SEPARATING TRANSPORTATION from FIXED UTILITY REGULATION under the PUBLIC UTILITY COMMISSION

General Assembly of the Commonwealth of Pennsylvania
JOINT STATE GOVERNMENT COMMISSION
108 Finance Building
Harrisburg, Pennsylvania
October 1983

Joint State Government Commission, 1983-84

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GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
JOINT STATE GOVERNMENT COMMISSION
ROOM 108 – FINANCE BUILDING
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October 14, 1983

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

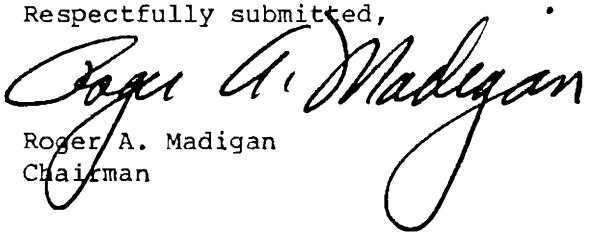
This report presents the findings of a Joint State Government Commission staff study conducted pursuant to Senate Resolution No. 35 of 1983 and completed in the required 180 days. The resolution, adopted April 19, 1983, calls for a study of the feasibility, benefits and costs of dividing the Public Utility Commission into two separate entities--one to regulate the transportation services and the other to regulate the remaining "fixed" utilities, such as electric, gas, telephone and water companies. The resolution suggests that the Public Utility Commission may be able to more effectively control rising consumer utility rates if it were permitted to concentrate on a more limited range of utilities.

Since the resolution does not call for recommendations, the Commission staff--under Donald C. Steele, research director--conducted the study with the purpose of providing pertinent information to serve as the basis for legislative decisions. In reviewing the Public Utility Commission's statutory responsibilities and implementing activities and procedures, this report focuses on the transportation services. In addition, the Commission's work load, staff and expenditures are divided into the transportation and fixed-utility components; related federal transportation regulation and the organization and function of regulatory agencies in other states are explored; and an effort is made to measure whether divided fixed-utility and transportation regulation in other states has made a difference in residential utility rates. Finally, the report sets out various suggested alternatives to the Public Utility Commission's current unified organization.

All of the fiscal and operational data on the Public Utility Commission activities in this report were derived from information supplied by the Public Utility Commission at the request of the Joint State Government Commission staff. The views of the three Public Utility Commissioners currently in office were requested on the issue of dividing the Commission.

The Joint State Government Commission expresses appreciation to the Public Utility Commissioners--Linda Taliaferro, chairman, James H. Cawley and Michael Johnson--and to their staff--in particular, John Alford, director of operations, and his executive assistant, G. J. Gillert--for their cooperation in providing information.

Respectfully submitted,



Roger A. Madigan
Chairman

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Summary

1. The Pennsylvania Public Utility Commission was created in 1937 to regulate the market entry, rates, service and safety of all transportation and fixed public utilities in the Commonwealth with the exception of those operated by municipalities and municipal authorities. In the mid-1970s, the Commission was restructured under Act Nos. 215 and 216 of 1976 and public utility law was recodified. Among changes to expedite the completion of cases, administrative law judges were established and empowered to make initial decisions. Act No. 294 of 1978 provides a procedure for their uncontested decisions to become final Commission orders without formal action by the Commissioners. Of the administrative law judge decisions in 1981, 90 percent were subject to the provisions of Act No. 294 and almost 80 percent of these became final without Commission action.

2. The Commissioners and their personal staff spend a small proportion of their time on transportation regulation and usually adopt bureau/office staff recommendations in this area. Transportation decisions are usually based on previous Commission policies or established federal guidelines. Because of their significant impact

on consumers, fixed-utility rate cases dominate the Commissioners' attention. In the cases closed in 1982-83, the Commission granted $558 million in fixed-utility rate increase requests, 60 percent of the nearly $1 billion requested. In contrast, requests for transportation rate increases totaled only $3.8 million, of which the Commission granted 97 percent.

3. The largest proportion of all staff time in the area of transportation regulation is spent in motor carrier and railroad safety and compliance regulation--including inspections, investigations and informal complaint processing. The Commission staff also has a sizable work load associated with truck and taxicab market entry. These activities include processing applications for certificates of public convenience for new and modified service, which are granted based on staff determinations of public need and fitness to supply service. In 1982-83, 130 employees in the bureaus of Safety and Compliance, Non-Rail Transportation, Rail Transportation and Law spent all of their time in transportation regulation. The Joint State Government Commission staff estimates that approximately 28 percent of the total time of the Public Utility Commission's 553 employees was devoted to transportation regulation. At the policy and decision-making level, an estimated 90 percent of the time of the Commissioners and their personal staff and 70 percent of the time of the employees of the Office of Administrative Law Judge were spent on the fixed utilities.

4. The Public Utility Commission regulated more than 4,600 utilities with gross intrastate operating revenues of nearly $11.4 billion in calendar 1981. Almost 91 percent of the revenues were generated by the 685 fixed utilities. Approximately 67 percent of the nearly 4,000 motor and rail carriers regulated were truck common carriers.

5. The Commission budgeted nearly $21 million in 1982-83 to regulate the utilities under its jurisdiction. An estimated 26.7 percent of the total budgeted expenditures (approximately $5.5 million) were devoted to transportation regulation. Of total Commission assessments on utilities, 27.6 percent were paid by the transportation utilities, which percentage closely approximates the percentage of total expenditures for regulating these utilities. Contract carriers are regulated but not assessed because they are not public utilities, to which the assessment provisions of the Public Utility Code apply.

6. In the 1970s and 1980s, Federal Executive, Congressional and regulatory agency initiatives relating to the economic regulation of transportation have centered on relaxing restrictions or deregulation. Under recent federal enactments, intrastate airline entry and rates have been deregulated and the Public Utility Commission has relinquished to the Federal Government its jurisdiction over intrastate railroad rates. By 1985 the rates of intercity buslines will be fully deregulated. While interstate

truck service is still regulated by the Interstate Commerce Commission, the Motor Carrier Act of 1980 significantly relaxed interstate entry, rate and service restrictions.

7. A large majority of the states regulate transportation and fixed utilities in one commission. Six states have transferred the economic regulation of transportation to executive branch agencies. Five have discontinued the rate and service regulation of transportation and have transferred the residual safety responsibilities to their departments of transportation or public safety. At least 40 states regulate only the safety aspects of taxicab service and give the power to regulate entry and rates to the municipalities.

8. In an analysis comparing the national average rates of increase in residential electric and gas rates with those of the 13 states which regulate transportation separately from the fixed utilities, no evidence was found to support a conclusion that states with separate regulation have a better record of holding down fixed-utility rates than states which regulate fixed and transportation utilities in one agency.

9. The staff of the Public Utility Commission estimates that an independent transportation commission with a similar level of overhead expenses as the current Commission would require 280

employees--150 more than currently devoted exclusively to transportation--and a budget of $11 to $12 million. This would more than double the assessment on the transportation utilities and, if shifted forward completely, would cost Pennsylvania consumers an additional $.54 per capita for increased transportation regulation.

10. Two of the three Public Utility Commissioners currently in office who responded to an inquiry expressed the opinion that they are so busy with their fixed-utility responsibilities that they cannot give adequate attention to transportation regulation. They prefer that the Commissioners be specialized in specific areas of regulation. Commissioner James H. Cawley favors the creation of an independent transportation commission and believes fewer than 150 additional employees would be needed. If such an agency is not established, he suggests the division of the Commissoners' responsibilities within the Public Utility Commission--with three Commissioners regulating the fixed utilities and three regulating transportation. (The Public Utility Commission staff estimates such an arrangement would involve about seven additional employees.) Commissioner Michael Johnson favors the separation of the Commissioners' responsibilities into three divisions (fixed utilities, telecommunications and transportation) under the Public Utility Commission, with each division having three Commissioners and its own staff and budget.

11. Senate Resolution No. 35 of 1983 suggests that a division of the Public Utility Commission into two separate entities--one to regulate transportation and the other to regulate the fixed utilities--may permit the Commission to more effectively regulate the rates of the fixed utilities. The findings of this study, conducted pursuant to the resolution, lead to the conclusion that a division of the Commission into two (or three) entities would have the greatest impact upon the regulation of transportation utilities and have only a minimal effect upon the regulation of fixed utilities.

I. Statutory History and Responsibilities

STATUTORY HISTORY

The Commonwealth has regulated public utilities since the colonial period. Initially, the General Assembly controlled the formation, rates and facilities of each utility through its articles of incorporation. Many early acts applied to specific geographic areas and gave local governmental units the regulatory jurisdiction. As the usage, variety and territories of public utilities expanded, general laws were enacted and commissions created to regulate utilities at the State and national levels.[1]

The first regulatory body with comprehensive responsibilities was the Pennsylvania State Railroad Commission, established in 1907 to supervise canals and common carriers of passengers or property by rail or water. This commission was followed in 1913 by the Public Service

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[1]Laws of the eighteenth century applied to various individual water transportation services--canal, ferry and steamboat companies and wharves. In 1849, the first significant general regulatory law was directed at railroads. Discriminatory rates by rail and water common carriers were prohibited by Article 17 of the Pennsylvania Constitution adopted in 1873. During the last decades of the nineteenth century, general incorporation laws were enacted for gas, water, electric, telephone and telegraph companies and petroleum pipelines. The earliest commissions were the Board of Canal Commissioners, established in 1830 and abolished in 1859, and a Water Supply Commission created in 1905.

Commission, which was empowered to extensively regulate not only all common carriers transporting passengers or property between points within the Commonwealth but nontransportation (fixed) public utilities as well.[2]

In 1937 the Public Service Commission was abolished and the Public Utility Commission created to enforce the Public Utility Law (Act No. 286 of 1937). The Commission was given responsibility to regulate the market entry, rates, service and safety of all transportation and fixed utilities, although those operated by municipalities and municipal authorities within corporate limits were excluded. The depression-era act expressed particular concern for the economic health of common carriers and to protect them from harmful competition added a related nonpublic service, contract carriers, to the Commission's jurisdiction.

