

An Interview with Don Brazier, Chair Utilities and Transportation Commission, 1971-77

Don Brazier, a former representative from the Yakima area, was appointed by Governor Dan Evans to serve as chair of the Utilities and Transportation Commission from 1971 to 1977. During his term of office, he dealt with many issues, but the passage of House Bill 435 in 1975 tested the Commission and its chair in an indelible way. Besides discussing this controversial bill, Don describes the operations of the Commission and some of the political background of the bill.

This Oral History Program interview was conducted by Anne Kilgannon on February 10, 2005 at the State Library in Olympia.



Don Brazier as chair of the UTC,
Courtesy of the Utilities and Transportation Commission

Ms. Kilgannon: This is an interview with Don Brazier about utility issues in the 1970s. We're going to begin with a little biographical detail explaining how Don Brazier came to be involved in utilities issues. So if you could tell me a little about yourself and then how you came to be chair of the Utilities Commission?

Mr. Brazier: I was raised in Seattle and attended the University of Washington, the law school there. And a major part of my decision to go to law school was I wanted to live in a small town. After returning from the Army, two years service in 1956, I moved to Yakima in early 1957 and was involved in the private practice of law, as a prosecutor, and Assistant United States Attorney, and in the industry for twelve years. During that time, I served five years on the Yakima City Council and as Mayor Pro Tem, and one term in the State Legislature. In 1969, after Slade Gorton was elected Attorney General, I came to Olympia to be his chief deputy. At the end of nearly two years in that job, Governor Evans appointed me as Chairman of the Utilities and Transportation Commission and I served there from 1971 to 1977.

In 1974, just before Christmas, I was called by a chief executive officer of one of our regulated utilities, and I do not now remember which one it was. But he asked me if I could come to Seattle and have lunch with a group of chief executive officers on what would have been the last working day before Christmas. It was probably December 23rd because it wasn't Christmas Eve. And I told him that I really didn't think that I could do that.

Ms. Kilgannon: As in the timing of it, or it's not really all right for the chair to do that?

Mr. Brazier: Well, no. I had no problem with attending the lunch. It was just that the timing was very inconvenient.

Ms. Kilgannon: I want to understand the context.

Mr. Brazier: They were very insistent and they said, "Well, we'll send a plane down and fly you up for the lunch." At that point I figured it was fairly important, so I agreed. I went out to the Olympia Airport, was flown to Boeing Field, and taken down to the Rainier Club in downtown Seattle. I walked into a small dining room in which there were, to my best recollection, five utility chief executives officers. Now, it could have been four and it could have been six, but my best recollection is there were five people there. I greeted them, said hello and sat down. And they said, "We are planning to introduce a piece of legislation in the session," which started three weeks later, "and we'd like you to take a look at our draft of the bill." So they handed me this bill; I was somewhat taken aback because it was probably, oh, fifteen to twenty pages long.

Ms. Kilgannon: Were you supposed to read it on the spot?

Mr. Brazier: That apparently was their intention. So I perused the bill very quickly. And one of the provisions would have provided, in a rate case by a utility, that they could do what they call "impose rates under bond." In other words, they could increase their rates and post a bond and if the commission didn't give them the increase in rates they would then rebate the charges back to their customers. Well, when I saw that paragraph I said, "I am absolutely opposed to this and there is no way that I will not oppose it."

Ms. Kilgannon: Could you give me a little bit more detail on that? Would it be that their own costs should not be pushed back onto the customers?

Mr. Brazier: Let's assume that under the law, and I think it's still pretty much the same, but when a regulated utility filed for a rate increase they had an eleven-month period before the commission to present their case. And the commission would either grant all, or part, or none of the requested rate increase. One of the provisions of this first draft stated that if they filed a rate increase they could post a bond and start charging the rates they sought immediately.

Ms. Kilgannon: Before you even weighed in on it?

Mr. Brazier: Before that. This issue had arisen a number of times during the four years I'd been on the commission. And my fundamental reason for opposing it was that, in my mind, the people who ended up getting a rebate, if one was ever given out, would not necessarily be the same people who paid. Because if you'd moved, or discontinued your service, or were gone, you'd be out of the picture.

