcript, although the law requires only that transcripts be sold at a “reasonable” price to registered participants (“parties”). Complete information apparently can be secured easily through one of these methods. In practice, however, citizens attempting to obtain Commission records and documents confront many unseen obstacles.

Present Commission policies effectively erode the intent of the public hearings law (G.S. 62-71). A person could attend a hearing from start to finish and still not hear all testimony presented to the Commissioners. Expert witnesses frequently submit testimony in writing prior to a hearing, and make no verbal statement during the public proceeding itself. Although these testimonies can be purchased, the 20 cents per page fee discourages most citizens from buying them.

Finding attendance at a hearing unsatisfactory, a citizen could, like a “party” to the hearings, pur-

chase a transcript at a “reasonable” price. But the transcript fee seems far from “reasonable” or fair. The 1977 legislature raised the cost of one transcript page from 30 cents to \$1, a price beyond the reach of most interested citizens. The bill establishing the higher fee was introduced by Rep. David Parnell at the request of the Base Budget Committee.\* According to Parnell, the transcript fee was raised to bring it into line with fees charged by state courts. But Parnell also indicated that the legislature did not investigate copying fees charged by other state departments (e.g., 10 cents per page for documents in the state library, 20 cents per page for copies from the Division of Archives and Records) before raising the fees for copies from the Utilities Commission. No attention was given, Parnell said, to the real cost of producing one page of copy or the effects of a high fee on the public’s ability to purchase transcripts.

Utilities Commission hearings in February to help determine the state’s long-range energy policies and to consider construction of Carolina Power & Light Company’s \$4.2 billion Shearon Harris nuclear power plant in Wake County produced 1,392 pages of transcript. At a cost of \$1,392, the complete record of these critical hearings has not become a best-seller. No private citizen or private citizens group has purchased a transcript, but all of the utilities---CP&L, Duke Power, and Virginia Electric Power Company---have done so. These companies

\* This legislation (G.S. 62-300.9) seems to conflict with G.S. 62-71, which states that transcript fees are to be determined by the Commission, not the legislature.

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The cost of a transcript page increased from 30 cents to a dollar. Excessive production costs were cited. IBM says it costs 3.5¢ per page in actual production.

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represent the interests of largely out-of-state shareholders, not North Carolina citizens, and can deduct the price of transcripts from their taxes as a business expense while passing the costs of attending the hearings (including the purchase of transcripts) through to their North Carolina customers. Theirs is, in effect, a free ride irrespective of the price per page. Private citizens, who cannot deduct such expense or pass along their costs to consumers, get no such advantage. Utilities Commission Chief Clerk Katherine Peele attributed the high fee to excessive production costs, even though an IBM salesman handling business with the state said the direct cost of producing one page of copy is only about 3.5 cents.

Finally, unable to obtain complete information by attending the hearings and lacking funds to buy an entire transcript, a citizen can try to read the public record which is ostensibly available during normal working hours at the Commission's office. But even this option has a flaw. During a recent unannounced visit to the office, the transcript and several testimonies pertaining to the February nuclear plant hearings could not be located. Commission Chairman Robert Koger had the public's copy in his office, and he was out of town.

The effect of these policies and practices is to restrict citizen analysis of hearings which influence this state's energy policies. The media and citizens' representatives are also constrained. According to Loyd Little of the Durham Morning Herald, the only reporter who regularly covers the Utilities Commission, no newspaper will free up the resources to buy more than a few testimonies, let alone a full transcript, while the fees remain so high. Mark Sullivan, representing a coalition of citizen groups during the February hearings, contends that in the event of an appeal Commission policies would obstruct his efforts to analyze the record and handicap him in preparing witnesses for testimony.

Both legislative action and changes in the internal procedures of the Utilities Commission are called for to ensure real public accessibility to the Commission's business.

Specifically:

1. The price of a page of transcript should be reduced.
2. Upon request:
  - copies of pre-filed testimonies should be given to the press prior to the hearings.
  - copies of pre-filed testimonies should be loaned to any interested North Carolina citizen prior to the hearings.
  - any individual attending a public hearing should receive a free copy of any pre-filed testimony so as to follow cross-examination of the witness in question.
3. A minimum of two copies of all hearing transcripts should be made available to the state library--one to be kept as a reference and one to be put on loan.

## More Hot Oil

An article in the Winter issue of *N. C. Insight* questioned the wisdom of the state's \$1.4 million investment in an undisclosed oil re-refining process which has not passed accepted tests by a reputable independent laboratory. Although the process is still a closely held secret of the Phillips Petroleum Company, the state is now moving to take a closer look at the re-refined oil which will be produced.

According to John Talton, Assistant Secretary of Administration, the oil will be tested to insure that it meets the same specifications as the virgin oil the state buys. More importantly, the tests will be conducted by an independent laboratory prior to the acceptance of the Phillips plant by the state. Phillips maintains that this has always been a part of their agreement to install the oil recycling process, although there is no language in the contract requiring independent laboratory tests. The contract provides merely that the re-refined oil must be tested before the plant is accepted by the state. Having independent tests conducted is of enormous importance to North Carolina taxpayers because the use of substandard oil could result in actions by automobile manufacturers to void the warranties on the thousands of vehicles purchased each year by state and local governments.

Another problem with the state's oil recycling plans may be more difficult to resolve. For years the Department of Transportation has been "recycling" large quantities of waste oil in its asphalt plants, using five special burners purchased at a cost of \$90,000 so that waste oil could be used without polluting the air. About 185,000 gallons of waste oil were consumed in this way last year, according to department officials, and more could have been used if it had been available. Based on the current price of # 2 fuel oil, 42 cents a gallon, this DOT practice saves the state about \$78,000 a year. Now, however, the department is being pressured to contribute its waste oil to the new recycling program, even though doing so would leave it with five expensive but useless burners and put a \$78,000 dent in its budget.