The Public Utility Law had been amended more than 40 times by the mid-1970s when a Joint State Government Commission task force recodified the law into Title 66 of the Pennsylvania Consolidated Statutes to provide a more understandable and accessible statute.[3] As it was enacted (Act No. 116 of 1978), the new Public Utility Code contained

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[2]Certain regulatory responsibilities over nonrail commercial motor carriers were given to cities in 1915 and to the State Highway Department in 1919. Aircraft were first regulated by city councils and county commissions. A Pennsylvania Aeronautics Commission was created in 1933 by the Aeronautical Code. The commission was abolished and the administration of the code transferred to the new Department of Transportation in 1970.

[3]The legislation introduced by the task force, chaired by Representative Ronald R. Cowell, is contained in Pa. Joint State Government Commission, Proposed Public Utility Code, with Source Notes and Comments (March 1976).

the provisions of Act Nos. 215 and 216 of 1976 which made a number of significant changes in the Public Utility Commission's structure and procedures. These changes proposed by the Senate Committee on Consumer Affairs were intended to make the Commission more impartial, efficient and responsive to consumers and to provide it with energy planning capability.[4]

Subsequent amendments to the code generally have been made to improve procedures, give additional protection to consumers and provide for a "sunset" review of the Commission by the Legislature in 1985 (Act No. 142 of 1981). A 1980 amendment is noteworthy in that it specifically required the Commission to increase the number of certificates of public convenience for taxi service in Philadelphia to a specified limit without consideration of need (Act No. 69 of 1980).[5]

Under recent federal enactments, the Commission no longer regulates the rates of railroads and intrastate airlines and, after 1985, the rates of intercity buslines will be deregulated.

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[4]The committee, chaired by (then) Senator Franklin L. Kury, issued a comprehensive unpublished report, "Report and Recommendations of the Senate Consumer Affairs Committee to Reform the Pennsylvania Public Utility Commission" (September 1975).

[5]The report of the Senate Consumer Affairs Committee recommended that "the Public Utility Commission be mandated to study various proposed alternatives to full economic control of the regulated taxicab industry in Pennsylvania." Ibid., p. 55. At the July 20, 1976, meeting of the Joint State Government Commission Task Force on Public Utility Law, (then) Public Utility Commissioner Helen O'Bannon noted that the regulation of transportation in Pennsylvania represents a "protective, post-depression philosophy" and suggested that less regulation might serve the economy of the Commonwealth and provide increased opportunity for the small entrepreneur.

On April 19, 1983, the Senate adopted Resolution No. 35, directing the Joint State Government Commission to investigate the "feasibility, benefits and costs of a division of the Public Utility Commission into two separate entities, one to regulate transportation-related utilities and the other to retain all other current responsibilities of the Public Utility Commission."[6]

STATUTORY RESPONSIBILITIES

The Public Utility Code charges the Commission with regulatory responsibilities which apply either to all public utilities under its jurisdiction or to specific utility groups. These responsibilities are not only economic in nature (centering on entry, prices and utility profits and fiscal management) but also are concerned with adequate and safe service to the public. An integral feature of regulation is the restriction of market entry based on need, which has a powerful economic impact by limiting competition in regulated markets. The creation of monopolies for fixed utilities traditionally has been justified on the grounds that it would be impractical and unduly expensive to permit more than one supplier in a given territory. The regulation of common carriers, which normally would operate under highly competitive conditions, is intended to insure adequate service to the public in all locations and to prevent discriminatory rates. The need for extensive rate regulation arises from the restriction of competition.

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[6]Sponsored by Senators Lynch, Hankins, Ross, Singel, Mellow, Stapleton, Stout, Bodack, Zemprelli, Musto, Scanlon, Bell, Loeper and Fumo.

General Regulatory Responsibilities

Although the Commission's general responsibilities are applicable to all public utilities,[7] the activities or technical expertise required to regulate each group may be highly specialized. In addition, the regulatory emphasis may vary widely from group to group depending on the nature of the utility, the conditions of the market served and the related regulatory responsibilities of other agencies. General responsibilities of the Commission as provided in the Public Utility Code relate to:

1. Market Entry. A certificate of public convenience must be issued by the Commission before any utility may initiate, change or terminate its service in the Commonwealth. Public need and fitness of the supplier are paramount considerations in approving certificates. Chapter 11 of the code requires that certificates be granted only if "necessary or proper for the service, accommodation, convenience or safety of the public."

2. Utility Rates. Chapter 13 of the code mandates "just and reasonable," nondiscriminatory rates that "provide a just and reasonable return on the fair value of [a utility's] property used and useful in the public service." In fixing the rate of a common carrier by motor vehicle, the Commission may, in lieu of other legal standards, relate "the fair and reasonable

[7]Contract carriers and brokers are not included in the definition of "public utility" and are, therefore, not governed by the general provisions of the code.

operating expenses, depreciation, tax and other costs of furnishing service to operating revenues." The rates of any utility under the jurisdiction of a federal regulatory body are to correspond, as far as practicable, with the rates of the federal body.

3. Utility Service and Facilities. Chapter 15 of the code requires every public utility to "furnish and maintain adequate, efficient, safe and reasonable service and facilities [plant and equipment] . . . as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public." The Commission may prescribe standards of service and facilities and enforce compliance. The code gives the utilities and the Commission responsibilities relating to the reporting of accidents, accurate metering of service and discontinuation of service due to nonpayment of bills.

4. Financial Operations. The Commission is given other rate-related responsibilities under Chapters 5 and 17 of the code. The Commission is empowered to specify systems of accounts for utilities, to supervise the depreciation of property serving as the rate base, to require the submission of information and reports, to inspect facilities and records, to conduct certain audits, to approve all contracts between municipal corporations and public utilities and to approve fixed-utility budgets. Chapter 19 requires the Commission to authorize the issuance or assumption of securities by a utility

and Chapter 21 mandates Commission approval of any contract of a utility with an affiliated interest (owning 5 percent or more of the utility's voting securities).

Special Transportation Responsibilities

Common carriers[8]--This term as defined in the Public Utility Code includes carriers by water, land or air offering service to the general public for compensation between points within the Commonwealth (e.g., truck companies, airlines, boats and ferries, buslines, freight forwarders, railroads and taxicab companies). Chapter 23 of the code calls for a "reasonably sufficient" number of adequately powered, safe facilities operated "with sufficient frequency, at such reasonable and proper times, and to and from such stations or points" as the convenience and safety of the public may require. The Commission may allow additional carriers in a market if it deems the facilities available insufficient and may order changes in time schedules, improvements in service, transfer and through service arrangements, joint rates, rates related to the value of shipments and the provision of adequate crews. The Commission must enforce provisions requiring receipts and bills of lading and carrier liability for loss or damage of property transported. Regulations for carriers engaged in interstate commerce are to conform with those of any federal regulatory body.

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[8]Only service provided by a municipal corporation outside of the corporate limits is subject to Commission jurisdiction. Specifically excluded from regulation is transportation of school children, of agricultural products by the farmer, of rubbish and road construction materials, of voting machines, of certain types of wood or lumber, of wrecked or disabled motor vehicles or of any injured, ill or dead person.

Contract carriers and brokers--Contract carriers (largely trucking companies) differ from common carriers in that the contract carrier holds "himself out as serving or ready to serve only particular individuals."[9] A broker provides or arranges for transportation but does not assume custody as a carrier. The purpose of contract carrier regulation is to protect common carriers from harmful competition by contract carriers.[10] Under Chapter 25, the Commission is required to issue permits for operation as a contract carrier and licenses for brokers and may prescribe minimum rates and suspend, defer or disapprove proposed rate reductions. The Commission is also empowered to establish requirements for accounts, records, reports, safety of service and facilities and insurance.

Railroads--In addition to the responsibilities applicable to railroads under the code's general provisions and those for common carriers, the Commission under Chapter 27 must carry out specific supervisory duties relating to the construction, alteration, abolition and safety of railroad crossings, including determining compensation for damages sustained by adjacent property owners, and relating to railroad signaling arrangements to protect trains from collision. The Commission is also required to apportion costs, when there is disagreement, for switch connections with lateral railroads and private sidetracks.

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[9]Merchants Parcel Delivery, Inc. v. Pennsylvania Public Utility Commission, 150 Pa. Super. 120, 129, 28 A.2d 340 (1942).

[10]Brink's, Inc. v. Pennsylvania Public Utility Commission, 56 Pa. Cmwlth. 371 (1981), 424 A.2d 1010.

Taxicabs--Taxicabs are regulated under the general provisions of the code and those pertaining to common carriers. In addition, Act No. 69 of 1980 amended Chapter 11 to authorize the Commission to increase the number of certificates of public convenience in force in Philadelphia without proof of need, or without hearings,[11] if the Commission finds the applicants capable of providing dependable taxicab service. The Commission at its discretion could issue temporary certificates immediately, in 30 days (the effective date of the provision) issue up to a maximum of 1,400 certificates, in 18 months up to 1,700 and in 30 months up to 2,000. The amendment required the Commission in two years of the effective date to undertake a formal investigation of the future need for taxicab service in the city and report its findings and recommendations to the Senate and House consumer affairs committees.

Administration and Enforcement

The Public Utility Code in Chapter 3 provides for a Commission of five full-time members appointed by the Governor and approved by two-thirds of the members of the Senate for terms of ten years. The Commission's powers are limited to those expressly granted by, or arising from necessary implication of, the law. The Commission has many of the powers of a court of the Commonwealth (power to subpoena and examine witnesses, administer oaths, take testimony and depositions and compel

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[11]Hearings are not required except when there is a threat or existence of a labor dispute and no application shall be denied without the right of hearing (§ 1103(d)).

the production of documents). The code requires that the Commission's regulations, determinations and orders are conclusive unless set aside or modified by judicial review. The Commission may fine violators and bring suit to restrain violations.

The Commission is specifically empowered to appoint and set the salaries of administrative law judges, who hear cases and issue initial decisions;[12] of a secretary, employees and consultants; of counsel, who examine witnesses at hearings, represent the Commission in court and bring suit to enforce the code; and of inspectors with police powers.[13] The Commission is further required to establish an office of chief counsel; a law bureau; a bureau of conservation, economics and energy planning; a bureau of consumer services to receive and respond to complaints; and other bureaus to perform duties relating to rates and common and contract carriers.[14] The Commission's expenses are defrayed by assessments and fees collected from the public utilities by the Commission and its proposed annual budget must be submitted to the Governor and approved by the General Assembly.