I said, "On the rest of the bill I am going to reserve any comment until I've had a chance to review it thoroughly and discuss it with our commission staff." My best recollection is that the remainder of the lunch just entailed a general discussion of utility issues.

Ms. Kilgannon: So they didn't try to persuade you or say much about it? They just took that as...

Mr. Brazier: They wanted a commitment from me that I would either favor the bill or not oppose it. And I was not willing to give them any kind of a commitment based upon thumbing through a fifteen or sixteen page bill with a bunch of high powered executives breathing down my neck. Although I did tell them, "Under no circumstances will I be in favor of rates under bond."

Ms. Kilgannon: Was this an unusual tactic on their part? It almost seems like you were separated from the herd and surrounded by the wolves and you were supposed to somehow...

Mr. Brazier: I was separated from the rest of the commission.

[tape off]

Ms. Kilgannon: You were explaining to me the unusualness of this whole situation.

Mr. Brazier: This was the *only* time during my six years on the commission that I ever sat down alone with a group of utility executives to discuss any issue, at least to my current recollection, thirty years later.

Ms. Kilgannon: Fair enough.

Mr. Brazier: They did introduce the bill.

Ms. Kilgannon: Did they change it? Was that clause still in there?

Mr. Brazier: They took out the rates under bond provision before they introduced it. I took it back and went over it thoroughly myself and with the staff. And the one issue, which was extremely important to the energy utilities, was that they wanted a provision written in the law that would allow them to put in to their rate base what was referred to as "construction work in progress." Our chief lawyer at the commission, Frank Hayes, was one of the leading experts in the country on utility law. And he had advised me that in appropriate circumstances the commission already had the authority to allow construction work in progress in the rate base. And it was not necessary to put it into statute. In addition to which, there were some utilities for which it was, at least in our opinion, not appropriate to put it in the rate base.

Ms. Kilgannon: So, if that had stayed in there, would the Commission's role in deciding that have been taken out of the process?

Mr. Brazier: If the construction work in progress had gone out of the bill most of the rest of it was not all that important. The key issue was construction work in progress. Though my attitude had always been that our job

as regulators of monopolies was to strike a balance and be sure that everybody was fairly treated; the investors in the utility as well as the public that was being served. Now, my overall judgment was that this bill, in its entirety, tipped the scales in favor of the utilities. I maintained that position throughout and I still believe that today, thirty years later. In any event, they introduced their bill and turned their considerable lobbying power loose on getting it passed.

Ms. Kilgannon: Was this both private and public power?

Mr. Brazier: Strictly private power industry. It was strictly those people who were regulated by the Utilities Commission.

The bill proved to be highly contentious. At the time the chairman of the House Energy and Utilities Committee, or whatever it was titled then, was Bob Perry.

Ms. Kilgannon: Transportation and Utilities.

Mr. Brazier: He was a good friend of mine and a great, competent legislator. But we just crossed swords on this. And the utility lobbyists had been given an assignment to get this bill passed, and they were really working the problem.

Ms. Kilgannon: You might want to back up just a tad and explain that Bob Perry is not an ordinary legislator in public utility, private utility issues. He had a long history of taking the side of the private utilities, and had been involved in the 1961 power debate, and then the 1963 coalition, which was part of the fallout of that debate, and had this complex history with power agencies.

Mr. Brazier: Bob Perry was a very, very interesting character. He'd been in the Legislature, I think at that time in 1975, for almost twenty years. He was a strong union man, but also he was a strong supporter of private power and he was employed by an electrical contractor. He had been one of the leaders in the 1963 coalition between the Republicans and a small segment of Democrats which controlled the House in '63. The Democrats had retaken the majority in the House in the 1972 election and Bob was really the architect behind that victorious legislative campaign by the Democrats. He was a very, very influential legislator.

As I say, Bob and I had been good friends and gotten along well but we crossed swords on this. In fact, on one occasion I testified before his House committee and he admonished me rather severely about some of the remarks that I had made. And in the hall outside of the committee room I encountered Shelby Scates, who at that time was a reporter and columnist for the *Seattle P-I*. And I guess I was a little bit abrupt. I've always been very careful, I try to be very careful with what I say—but I was a bit hot under the collar and Shelby asked me if I had any comment. And I said, "Well, this is a real consumer rip-off."

