

1979 WL 42886 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1979

\*1 Honorable Allen R. Carter  
State Senator  
Box 5818  
North Charleston, South Carolina 29406

Dear Senator Carter:

Thank you for your letter of March 19 submitting several questions, the answers to which are set forth below.

1. Does the Committee on Energy have full, unrestricted subpoena power?

In the opinion of this Office, the effect of the consolidation of the powers and duties of four committees upon the Joint Legislative Committee on Energy was to abolish (with the possible exception of the Nuclear Advisory Council, which is hereinafter considered) such previously established committees. The power granted to the consolidated committees by prior law included the statutory authorization to issue subpoenas, etc., to only the Committee to Investigate Electric Power Rates and the Structure of the Public Service Commission. The power of subpoena so granted was limited by express terms to 'the investigation of power rates.' The authority to issue subpoenas which is presently granted to your Committee on Energy is, therefore, limited to the issuance of subpoenas considered necessary in the investigation of power rates. The investigation of power rates may be appropriate in connection with the duties devolved upon your committee which are derived from the powers granted to the four committees that are now united in the Committee on Energy. If any issue should arise in connection therewith, it would be appropriate at that time to consider the application of the subpoena power to other phases of the committee's work.

2. Under the Joint Resolution that created a committee to investigate Electric Power Rates and the Structure of the Public Service Commission, this committee was composed of nine members—three appointed from the Senate by the President thereof, three members from the House of Representatives by the Speaker and three members appointed by the Governor. Considering the committee's reorganization, would the Governor continue to appoint three members to this committee or to a subcommittee with similar responsibilities? Or, again, in view of the transfer of responsibilities to the new Legislative Committee on Energy, would the Governor no longer have the power of appointment?

The General Assembly clearly intended to transfer the old committee's powers to the new committee. This having been done, it is my opinion that the General Assembly could not have reasonably intended to keep intact the three committees whose powers had been unequivocally transferred.

The question of the legislative intent with respect to the Nuclear Advisory Council is complicated by Section (D) of the statute, which provides:

'The Nuclear Advisory Council shall be maintained and the staff shall be transferred and responsible to a Joint Legislative Committee on Energy.'

This section appears at first to be at odds with Section (B), which provides, in part:

'Any and all of the powers and duties of . . . the Nuclear Advisory Council are hereby devolved on the Joint Legislative Committee on Energy.'

\*2 However, a careful reading of Section (D), together with other sections of the 1979-1979 Appropriations Act, indicates that this section could only, in my opinion, have meant that the staff of the Council would continue to function under the new committee, but that the Nuclear Advisory Council itself, insofar as that term refers to the eleven-member Council as opposed to its supporting staff, would cease to exist. If this view is incorrect, the Nuclear Advisory Council would remain only as an empty shell, without powers, duties, functions or responsibilities, and I do not think the Legislature intended this result. The Legislature, in my view, intended to create a single committee to study energy and to make recommendations to the General Assembly. The powers vested in that committee are those previously granted to all committees which, by the present statute, come under the aegis of the Committee on Energy.

I, therefore, advise that:

1. The Committee on Energy has the authority to issue subpoenas in its investigation of power rates.
2. The staff of the Nuclear Advisory Council is transferred to the Committee on Energy. The Nuclear Advisory Council is abolished pursuant to the provisions of Section 19 of the General Appropriations Act, 1979-1979, Permanent Provisions. Alternatively, if the effect of Section 19 is construed so as not to provide for the abolition of the Nuclear Advisory Council, that Council has no duties, powers or responsibilities vested in it by statute, but would merely exist in name only.

Very truly yours,

Daniel R. McLeod  
Attorney General

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