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[12]The administrative law judges were established by the 1976 reorganization law to replace the hearing examiners, who made no recommendations. Act No. 294 of 1978, amending the Public Utility Code, provided a mechanism for uncontested administrative law judge decisions to become final without formal action by the Commissioners. The Commission staff reports that of the 1981 administrative law judge decisions, 90 percent were subject to the provisions of Act No. 294 and almost 80 percent of these became final without Commission action.

[13]Inspectors are authorized to stop vehicles on the highways of the Commonwealth to inspect cargoes and applicable receipts or bills of lading.

[14]This bureau/office structure was required in the 1976 reorganization law.

II. Regulatory Performance

REGULATORY ACTIVITIES AND PROCEDURES

Entry

The Commission controls the number of common and contract carriers in a given area and the nature of their service under its authority to grant certificates of public convenience. Responsible for processing applications for certificates as well as for insurance and tariff filings for all carriers other than rail, the Bureau of Non-Rail Transportation handles numerous applications each year. For example, the bureau in 1981-82 processed approximately 1,500 applications for new and additional motor carrier operating authority, most of which were filed by truck and taxi services.[15]

Applications are initially received by the Secretary's Bureau, which serves as prothonotary for the Commission. After an application for new service is docketed by the Bureau of Non-Rail Transportation, a short notice describing each applicant's geographic area and service is

[15]Fixed-utility applications are fewer in number. Of the applications for new service received in 1981-82, 109 were for fixed utilities and 1,272 for transportation services. The Formal Complaints Division of the Bureau of Safety and Compliance is responsible for processing noncontested applications for certificates of public convenience for all fixed utilities.

published in the Pennsylvania Bulletin. For noncontested applications, the bureau prepares a proposed order, which is placed on the agenda for action by the Commissioners in public session. For contested applications, a hearing is held before an administrative law judge, whose initial decision becomes final unless exceptions are filed by the parties involved or at least two Commissioners desire to formally review the case. When exceptions are filed, the case is returned for another hearing before an administrative law judge, whose decision again becomes final unless appealed to the Commission or the Commissioners decide to review the case.

According to a Commission staff study, about half of all new filings for trucking services are contested. Of these, roughly 40 percent are settled prior to any hearing, 15 percent are settled at prehearing conferences and 45 percent (or 22 percent of the total number of applications) actually go to hearing.[16] An unprotested application typically takes 3 to 6 months to process while a protested application takes 6 to 18 months.

Entry is also gained by obtaining the certificate (or permit) of an existing carrier via a transfer. Certificated carriers often sell their operating rights. Almost all transfers are processed by the Bureau of Non-Rail Transportation without being sent to the Office of Administrative Law Judge because the issues are narrower and fewer

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[16]Richard M. Sandusky, "Report to the Commission of the Transportation Regulation Reform Task Force" (April 1981), p. 2-6.

protests are filed; thus, the transfer process takes much less time--most transfers are acted upon within two to three months of their filing date.[17]

The Commission staff task force report on motor carriers of property (common and contract)[18] describes the Commission's entry control policies and constraints as follows:

> The Commission has developed a policy through case law of requiring the applicant for a certificate to prove that it is fit, and that a need for the proposed service exists. Statements of shipper support, the nature of the service to be offered, and the adequacy of existing service are all factors which the Commission will consider in attempting to determine whether or not the granting of a certificate serves the public interest. Certificated carriers with conflicting authority are allowed to file protests but the Commission is not required to automatically reject applications for new service simply because an existing carrier could provide the service or if the existing carrier would be adversely impacted. . . . Instead, the Commission has the flexibility to weigh the potential benefits of new service against any negative impacts it may have either on existing carriers or the shipping public. . . . But entry by new carriers is still difficult for some segments of the industry and the regulatory costs remain high both in terms of processing applications and providing the necessary review and enforcement functions.[19]

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[17]Ibid., p. 2-12.

[18]Another Public Utility Commission staff report indicates that the 90 largest regulated trucking firms in 1977 (each having annual gross intrastate revenue of $900,000 or more) acccounted for 45 percent of total regulated trucking industry revenues. Together they held approximately 1,800 operating rights. Sandusky, Brown, Geltner and Greene, Bureau of Conservation, Economics and Energy Planning, "Report to the Commission on the Effects of Entry Control on Motor Carriers in Pennsylvania" (January 1979), p. 8-5.

[19]Sandusky, "Report to the Commission of the Transportation Regulation Reform Task Force," p. 3-9 and 3-10.

As noted earlier (p. 9), the act of June 19, 1980, No. 69, required the Commission to issue at its discretion within 30 months a maximum of 2,000 certificates of public convenience for taxicabs in Philadelphia with the fitness of the applicant to provide dependable service the primary consideration. The enactment required the Commission to begin a formal investigation of the need for future service in June 1982. After a hearing on September 1, 1982, an administrative law judge issued the initial decision in June 1983 that no additional taxicab certificates be issued in the city of Philadelphia and that the Commission again investigate the need for additional taxicab certificates in 1984.[20] The decision is currently under Commission review.

In response to an inquiry, the Commission staff reports that because of ongoing complaint proceedings against existing carriers it is difficult to provide an exact figure for the number of certificates for taxicab service within the city at a given time. Prior to the passage of Act No. 69 fewer than 600 taxicabs operated within the city of Philadelphia and recently more than 1,500 certificates were in force. However, 800 of these were granted to the Yellow Cab Company (now operated by Metro Transportation Company), which prior to the enactment held only one certificate under which it was permitted to operate an unlimited and unspecified number of taxicabs.

Because to date one taxicab company has been able to acquire most of the additional certificates issued, the present results of the

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[20]Pa. P.U.C., ID-820363 (1983).

implementation of Act No. 69 cannot be considered the outcome of a valid experiment in relaxing entry restrictions in a regulated Pennsylvania market.

Ratemaking

The staff of the Bureau of Non-Rail Transportation handles carrier tariff filings as well as reviews the carriers' annual reports for information on their operations and financial conditions. In general, the procedures for approving transportation and fixed-utility rate requests are the same. The Bureau of Non-Rail Transportation or the Bureau of Rates, as the case may be, prepares a recommendation regarding the rate request and forwards it for consideration by the Commission in public session. The Commission either approves or suspends the request. The Commission may also approve an option order in lieu of suspension, if the requesting utility agrees to a smaller increase. If the Commission suspends the increase, further investigation and hearings before an administrative law judge are conducted. Here, however, the similarity ends between fixed- and transportation-utility ratemaking. The analysis of fixed-utility rates is far more complex, the increases involve far greater dollar amounts and they are far more likely to be suspended.

All regulated carriers are required to keep on file with the Commission an up-to-date tariff schedule. The staff of the Tariff Section reviews new and increased rates to determine whether they are reasonable based on Commission guidelines. An operating ratio (operating

expenses divided by gross intrastate operating revenues) is used as a gauge of the carrier's health; a ratio of 93 percent or less is considered as being adequate.[21] If the rates filed appear excessive, an attempt is made by the staff to negotiate a lower rate.

The Commission permits truck tariffs to be filed independently by a carrier or as a part of a conference filing, which involves the following:

> In the case where rate bureaus play a major role, the rate bureau acts as a centralized service agency for its member carriers. It collects data and prepares uniform rate proposals that the carriers themselves vote upon. Once the carriers agree on a set of proposed rates, the rate bureau will prepare and submit to the Commission a tariff containing the proposed rates and the required supporting financial information. . . . rates are set based on average costs. . . . all of the rates are voted upon by all carriers irregardless of whether or not they carry the particular commodities or serve the particular points being considered.[22]

Rate bureau members have the option of not adopting the final proposed rates. In 1979, 10 conference and 1,000 independent truck carrier filings were made; conference filings are more likely to be suspended due to the complexity of the filings and the larger dollar amounts involved.[23]

Safety and Compliance

Transportation regulation activities in the Bureaus of Safety and Compliance and Rail Transportation include inspections, investigations,

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[21]Sandusky, "Report to the Commission of the Transportation Regulation Reform Task Force," pp. 3-25 - 3-26.

[22]Ibid., p. 3-21.

[23]Ibid., p. 2-35.

accident and project review, technical assistance in prosecuting cases before the administrative law judges and cost allocation of railroad crossing improvements.

Fixed-utility safety and service activities in the Bureau of Safety and Compliance concentrate heavily on gas safety enforcement. This activity is 50 percent funded by the Federal Government, which regulates natural gas as a transportation utility. The Gas Safety Section of the bureau serves as agent of the Materials Transportation Bureau, U.S. Department of Transportation. The Standardization Laboratory of the Bureau of Safety and Compliance annually tests the electric standards and gas provers used by the utilities to calibrate meters and biennially, the master meters of steam heating companies. In August 1983 the lab began the annual testing of the master meters utilized by water utilities to calibrate individual meters.

Motor Carriers--The Carrier Safety Division of the Bureau of Safety and Compliance has staff in each of the Commission's five district offices (Altoona, Harrisburg, Philadelphia, Pittsburgh and Scranton). The division includes 37 officers who inspect intrastate common and contract carriers. A staff of nine of the federal Bureau of Motor Carrier Safety (BMCS), U.S. Department of Transportation, is responsible for safety inspections (comparable to the State's) of interstate carriers in Pennsylvania and neighboring states.

The State motor carrier inspectors are concerned not only with safety defects that may result in an accident or breakdown but also with economic violations, such as operating without Commission authority or

using a route or carrying cargo that has not been approved by the Commission.[24] Following are 1982-83 output measures of motor carrier (truck, bus and taxi) safety and compliance activities:[25]

Vehicles inspected for safety:	5,233 (3% in violation)
Vehicles checked for economic violations:	4,718 (35% in violation)
Trucks checked for hazardous substance safety:	576
Informal complaints processed:[26]	496
Fines imposed:	$180,635

Enforcement may involve a warning letter or, when compliance is not achieved, a formal Commission complaint. If the carrier denies the charge, the case is processed through the administrative law judge system using almost the same procedures as in protested application cases.

Rail Freight Cars and Tracks--The Rail Safety Section of the Commission's Bureau of Safety and Compliance administers the Federal Railway Administration's (FRA) Track and Freight Car Safety Standards, for which the Commonwealth receives a 50 percent reimbursement. The

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[24]If a common carrier operates without Commission authority or fails to pay its assessment, the Commission directs PennDOT's Citation Processing Division to suspend the registration of the vehicles or, in the event of assessment nonpayment, the registration of all vehicles licensed by the carrier.