Ms. Kilgannon: There's a sound bite if I ever heard one.

Mr. Brazier: And, of course, the next day, and for the rest of the session, that was all over the newspapers. Now, I'll backtrack and say, having served as a Republican legislator from Yakima, which is a private power area, had I been in the Legislature in 1975, I probably would have voted for this. However, I was not in the Legislature, and I had obligations as a regulator. The Republican Caucus in both Houses locked up on the issue and voted unanimously for the bill. The Democrats had substantial majorities in both Houses so they had to produce the votes for passage. The bill passed the House—

Ms. Kilgannon: Why would the Democrats support this?

Mr. Brazier: Why would they support this? At the time, my conclusion was that they were influenced by the strength of Bob Perry who was their committee chairman, and who was one of their leaders, and it seemed not that much out of the ordinary.

Ms. Kilgannon: Sometimes if one party *really* goes for something it puts a little bit of a whiff to the other party that maybe they should look at this. But it doesn't really seem like it worked that way this time.

Mr. Brazier: It wasn't a partisan matter in that sense, I mean, in ways you could say it was a left-over from the public/private power battles of a decade earlier. However, that's probably the reason why the Republicans locked up.

Ms. Kilgannon: But there were many new Democrats who wouldn't have had that history. There were a lot of freshmen that year.

Mr. Brazier: That's right, but still most Democrat legislators have traditionally tended to be favorable toward public power. My recollection is that the vote in the House was fifty-three to forty-four, so there were about nine Democrats who voted with the Republicans to pass the bill in the House. It went to the Senate late in the session and I thought I had successfully talked a couple of Republicans into voting no. But, in the last analysis, they locked up. However, the bill got hung up in the Senate Rules Committee, and the first time it came up, it went down by one vote. Now, it's obvious that the lobbying power of the utilities was really at work at that point in time. The session dragged on into June.

Ms. Kilgannon: Yes, it was really along session, wasn't it?

Mr. Brazier: The Western Conference of Public Service Commissions was having its annual meeting in Salt Lake City. By that time, I had done everything I was capable of doing in trying to oppose the bill. I was in Salt Lake City and on the last night of the session, the bill went back to the Rules Committee and it came out by one vote.

Ms. Kilgannon: Somebody changed their mind?

Mr. Brazier: Gordon Herr from South King County who voted no previously, voted yes. And the bill then passed the Senate twenty-five to twenty-four and went to the Governor. At this point I had never discussed House Bill 435 with the Governor. I know that after it was passed that practically every utility CEO knocked on the Governor's door to ask him to sign the bill. I did talk with him and asked him to veto it.

Ms. Kilgannon: What were your reasons?

Mr. Brazier: The very same reasons. I believed it was in the public interest. I thought we already had the power to allow construction progress in the proper circumstances.

Ms. Kilgannon: I just wanted to make sure that that was exactly what you said to him.

Mr. Brazier: And I can never forget this, because on the last day for action by the Governor—this would have been I suppose after the Fourth of July—my boys and my wife and I were out in one of these strawberry farms in Olympia picking strawberries to can and we had a portable radio with us, listening. And at some point in time, they came on with a report that the Governor's Press Conference indicated that he had vetoed House Bill 435. Although, of course, I was joyous—I mean, I had virtually exhausted myself in addition to everything else involved with the commission, in trying to fight this legislation. And I knew that he'd had intense pressure put on him.

Ms. Kilgannon: But you didn't actually know—he didn't promise you, he didn't say what he planned to do?

Mr. Brazier: He never said a word to me about it. So he vetoed it and I always wondered what happened. Two or three weeks later, I got a call from the Governor's office. I went over and Dan and Jim Dolliver were in his office, and I sat down. And Bob Perry, while a Democrat, had been aligned with Governor Evans on a lot of major issues. The Governor said that Perry was just absolutely outraged at his veto because somehow along the line he had been told that if the bill passed the Governor would sign it. Well, I know very well that Dan never made that commitment on any bill to anybody. And we discussed this at some length and Dolliver and the Governor decided that I was the guy to go try to set Bob Perry straight and make peace with him.