[25]Regulated carriers are also subject to the Vehicle Code's annual inspection requirements enforced by the Pennsylvania State Police. Limited in field staff, PennDOT's Hazardous Substances Division in November 1980 authorized the Commission's enforcement officers to assist in the division's work.

[26]Of approximately 8,500 informal complaints handled by the Commission in 1980-81, over 90 percent are for fixed utilities.

FRA uses Commonwealth services because of insufficient federal personnel (1 - 1.5 employee years) devoted to inspections in Pennsylvania. The Commission's enforcement efforts resulted in the correction of numerous defects, as shown by 1982-83 output measures:

Freight cars inspected:	36,588 (20% found defective)
Track miles inspected:*	9,913 (3,004 defects found)
Informal complaints investigated:	290**
Accident reports analyzed:	1,140

*Approximately 16,400 track miles in Pennsylvania.
**Includes 47 crossing complaints.

Defects are recorded on an inspection form and copies are forwarded to the utility and the Federal Railroad Administration. When the defect is repaired, the utility notifies the FRA, which in turn notifies the bureau.

Railroad Crossings--The Commission has sole responsibility for supervising railroad/highway crossings at, above and below grade. The Bureau of Rail Transportation administers these responsibilities, which pertain to approximately 5,000 bridges and 7,500 grade crossings. A Commission order is required before a crossing may be constructed or changed. These orders apply to the Department of Transportation, the railroads or local governments. In 1981-82, over 400 grade and bridge crossings were upgraded on Commission orders.

Addressing the serious problems associated with the Commonwealth's many old, overstressed bridges, the "Highway-Railroad and Highway Bridge

Capital Budget Act for 1982-83" (Act No. 235 of 1982) authorizes the expenditure of nearly $1 billion from current State revenues and from bond issues for repair, rehabilitation and replacement of highway bridges by the Department of Transportation and local governments.

WORK LOAD, STAFF AND EXPENDITURES

The Public Utility Commission regulated more than 4,600 public service companies with total gross intrastate operating revenues of nearly $11.4 billion in calendar 1981. As shown in table 1, the 685 fixed utilities generated over $10.3 billion in revenues--almost 91 percent of the total of all regulated utilities. The 16 electric utilities alone accounted for $5.5 billion. In contrast, the revenues of all transportation utilities together totaled approximately $1.1 billion. More than half of all companies regulated are motor carriers of property (truck common carriers) which accounted for over 59 percent of transportation intrastate revenues; railroad revenues represented about 32 percent.

In 1982-83, the Commission employed a staff of approximately 550 and spent nearly $21 million to regulate the utilities under its jurisdiction. The budgeted expenditure of each of the Commission's organizational units is allocated to the fixed utilities and transportation utilities in table 2. Chart 1 illustrates the bureau/office organization.

Table 1

GROSS INTRASTATE OPERATING REVENUES OF
UTILITIES REGULATED BY THE PUBLIC UTILITY COMMISSION
CALENDAR 1981

Fixed-utility group	Number	Gross intrastate revenues (millions)	Transportation utility group	Number	Gross intrastate revenues (millions)
Electric	16	$5,518.84	Motor common carriers		
Gas	59	2,544.01	(property)	2,650	$627.61
Telephone	56	1,941.45	Railroads	43	339.49
Water	435	165.13	Contract carriers	349	na
Sewer	66	1.29	Taxicab companies	683	52.85
Pipeline	7	24.38	Bus companies	218	38.76
Steam	6	100.77	Ferry & boat	6	.11
Telegraph	2	2.48	Airline	4	.17
Radio T-phone	38	11.41			
Subtotal	685	10,309.76	Subtotal	3,956	1,058.99

na. Not available.

SOURCE: Pennsylvania Public Utility Commission.

Transportation Utilities

As table 2 indicates, an estimated 28 percent of the Commission's total staff in 1982-83 (156 employee years) and an estimated 27 percent of the total budgeted expenditures (approximately $5.5 million) were devoted to transportation regulation. At the policy- and decision-making level, an estimated 11 employee years in the Office of Administrative Law Judge and 2 employee years of the Commissioners and staff were devoted to transportation. As noted in a response by the Public Utility Commission

Table 2

ESTIMATED 1982-83 EMPLOYEE YEARS (FULL-TIME EQUIVALENT STAFF) AND EXPENDITURES ALLOCATED TO FIXED UTILITY AND TRANSPORTATION REGULATION BY BUREAU/OFFICE[1]

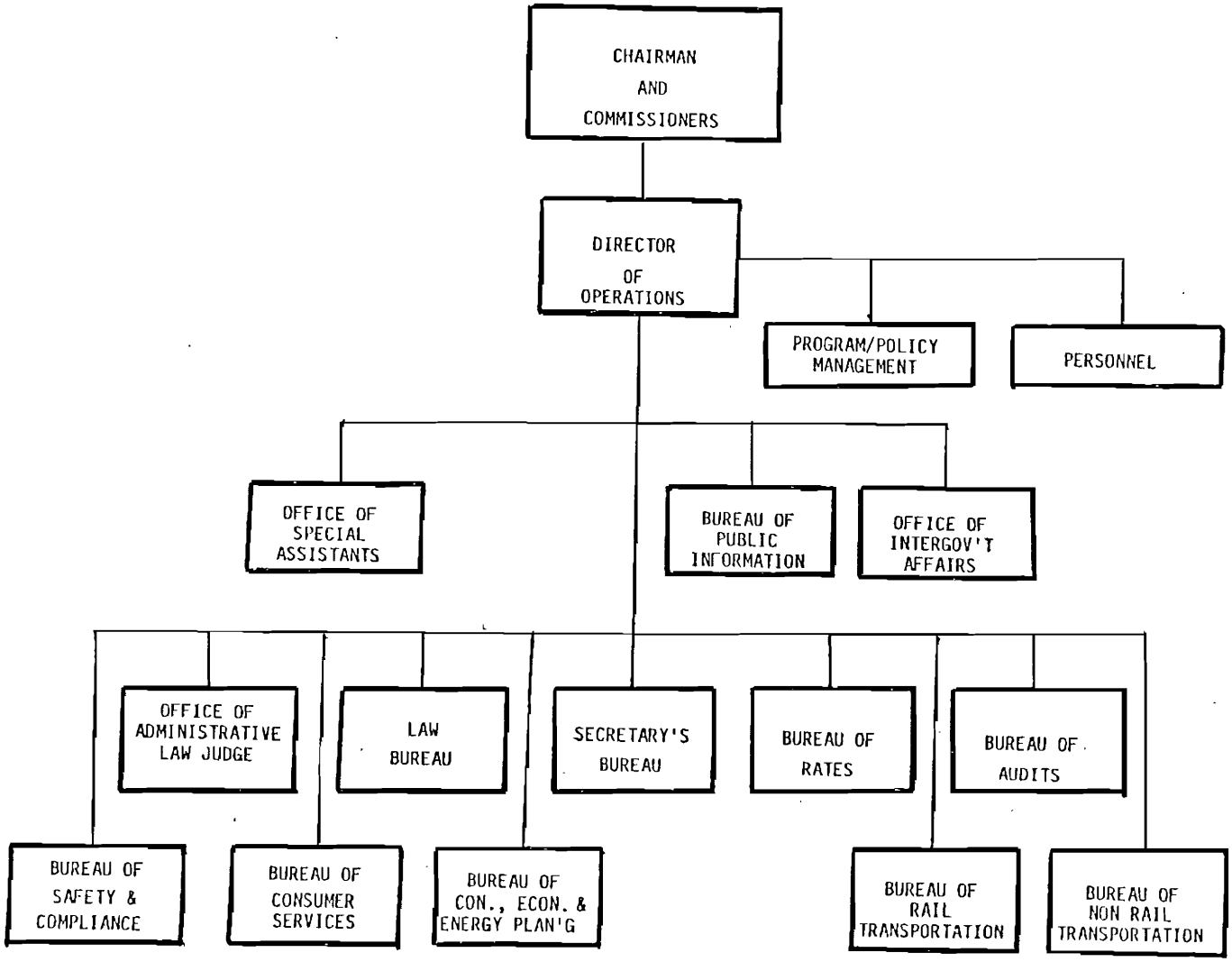
Bureau/Office	Employee years		Budgeted expenditures	
	Fixed utility	Transportation utility	Fixed utility	Transportation utility
Commissioners and staff	34.0	2.0	$1,414,200	$83,200
Special Assistants	7.0	1.0	268,450	38,350
Intergovernmental Affairs	3.0	--	93,400	--
Public Information	4.0	--	154,700	--
Director of Operations	26.5	4.5	1,291,100	219,300
Secretary	60.0	11.0	1,856,000	340,300
Law	44.0	5.0	1,855,300	210,800
Administrative Law Judge	36.0	11.0	1,816,800	555,100
Rates	83.0	--	2,986,900	--
Non-Rail Transportation	--	36.0	--	1,168,400
Rail Transportation	--	13.0	--	581,400
Conservation, Economics and Energy Planning	12.5	.5	550,300	22,000
Consumer Services	38.0	--	1,192,900	--
Safety & Compliance	15.0	72.0	484,800	2,327,100
Audits	34.0	--	1,290,200	--
Total	397.0	156.0	15,255,050	5,545,950
Percentage of total	71.8%	28.2%	73.3%	26.7%

[1]The Public Utility Commission reports total budgeted expenses of $20,801,000 including $275,000 in federal funds. Expenditures for salaries and fringe benefits total $17,723,076.

SOURCE: Estimates of staff of Joint State Government Commission based on actual bureau/office budgets and allocated to transportation and fixed utilities by personnel estimates. The Public Utility Commission reports that it does not maintain bureau/office expenditure records by utility group. Personnel estimates were based on staff complement data supplied by the Public Utility Commission and on data in Sandusky, "Report to the Commission of the Transportation Regulation Reform Task Force" (see table 3).

Chart 1

ORGANIZATION OF THE PUBLIC UTILITY COMMISSION



SOURCE: Organization Manual: Pennsylvania Public Utility Commission (July 1983), p. 9.

to an informational request by the staff of the Joint State Government Commission:

> Fixed and Transportation responsibilities come together essentially at the Commissioner level for decision making purposes. Because much of this decision making is largely pro forma review of staff recommendations based on previously determined Commission policy issues, or established Federal guidelines, the present burden upon Commissioners is determined by the effectiveness of staff presentation of the applicable issues. This should not suggest that the transportation issues are unimportant, but rather that they are less complex, often entail repetitive subject matter and usually can be processed expeditiously.

The heaviest emphasis in transportation regulation is in the area of safety and compliance. In 1982-83, more than 70 employees of the Bureau of Safety and Compliance were involved in motor carrier and railroad car and track inspection and enforcement activities. Rail/highway crossing safety is the responsibility of the 13 employees in the Bureau of Rail Transportation. For both fixed and transportation utilities, the nature of many of the Commission's activities in this area and the resources applied reflect to a considerable extent federal requirements and funding. Because of the large number of regulated common carriers and market entry restrictions, the Commission also has a sizable work load associated with the certification of transportation utilities. Transportation entry and rates are the responsibility of the 36 employees of the Bureau of Non-Rail Transportation.

In a letter to the director of the Joint State Government Commission, Public Utility Commissioner James H. Cawley notes that the disputed transportation matters on the public meeting agenda of the commissioners most often involve "the cost allocation for improvements at

a rail/highway crossing or a protested application for a certificate of authority to transport goods in all or part of the Commonwealth."[27]

The Commission's transportation ratemaking activities center chiefly on motor carriers of property (trucks) and taxicabs. The federal Airline Deregulation Act of 1978 ended airline intrastate rate and entry control. The federal Staggers Rail Act of 1980 required regulatory authorities desiring to retain jurisdiction over intrastate railroad rates and service to obtain certification from the Interstate Commerce Commission (ICC). In March 1983, the Public Utility Commission communicated to the ICC that it is no longer interested in certification, thus ending intrastate railroad rate regulation by the Commission and transferring the function to the ICC. The Federal Bus Regulatory Reform Act of 1982 lifts controls over the rates of intercity buslines (such as Trailways and Greyhound) by 1985 and bases entry on fitness to supply service in the public interest.[28]

A study by the Commission's Bureau of Conservation, Economics and Energy Planning, prepared with the participation of a multi-bureau team, describes in detail the employee activities, time and costs involved in regulating the trucking industry (common and contract carriers), which represent approximately 80 percent of all carriers under the Commission's

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[27]September 1983 response to a letter to each of the three Public Utility Commissioners (two vacancies exist) inviting their views on the issue of separating the transportation function from the fixed-utility function. Commissioner Michael Johnson also responded.

[28]Much of Pennsylvania's bus transportation within urban areas is provided by municipal authorities beyond the scope of the Commission's jurisdiction.

jurisdiction.[29] The study divides the regulatory process into four general categories:

1. Entry (applications for certificates of public convenience, certificate transfers and insurance filings)

2. Rates (tariff filings, rate investigations and annual report review)

3. Service (complaints, road checks, safety checks and investigations)

4. Other (administration, policy formulation and information).

Table 3 summarizes the number of employee years devoted to each of these categories in 1979. Approximately 45 of the 99 employee years were involved in truck service (safety and compliance) regulation. Over 32 were devoted to entry regulation.

Fixed Utilties

As evident from table 2, the Public Utility Commission in 1982-83 allocated to fixed-utility regulation more than 70 percent of its staff and fiscal resources--nearly 400 employee years and over $15 million in budgeted expenditures. An estimated 90 percent of the time of the Commissioners and staff and about 70 percent of the time of the Office of Administrative Law Judge are spent on the fixed utilities. In his letter, Commissioner Cawley commented on the fixed-utility work load:

> I assure you that the transportation matters receive a significantly reduced amount of time as opposed to rate matters, particularly if the Commission is under

[29]Sandusky, "Report to the Commission of the Transportation Regulation Reform Task Force."

the gun to decide one or more major fixed utility rate cases. It is a major undertaking for an individual Commissioner and his personal staff to prepare for voting on several contested issues in a major rate case. There simply is not time to consider other matters which probably do not affect as many citizens as rate case will. . . .

On the other hand, there is nothing less than a revolution occurring in the telecommunications industry. There is major controversy concerning the construction of nuclear power plants by electric

Table 3

EMPLOYEE YEARS DEDICATED TO
PROPERTY CARRIER (TRUCK) REGULATION PROCESSES, 1979

Bureau/office	Entry	Rates	Service	Policy formulation, information, administration	Bureau/office totals
Non-Rail Transportation	12.08	6.43	--	5.33	23.84
Safety & Compliance*	4.91	--	35.88	4.35	45.13
Administrative Law Judge	7.55	**	3.17	.55	11.27
Law	1.74	.48	.48	1.50	4.20
CEEP	--	--	--	.45	.45
Secretary	4.28	.35	4.47	1.93	11.03
Special Assistants	.79	--	.05	--	.84
Commissioners and staff	.85	.38	.48	.50	2.20
Process totals	32.20	7.64	44.52	14.61	98.96

*Includes the Enforcement Division of the Law Bureau.
**Because rate suspensions occur so infrequently, the ALJ office did not estimate the amount of time spent on rate regulation.

SOURCE: Richard M. Sandusky, Public Utility Commission, Bureau of Conservation, Economics and Energy Planning, "Report to the Commission of the Transportation Regulation Reform Task Force" (April 1981), p. 2-67.

> utilities. The gas industry is in turmoil. Several of the 425 water companies we regulate are in such poor financial shape that they are unable now to cope with major problems confronting them (the need to replace antiquated plant, pollution, drought). A single Commissioner could spend all of his or her time just dealing with the problems of one of these fixed utility industries.

The overwhelming significance of fixed utilities in completed rate cases is emphasized in table 4. In 1982-83 the Commission completed 225 fixed-utility rate cases requesting increases totaling nearly $1 billion and granted 60 percent of the amount requested. In contrast, the Commission completed 250 transportation rate cases and granted 97 percent of the $4 million increase requested.

The staff resources (155 employee years) of the bureaus of rates, audits and consumer services center on fixed-utility rate matters. More than 40 employees of the Law Bureau have widely ranging fixed-utility responsibilities and large proportions of the offices of the director of operations and the secretary provide administrative and clerical support.

Table 4

RATE INCREASES REQUESTED AND GRANTED
1982-83

Utility group	Rate cases completed	Rate increase requested (millions)	Rate increase granted (millions)	Percentage granted
Fixed	225	$931.27	$557.65	60
Transportation	250	3.86	3.75	97
Total	475	935.13	561.40	60

SOURCE: Pennsylvania Public Utility Commission.

ASSESSMENTS

Table 5 shows each utility group's share (assessment) of the 1982-83 operating budget for the Public Utility Commission.[30] Calendar year 1981 Commission expenditures attributable directly to a utility group amounted to $7,538,845 of which 47.3 percent was assigned to fixed utilities and 52.7 percent to transportation utilities. The remaining 1981 expenditures (indirect charges) in the amount of $10,344,492 were allocated among utility groups on the basis of gross intrastate revenues of which transportation utilities account for 9.3 percent and fixed utilities 90.7 percent.

Total 1981 charges, therefore, amounting to $17,883,337 as assigned to each group become the basis for allocating the 1982-83 assessment among groups. Since transportation utilities account for 27.6 percent of total 1981 charges, such utilities as a group pay 27.6 percent of the total 1982-83 assessment of $19,552,668.

Although the greater part ($10,344,492 or 57.8 percent) of total charges are allocated among utility groups on the basis of intrastate revenues--which bear no particular relationship to Commission expenditure breakdown--the estimated allocation of bureau expenditures shown in table 2 assigns 26.7 percent of total Commission expenses to transportation utilities. The division of the total assessment between fixed and

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[30]In addition to assessments for the Pennsylvania Public Utility Commission expenses, utilities are assessed for utility-related activities in accordance with Act No. 15 of 1977, as amended, by the Office of Consumer Advocate in the Office of the Attorney General.

Table 5

COMPONENTS OF 1982-83 PUBLIC UTILITY COMMISSION ASSESSMENT COMPUTATIONS

Utility group	Direct charges 1981	Indirect charges 1981	1982-83 Assessment[1]	Assessment as a percentage of 1981 gross intrastate operating revenue[2]
Electric	$1,236,746	$5,025,851	$6,847,182	.1241%
Water	839,382	150,380	1,082,152	.6553
Gas	945,185	2,316,757	3,566,430	.1402
Telephone and telegraph	468,946	1,778,283	2,456,998	.1257
Common carrier by motor vehicle[3]	3,041,593	650,795	4,037,166	.5637
Railroad	928,323	307,193	1,350,847	.3979
Boat and ferry	0	94	104	.0969
Aircraft	0	154	166	.0988
Pipe line	20,724	22,170	46,897	.1924
Sewage disposal	33,288	1,169	37,674	2.9252
Steam heat	24,558	91,646	127,051	.1261
Total	7,538,845	10,344,492	19,552,668	.1720
Fixed utilities	3,568,929	9,386,256	14,164,384	.1374
Percentage of total	47.3%	90.7%	72.4%	
Transportation	3,969,916	958,236	5,388,283	.5088
Percentage of total	52.7%	9.3%	27.6%	

[1]Includes initial assessment of $17,747,668 and supplemental assessment of $1,805,000. Under the Public Utility Code (§ 510), assessments for the various utility groups are derived by first identifying the expenditures directly chargeable to the regulation of each utility group during the previous calendar year. The remaining expenditures (indirect charges) are then allocated to each group based on the group's proportionate share of total gross intrastate operating revenues. Each individual utility then must pay a portion of the total assessment for its group on the basis of the proportion that its gross intrastate revenues bear to the revenues of the whole group. The revenues for 1981 are given in table 1. Assessments for all utility groups together may not exceed .3 percent of the total gross operating revenues of the preceding calendar year (1981).

[2]See table 1 for revenues.

[3]Includes truck common carriers, taxicab companies and bus companies.

SOURCE: Pennsylvania Public Utility Commission.

transportation utilities, therefore, appears to closely approximate the division of actual Commission expenses between the two groups.

The variation in assessment as a percentage of intrastate revenues shown in the last column of table 5 stems directly from the differences in the amounts of direct charges assigned to each group.

Contract carriers, which are regulated by the Commission in the same manner as common carriers, are deemed nonassessable due to the fact that they are not public utilities, to which the assessment provisions of the Public Utility Code apply. A House bill (No. 938 of 1981) proposed to have the Commission assess contract carriers by motor vehicle.

III. Regulation by the Federal Government and Other States

FEDERAL REGULATION

Utilities with interstate operations are subject to the economic regulation of federal agencies and those which also provide service within the Commonwealth are subject to both federal and State regulation. Federal agencies which regulate the economic activities of utilities are the Interstate Commerce Commission (rail, motor and water carriers), the Civil Aeronautics Board (air carriers), the Federal Maritime Commission (transocean freight shipments), the Federal Energy Regulatory Commission in the Department of Energy (gas and electric utilities and oil pipelines) and the Federal Communications Commission (telecommunications).

The oldest of these agencies, the Interstate Commerce Commission, was created by Congress in 1887, primarily at the insistence of the Granger Movement to protect its members--farmers and small businessmen--from the discriminatory practices of the railroads. Congress placed the interstate regulation of common and contract motor carriers (trucks and buses) under the ICC in the Motor Carrier Act of 1935 and in the 1920s and 1930s created the other industry-specific regulatory commissions or

their forerunners.[31] In addition to these, public utilities are also subject to the regulations of many other federal agencies with environmental, safety, health, financial and general business missions.

Federal efforts of the 1970s and 1980s to relax or eliminate the economic regulation of business have had considerable impact on transportation utilities. Since the creation of the Interstate Commerce Commission, many have criticized regulation by quasi-judicial governmental commissions as being slow, costly, ineffective, unduly protective of the industries regulated or unnecessary.[32] Much of the initial economic justification for deregulation was set forth during the 1960s and early 1970s by George J. Stigler, recipient of the Nobel Prize for economics in 1982 for his "seminal studies of industrial structures, functioning of markets, and causes and effects of public regulation."[33]

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[31]The popularity of the independent regulatory commission at the state and federal levels in the early decades of the twentieth century is attributed to the Progressives, who held a deep distrust of politicians and urged that responsibility for governmental regulation of business be placed with independent, impartial experts. The establishment of the Federal Trade Commission in 1914 was considered a victory of the Progressive Movement. Marver H. Bernstein, Regulating Business by Independent Commission (Princeton, N.J.: Princeton University Press, 1955). For varied interpretations of the American regulatory experience, see Morton Keller et al., Regulation in Perspective: Historical Essays, ed., Thomas K. McCraw (Cambridge, Mass.: Harvard University Press, 1981).

[32]Bernstein, Regulating Business by Independent Commission and Stephen Breyer, Regulation and its Reform (Cambridge, Mass.: Harvard University Press, 1982).

[33]See Can Regulatory Agencies Protect the Consumer? Rational Debate Seminars (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1971), pp. 1-17. Also see Stigler, The Citizen and the State: Essays on Regulation (Chicago: The University of Chicago Press, 1975).

In 1978, Congress responded to such thinking by passing legislation which eliminated price and route regulation of the nation's airlines. Senator Edward M. Kennedy, who with Senator Howard W. Cannon cosponsored the Airline Deregulation Act of 1978, noted in a paper exploring regulation:

> If we start out in favor of a competitive, unregulated marketplace, the government should intervene only when that market does not work properly--when it fails to fulfill an important public need. When the government does intervene, it should choose the least restrictive means available before turning to self-perpetuating commands and controls. At the least it should examine available alternatives in a regular, structured manner before choosing that route. . . . Where health and safety are not paramount and where industry consists of several firms in a reasonably competitive market, the most likely answer is not to regulate. Instead, we should rely on the discipline of the market, backed by antitrust policy. This has proved true for airlines. It also applies to trucking and other regulated industries. The best example is the Civil Aeronautics Board.
>
> My Administrative Practice Subcommittee studied the CAB for over eighteen months. We found that government regulation itself was the prime cause of high air fares. The CAB had effectively outlawed price competition, while channeling the airlines' competitive energies into excessive scheduling, gourmet meals, and other frills. The result was too many empty seats--for which ticket buyers paid. . . .
>
> Trucking is another patient that needs a healthy dose of competition. Since 1935 we have regulated trucks like trains. We have forced them to use listed routes, pretending they were like railroads whose huge investments in private track needed protection from wasteful competition. We have regulated their rates--not to keep them low, but to keep them high--to protect the monopoly value of their government licenses. We have even allowed them to set prices collusively--behind closed doors--in ways that are felonious in every other industry.

> Trucks are not trains, and we should stop regulating as if they were. What is more, trucks are not public utilities. This is not a case where only a handful of firms can operate efficiently. The way to ensure fair truck rates--and lower prices for all consumers--is to unleash competition, not cage it more tightly.[34]

Making what are regarded as major reforms in trucking regulation, the Motor Carrier Act of 1980 relaxed interstate entry restrictions, increased rate flexibility, reduced requirements for circuitous routes and provided for the gradual phaseout of collective ratemaking.[35] The Railroad Revitalization and Regulatory Reform Act of 1976 and the Staggers Rail Act of 1980 substantially reduced the amount of rate and service regulation of railroads and authorized the Interstate Commerce Commission to exempt certain commodities from all rate regulation. Bus regulatory reform legislation became law in 1982. These acts culminated Executive and Congressional activity which began in 1971 when the shock of the Penn Central Railroad bankruptcy prompted the Nixon Administration

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[34]"Regulatory Reform: Striking a Balance," Reforming Regulation, ed., Clark, Kosters and Miller (Washington, D.C.: American Enterprise for Public Policy Research, 1980), pp. 23-24. For the legislative history of airline deregulation and discussion of trucking and public utility regulation, see Breyer, Regulation and its Reform. Also see Lucille Sheppard Keyes, Regulatory Reform in Air Cargo Transportation (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1980).

[35]Robert E. Mabley and Walter D. Strack, "Deregulation--A Green Light for Trucking Efficiency," Regulation (July/August 1982), p. 37. The authors note: "The Motor Carrier Act of 1980 broadened the reform of trucking regulation initiated in the mid-1970s by the Interstate Commerce Commission (ICC). But it did not go all the way. The commission still (1) restricts entry into the industry, (2) regulates prices, and (3) requires truckers to serve all shippers who want to use the service offered at the prescribed rates. The third of these can, of course, be looked at as giving force to the first two, which are at the heart of ICC regulation."

to propose a transportation regulatory modernization bill dealing with rail, truck and water carriers. The Ford and Carter administrations each proposed legislation to relax trucking and airline regulation.[36]

Deregulators have also focused on certain operations of the fixed utilities, traditionally considered natural monopolies. In the 1970s, competition was permitted in long distance telephone service and provisions for gradual deregulation of natural gas prices were enacted. The Department of Energy is currently looking into the possibility of deregulating the generation of electricity.[37]

STATE REGULATION

The Pennsylvania Public Utility Commission has a counterpart in each of the other states. All commissions regulate the rates of fixed utilities and 36 regulate transportation as well. The utility commissions of three states have never regulated transportation and two states regulate the rates and service of transportation in railroad commissions. As shown in table 6, some states have transferred all or some of their transportation economic regulatory responsibilities from public utility commissions to departments in the executive branch (usually to a department of transportation). Others have discontinued

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[36]See Regulation of Entry and Pricing in Truck Transportation, ed., Paul W. MacAvoy and John W. Snow, Ford Administration Papers on Regulatory Reform (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1977).

[37]Irwin M. Stelzer, "Electric Utilities--Next Stop for Deregulators," Regulation (July/August, 1982), p. 29.

the economic regulation of transportation and have transferred the remaining safety activities to their departments of transportation or the public safety agencies.

At least 40 states regulate only the safety aspects of taxicab service and give the power to regulate entry and rates to the municipalities.[38] Most of the remaining states, including Pennsylvania, regulate taxicabs at the state level in much the same manner as truck and bus common carriers. Maryland regulates taxicab entry and rates, but has special exceptions for Baltimore city and county.

Economic Regulation Outside the Public Utility Commission

In Texas, public utility regulation is carried out by two agencies: the Public Utility Commission and the Railroad Commission. The Public Utility Commission, created in 1975, has jurisdiction over telephone, electric, sewer and water utilities. The Railroad Commission, created in 1890, initially regulated railroads and now also regulates motor carriers, buslines, gas, oil, surface mining and reclamation.

The Alaska Public Service Commission was created in 1959 as a part of the Department of Commerce. The Transportation Commission was within the Public Service Commission. In 1969, the Transportation Commission was given separate status but remains an agency under the Department of

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[38]Unpublished research material prepared under Dr. Gorman Gilbert, Department of City and Regional Planning, University of North Carolina at Chapel Hill, as part of a national survey for the U.S. Department of Transportation.

Table 6

STATES WHICH HAVE TRANSFERRED ALL OR PART OF TRANSPORTATION REGULATION FROM PUBLIC UTILITY COMMISSIONS OR HAVE DISCONTINUED ECONOMIC REGULATION OF TRANSPORTATION

State	Transferred to	Date of transfer	Deregulated	Date of deregulation
Alaska	Dept. of Commerce	1969		
Arizona	Dept. of Public Safety*	1982	X	1982
Arkansas	Transportation Commission	1957		
Florida	Dept. of Transportation*	1980	X	1980
Iowa	Transportation Regulation Board	1975		
Maine	Dept. of Transportation* and Dept. of Public Safety*	1982	X	1982 and 1984
Michigan	Dept. of Transportation* and State Police*	1975 and 1982	X	1975 and 1982**
New Jersey	Dept. of Transportation	1979		
New York	Dept. of Transportation	1970		
Vermont	Dept. of Transportation	1977		
Wisconsin	Dept. of Transportation*	1977	X	1982

*Agency currently regulates safety only.
**Property motor carriers are still regulated with eased entry requirements.

SOURCE: Staff of the various state agencies.

Commerce. The commission regulates property carriers and bus common carriers. (The Alaska Railroad is a unit of the U.S. Department of Transportation and not subject to state regulation.)

In New York, the economic regulation of transportation is lodged in the Office of Transportation Regulatory Affairs, safety and compliance regulation in a division of the Office of Transportation Operations and regulatory counsel in the Office of Legal Affairs.[39] The New York legislature transferred the responsibilities of the public service commission relating to common and contract carriers, bus companies, grade crossing elimination projects and highway/railroad grade crossings to the Department of Transportation in 1970.

Iowa, Vermont and New Jersey transferred the transportation regulation function from their public utility commissions to their departments of transportation in 1975, 1977 and 1979, respectively.

Economic Deregulation

By law and referendum, all passenger and freight rail and motor carriers in Arizona were deregulated July 1, 1982. Arizona's commission will continue to regulate railroad safety and the Department of Public Safety will enforce motor carrier safety. Florida in 1980 deregulated rail and motor carriers of passengers and property and transferred safety and compliance responsibilities to the Department of Transportation.

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[39]N.Y. State Department of Transportation, Organization of the Office of Transportation Regulatory Affairs (1975).

In 1977, Wisconsin transferred all economic regulation of transportation to a commission in the Department of Transportation. In October 1982 all rail and motor carriers of freight and passengers were deregulated.

Maine is currently in a transition period. In 1982, intrastate freight motor carriers were deregulated and the Department of Public Safety received the responsibility for insurance and safety requirements. At the same time, the regulation of rail carriers and passenger motor carriers was transferred to the Maine Department of Transportation. In January 1984 rail carriers and passenger motor carriers will be deregulated, and the Department of Public Safety will assume safety responsibilities.

In Michigan, rail passenger rate regulation was curtailed in 1975 and the safety function moved from the Public Service Commission to the Department of State Highways (now Transportation). In October 1982, motor carrier enforcement was transferred to the State Police and, in December 1982, motor passenger carrier service was significantly deregulated when the economic responsibilities were moved to the Department of Transportation. Regulation currently consists of furnishing proof of insurance and meeting safety standards. Although freight carrier regulation remains with the Public Service Commission, entry requirements have been eased.

IMPACT OF SEPARATE REGULATION

Senate Resolution No. 35 of 1983 expresses concern over the high costs of utility service and suggests that a separation of transportation

regulation from fixed-utility regulation may better serve the people of the Commonwealth. The resolution states that the current wide range of responsibilities of the Commission "may dilute its expertise and reduce its ability to effectively regulate all public utilities." The report of the Public Utility Commission's staff task force on transportation reform identifies one of the potential advantages of removing transportation regulation from the Public Utility Commission as "the Commission would be free to concentrate on fixed-utility regulation."[40] In other words, if the Commissioners were not burdened with transportation responsibilities, they could be more effective in establishing fixed-utility rates at a lower level than would otherwise obtain.

Electric Utility Rates

To examine whether state agencies which regulate fixed utilities only have a noticeably better record of holding down rates than those which also regulate transportation, a comparison was made between the U.S. average rate of growth in typical residential electric bills and the rates of growth in the 13 states with regulatory agencies which focus exclusively on the fixed utilities. Rates of increase are a more valid measure for comparison than absolute rate levels because of variations in taxes, fuel and other costs in different sections of the country. Presenting data for the period 1969-82, table 7 shows: (1) the 1969-82 percentage increase in typical residential electric bills for the U.S.

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[40]Sandusky, "Report to the Commission of the Transportation Regulation Reform Task Force," p. C-13.

Table 7

COMPARISON OF THE PERCENTAGE INCREASES IN RESIDENTIAL ELECTRIC BILLS IN THE UNITED STATES AND IN STATES WHERE FIXED UTILITIES ARE REGULATED APART FROM TRANSPORTATION UTILITIES 1969-82 AND SUB-PERIODS

State	Year after which fixed utilities regulated separately	Percentage increase in residential electric rates* 1969-82	
Alaska	1969	108.2%	
Arkansas	1957	186.8	
Delaware	1949	331.7	
Kentucky	1934	186.6	
New Mexico	1941	293.5	
United States, average	--	260.7	
		1969-71	1971-82
New York	1971	8.3%	306.2%
United States, average	--	7.5	235.6
		1969-75	1975-82
Iowa	1975	28.2	123.1
Michigan	1975	83.3	82.8
United States, average	--	75.6	105.5
		1969-76	1976-82
Texas	1976	64.2	99.5
United States, average	--	89.5	90.4
		1969-77	1977-82
Vermont	1977	117.3	53.4
Wisconsin	1977	85.9	55.2
United States, average	--	106.1	75.0
		1969-79	1979-82
New Jersey	1979	180.7	56.4
United States, average	--	129.5	57.2
		1969-80	1980-82
Florida	1980	103.2	42.3
United States, average	--	166.4	35.4

*Measured by the average rate of increase in residential bills for 500 KWH and 750 KWH consumption per month. In the 1969-82 period, the U.S. average residential consumption was 668 KWH per month.

SOURCE: Federal Power Commission, Bureau of Power, Typical Electric Bills, 1969-1982.

and for the five states whose utility commissions did not regulate transportation in 1969 or thereafter and (2) a comparison with the percentage increase in the U.S. average bill for the periods before and after transportation regulation was separated from fixed-utility regulation in the eight states in which this has occurred since 1969.

Of the five states with utility commissions that did not regulate in 1969, two recorded a greater increase in electric bills than the national average and three a smaller increase over the 1969-82 period. Alaska, however, presents a unique case: its electric rates were 40 percent above the U.S. average in 1969 but 19 percent below in 1982.[41] Clearly the cheap fuel available in 1982 which was not developed in 1969 distorts any comparison with the other states.

Of the eight states which separated transportation from fixed-utility regulation since 1969 the pattern of rate increases before and after the separation is equally mixed. Three states--Michigan, Vermont and New Jersey--recorded percentage rate increases above the U.S. average prior to separation and lower than the U.S. after. In three other states--Iowa, Texas and Florida--residential electric bills increased at a lower rate than the U.S. average prior to separation and at a higher rate thereafter. In New York, percentage increases in electric bills were above the U.S. average both before and after separation and in Wisconsin significantly below both before and after.

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[41]See table 8.

As may be observed from table 8, Pennsylvania's average residential electric bill and its rate of increase during the period 1969-82, while slightly above the U.S. average, are below those of the other Middle Atlantic states which now regulate fixed utilities separately from transportation--Delaware, New York and New Jersey.

In conclusion, there is no observable evidence in tables 7 and 8 that rate regulation is more effective, as measured by relative rates of increase, in states with agencies that regulate only fixed utilities.

Gas Utility Rates

An analysis of the percentage changes in residential natural gas rates similar to the analysis of changes in electric rates is shown in table 9. Gas rates (dollars per 1,000 cubic feet sold to residential consumers) for 1970 and 1982 and the percentage increase over the period are presented in the final three columns of table 8.

Aside from the special case of Alaska, table 9 shows that three of the four states in which fixed utilities were regulated apart from transportation prior to 1970 experienced greater percentage increases in natural gas rates between 1970 and 1982 than the U.S. average increase. As was the result for electric rates, the pattern of percentage increases of gas rates in the other states relative to the U.S. average increase bears no relationship to changes in the scope of regulation. Examination of the actual natural gas rates shown in table 8 and the increase between 1970 and 1982 strongly suggests that drastic increases in the costs of purchased gas, over which neither the utility itself nor state regulatory agencies have any control, dominate the rate changes.

Table 8

TYPICAL MONTHLY RESIDENTIAL ELECTRIC BILLS AND AVERAGE DOLLAR RATES OF NATURAL GAS DELIVERED TO RESIDENTIAL CUSTOMERS IN THE UNITED STATES, PENNSYLVANIA AND STATES IN WHICH FIXED UTILITIES ARE REGULATED SEPARATELY FROM TRANSPORTATION UTILITIES, 1969-80

	Typical residential electric bills 1969 and 1982 (average of 500 and 750 KWH monthly bills)		Percentage increase	Average rates (dollars per thousand cubic feet) of natural gas delivered to residential customers		Percentage increase
	1969	1982	1969-82	1970	1982	1970-82
Alaska	$17.10	$35.60	108.2%	$1.52	$1.80	18.4%
Arkansas	11.79	33.81	186.8	.75	3.83	410.7
Delaware	13.41	57.89	331.7	1.59	6.05	280.5
Florida	15.31	44.27	189.2	2.51	6.35	153.0
Iowa	14.23	40.69	185.9	.97	4.70	384.5
Kentucky	11.01	31.56	186.6	.83	4.45	436.1
Michigan	9.91	33.18	234.8	1.02	4.79	369.6
New Jersey	12.70	55.76	339.1	1.89	7.03	272.0
New Mexico	12.17	47.89	293.5	.93	4.87	423.7
New York	15.33	67.47	340.1	1.40	6.53	366.4
Pennsylvania	11.40	45.78	301.6	1.24	5.42	337.1
Texas	11.83	38.74	227.5	.92	5.21	466.3
Vermont	12.32	41.06	233.3	1.78	7.24	306.7
Wisconsin	11.50	33.16	188.3	1.25	5.64	351.2
U.S. average	12.15	43.83	260.7	1.09	5.12	369.7

SOURCES: Federal Power Commission, Bureau of Power, Typical Electric Bills, 1969-1982; United State Department of Energy, Energy Information Administration, Natural Gas Annual, 1980, 1981, 1982; Natural Gas Production and Consumption, 1979; American Gas Association, Gas Facts, various years.

Table 9

COMPARISON OF PERCENTAGE INCREASES IN RESIDENTIAL NATURAL GAS RATES IN THE UNITED STATES AND IN STATES IN WHICH FIXED UTILITIES ARE REGULATED APART FROM TRANSPORTATION UTILITIES, 1970-82 AND SUB-PERIODS

State	Year after which fixed utilities regulated separately	Percentage increase in residential gas rates 1970-82		
Alaska	1969	18.4%		
Arkansas	1957	410.7		
Delaware	1949	280.5		
Kentucky	1934	436.1		
New Mexico	1941	423.7		
United States, average	--	369.7		
		1971-82		
New York	1971	335.3%		
United States, average	--	345.2		
		1970-75	1975-82	
Iowa	1975	47.4%	228.7%	
Michigan	1975	58.8	195.6	
United States, average	--	56.9	199.4	
		1970-77	1977-82	
Vermont	1977	113.5	90.5	
Wisconsin	1977	100.0	125.6	
United States, average	--	115.6	117.9	
		1970-79	1979-82	
New Jersey	1979	127.5	63.5	
United State, average	--	173.3	71.8	
		1970-80	1980-82	
Florida	1980	91.2	32.3	
United States, average	--	237.6	39.1	

SOURCES: United State Department of Energy, Energy Information Administration, Natural Gas Annual, 1980, 1981, 1982; Natural Gas Production and Consumption, 1979; American Gas Association, Gas Facts, various years.

Cost of Regulation

Budget data published in the 1981 Annual Report on Utility and Carrier Regulation indicate that the average regulation outlay for all reporting states was $1,594 per 1,000 population or about $1.60 per capita. In Pennsylvania the amount is $1.48 per capita for fiscal 1981. The gross intrastate operating revenues of all regulated industries in Pennsylvania was $11.46 million, or about $965 per capita. Regulatory outlays are about .14 percent or one-seventh of 1 percent of the total revenues of the regulated industries.

The budget outlays of regulatory commissions should be judged against the benefits, if any, of effective regulation. For example, if the Public Utility Commission were to successfully lower fixed-utility prices by one-half percent from what they would be without the Commission's regulation, the approximate savings to Pennsylvania consumers would be about $51.5 million (one-half percent of the $10.3 billion receipts of fixed utilities) in 1981.

A transfer of all regulation of transportation out of the Public Utility Commission would undoubtedly involve higher budget outlays and higher assessments on the transportation industry. The question of who would ultimately pay the increased assessments for transportation regulation--the industry or the consuming public in the form of higher transport rates--depends in large part upon the industry structure and the degree of competition or regulation. If the transportation industry is substantially competitive, all of the costs of operation including the cost of regulation are reflected in transportation rates. Similarly, if

the industry is regulated and rates are designed to cover all costs, again the regulatory assessments would tend to be shifted forward to the consumers of transportation services.

The staff of the Public Utility Commission has provided an estimate of the increased budget outlays for a complete transfer of transportation regulation to a separate commission. The estimates of 280 personal and a budget of about $11 to $12 million would more than double the assessment on transportation, which was $5.4 million for fiscal 1982-83. If shifted forward completely, the cost to Pennsylvania consumers would be an additional $.54 per capita for increased transportation regulation.

IV. Organizational Alternatives

Senate Resolution No. 35 of 1983 calls for a study of the feasibility, benefits and costs of dividing the Commission into two separate entities, with one to regulate transportation-related utilities and the other to regulate fixed utilities. The reference to "two separate entities" is subject to several interpretations. This might encompass setting up another quasi-judicial independent regulatory body for transportation regulation or incorporating the function in an agency of a department of the Executive Branch, as has been done in other states. The statement has also been interpreted to mean the division of the Commissoners into two groups, with one group assigned exclusively to transportation utilities and the other to fixed utilities. Other alternatives have also been proposed or become apparent in reviewing the placement of the various transportation regulatory activities in other state governments.

INDEPENDENT TRANSPORTATION COMMISSION

Public Utility Commissioner James H. Cawley believes that ideally a separate Commission should be established to regulate transportation.

Following are excerpts from his letter to the research director of the Joint State Government Commission:

> This is in response to your invitation to comment on the subject of transportation regulation.
>
> My response assumes that the regulatory process is conducted by Commissioners who actually read the record, the briefs, recommended decisions, exceptions thereto, appeals therefrom, and the like. That is, if the Legislature desires transportation utilities to be regulated merely by staff members, with little or no review by the Commission members, there is little sense to changing matters as they now stand. If, however, it is the Legislature's desire to have transportation utilities truly regulated, then a change is long overdue. . . .
>
> However, the simple fact is this: the Commission members themselves are so busy with "fixed" (i.e., electric, gas, telephone, and water) utility problems (not merely rate cases), that they do not have time to work with the transportation staff in order to give transportation problems the attention which they deserve.
>
> The Commissioners and their personal staffs do review every recommended action by the transportation staff, and in nearly every instance such recommendation is adopted. I would not call such adoption "rubber stamping" the transportation staff's work, but it comes dangerously close to doing so. Many of the recommendations by the transportation staff involve very routine matters, but a Public Meeting does not pass without several important transportation matters being decided. . . .
>
> What should be done? I believe ideally a separate three person commission, perhaps with minority political party representation, should be formed to deal with the unique problems of the transportation industry. Even a single transportation Commissioner, like the Insurance Commissioner, could work. The purpose is to have one or more individuals devote their entire time to transportation. . . .
>
> The major problem with forming a separate commission would be the probable creation of more bureaucracy. This could be alleviated to a great extent by transferring all of the individuals who deal with

> transportation matters at this Commission to the new one (and a commensurate transferral of budget as well). I have heard the suggestion that as many as 150 additional employees would be needed (in addition to transportation staff being transferred). This may be so, but the number seems high. I believe that such additional staff could be significantly reduced from 150. Some state regulatory commissions do not have that many people on their entire staff.
>
> In no event should the transportation regulatory function be transferred to the Pennsylvania Department of Transportation, primarily because current law provides that the Commonwealth shall contribute towards the cost of improvements or replacement of rail/highway crossings, and this is accomplished through PennDot contributions. It would not be proper to have PennDot judging the amount it should contribute in such a situation. An independent body should adjudicate these controversies.

The Public Utility Commission staff response of August 1983 to a Joint State Government Commission informational request estimates that 150 additional employees and an additional expenditure of $6 million would be required for an independent transportation commission:

> With respect to the former: the intent appears to be the establishment of a Transportation Utility Commission, capable of independent administration and operations. In this circumstance, such an independent agency would require separate administrative overhead comparable to present PUC staffing. This would include separate staff for Personnel, Budget, Fiscal, Office Services, Supply, Reproduction, MIS (computer), Word Processing, Files and Dockets, PIO, Legislative Liaison, Audits, Consumer Services, Law, Administrative Law Judge, Safety and Compliance and Transportation.
>
> Since the residual PUC fixed utility responsibilities would require staffing support for all of the above (except Transportation), the result of a separated Transportation Commission would be a requirement for considerably more staff than is presently required to regulate both Fixed and Transportation utilities. We estimate that approximately 150 more people would be needed. . . .

> The disparity in required staff support between the two options is the result of the PUC's current organization. We have in fact divided Fixed and Transportation utility responsibilities at the operational and functional areas of expertise, Both currently share office facilities, equipment, administration, personnel, budget, fiscal and related support staff. We have, for example, one Secretary, one MIS (computer) organization and one Office Services Division. . . .
>
> Currently 130 PUC employees have exclusive transportation functions. We estimate that approximately 150 people would be required to duplicate existing and necessary administrative and related staff support operations for a separate Transportation Utility Commission.
>
> Thus, a completely separate and independent Transportation Utility Commission would have a staff complement requirement for approximately 280 employees.
>
> As a result, a Fixed Utility Commission would have a residual complement of 423; and a separate Transportation Utility Commission a complement of 280.
>
> In total 703 people would be needed to perform the functions currently accomplished by 553.
>
> Initial yearly salary costs for the additional 150 people would be approximately $5,250,000.
>
> Based on an extrapolation of current PUC operating and fixed assets costs, the additional yearly operating cost would approximate $750,000. (And this assumes occupancy of rent-free Commonwealth office space.)
>
> Thus, a projected initial year's cost for a separate Transportation Utility Commission would be $6,000,000 more than presently required for the same functions and degree of regulation.

The Public Utility Commission staff--based on the assumption of three Commissioners, staff support comparable to the present Public Utility Commission and a comparable bureau/office organizational structure--estimates the following staff complement in addition to

the 130 employees which the Commission report are now exclusively dedicated to transportation:[42]

Bureau/office	Staff
Chairman & Commissioners	22
Director of Operations (includes personnel, budget, fiscal, assessment, office services, supply & reproduction)	29
Office of Special Assistants	5
Public Information Office	4
Intergovernmental Affairs	3
Secretary (includes files, dockets, word processing, microfilm, computer support)	58
Law Bureau	7
Administrative Law Judge	8
CEEP (includes economics and research)	5
Consumer Services	9
TOTAL	150

The Commission staff obviously envisions more intensive regulation of transportation under an independent commission.

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[42]In the bureau of Safety and Compliance (72 employees), Bureau of Non-Rail Transportation (36), Rail Transportation (13) and Law (9).

COMMISSIONERS ASSIGNED EXCLUSIVELY TO TRANSPORTATION OR FIXED UTILITIES

Senate Resolution No. 35 has also been interpreted to mean a division of the Commissioner's responsibilities. In this regard, the Commission staff noted:

> If the intent is a "division" of the PUC (per Senate Resolution No. 35) through the establishment of separately identified Commissioner responsibilities, the impact would be minimal; probably, about seven (7) more people. And this increase due only to the addition of a Commissioner and personal staff. (It is assumed that three Commissioners would be required for a PUC responsible only for fixed utility regulation and three Commissioners for a transportation PUC; i.e., a total of six (6).

While favoring an independent transportation commission, Commissioner Cawley commented in his letter:

> The suggestion has been made that the Commission be expanded by one or more members so that transportation matters could be better handled. If there can be no separate transportation commission, then one additional member could be added to this Commission with the Governor nominating and the Senate confirming three of those individuals to deal exclusively with transportation matters. One of each of the three would be designated chairman of that part of the Commission (a "fixed utility chairman" and a "transportation chairman"). I do not favor rotating responsibility between fixed and transportation matters. The tenures of regulators are already too short (the national average is 4 years despite statutory term) for an individual Commissioner to adequately learn the ropes of two very different regulatory responsibilities.
>
> I do not favor adding more than one Commissioner as, for example, would be the case if five Commissioners dealt with fixed utility matters and five Commissioners dealt with transportation matters. The present Commission must presently administer an organization with 550 employees, and I fear that such an expansion of membership would foster a totally unwieldy administrative body. . . .

> . . . I also suggest that a nominating panel be created to recruit, interview, and recommend to the Governor those individuals best qualified to serve on the regulatory body or bodies which result from your study.

In a personal interview with staff of the Joint State Government Commission in October 1983, Commissioner Michael Johnson said that under the current structure of the Commisson, so much attention is focused on fixed-utility rates that "transportation suffers." He proposes that the Commissioners be separated into three specialized groups within the Public Utility Commission, each with the following responsibilities:

1. Electric, gas, water and sewer utilities
2. Telecommunications (with cable television and radio paging services added to the Commission's scope of jurisdiction)
3. Transportation utilities.

Under his plan, three Commissioners would be assigned to each of the three areas and each would be administered separately with its own staff and budget, although he does favor some joint administrative activities, such as centralized purchasing. It is his opinion that the staff could be much smaller.

He favors the popular election of Commissioners for terms of four years to prevent their becoming insulated from consumers. If the commissioners continue to be appointed, he recommends that the Senate be given the appointing authority and that appointments be made from the names of recommended individuals submitted by a nominating panel.

House Bill 2470 of 1982, introduced by Representative George and others, proposed a division of the Commission into three independent divisions--transportation, communications and fixed utilities--each with three commissioners. The three divisions would have been collectively referred to as "the Pennsylvania Public Utility Commission."