Ms. Kilgannon: Oh, boy!

Mr. Brazier: So, I called Bob. It was a not very happy telephone conversation but he agreed that I could come to his house. He lived out north of Green Lake, in Seattle. I went up there and I can remember being greeted by him at the door with this *huge* dog. The dog must have been as high as this table we're sitting at.

Ms. Kilgannon: Several feet.

Mr. Brazier: We went in and sat down in the living room. And it started out very hostile. Bob said to me that

he figured the Governor had double-crossed him. And I said, “Bob, you know, I know Dan Evans very well and I think you do, too.” I said that, prior to the time that the bill cleared the Legislature I had never discussed it with the Governor. But I am certain—and he told me this eye to eye—that he had never, ever indicated to anyone that he would sign the bill if it passed. And I said, “If you were given that impression, it’s incorrect.” Well, this softened things up quite a bit and we parted friends.

Ms. Kilgannon: He was personally, really just put off because he thought it was a double-cross rather than just, “Well, you didn’t win?”

Mr. Brazier: He thought the Governor had double-crossed him.

Ms. Kilgannon: Yes, that’s a different thing all together.

Mr. Brazier: Somebody had conveyed the message to him that if the bill passed the Governor would sign it. And of course, Perry put an awful lot into this thing, and put a lot of his credibility on the line, and worked very hard for it. And so if the Governor had done something like that I think he would have been justified in the way he felt.

Now, that should be the end of the story.

Ms. Kilgannon: But we know it isn’t.

Mr. Brazier: Subsequently there were issues in Seattle to do with the building of ferry boats and the West Seattle Bridge, and lo and behold, Bob Perry disappeared. He was gone. A couple of years later he resurfaced.

Ms. Kilgannon: This must have caused quite a buzz.

Mr. Brazier: Yes, well, if you look at the paper when he resurfaced, it was all over the newspapers.

Ms. Kilgannon: What about when he first disappeared?

Mr. Brazier: Well, nobody was paying all that much attention to the fact that he was gone. I mean he was no longer in the Legislature. When you’re in a public position and all of a sudden you’re out of it, you’re just—everybody forgets about you; you’re gone. And I’m not certain that I knew Bob was gone.

Ms. Kilgannon: Hadn’t really crossed your mind?

Mr. Brazier: But certainly, when he came back it was very obvious. And, of course, the story he told indicated the fact that some of those votes that were in favor of HB 435 had been influenced by very substantial campaign contributions which had been handled in a rather nefarious way. Now, recognize this is really before public disclosure; I mean the bill passed in 1972 but campaign finance was not a major part of it. And this story came out. And, of course Bob went to jail, and there was a criminal trial against Washington Water Power. What had happened, apparently, was money was going to an agent in Hong Kong and was coming back to Bob Perry

who was using it for campaign contributions to certain legislators. In the event, as a postscript, when this all came out in the end I breathed tremendous sighs of relief because I felt, if I had been in favor of this bill, I could have gotten tarnished by the brush. And two, I mean I never heard anything, but one day I was talking to the Governor when he was no longer the governor he said, “Boy, oh boy, I vetoed that bill because of you, and I sure am glad I did.”

Ms. Kilgannon: Who knew all that was behind it? I mean, you had principle, and you had your convictions on your side. But underneath that bill was of this sort of seething mess.

[Tape off]

Mr. Brazier: There’s one thing that I should have mentioned. During the course of fighting this legislation during the legislative session, in addition to trying to do my job as chairman of the Utilities Commission, I got acquainted with some of the young Democrat members of the House Caucus. They were actively opposed to House Bill 435. And one evening they invited me to come meet with them and I went to a home—it was a small house on the east side of Capital Way in the South Capitol neighborhood. There were about a half a dozen there, as I recall it.

Ms. Kilgannon: Do you remember who they were? I noticed in the bill that Helen Sommers, for instance, fights it pretty hard.

Mr. Brazier: Rick Bender was there. Don Charnley was there. Helen may have been there, but I don’t have any independent recollection of Helen being there. I think Jim McDermott was there but once again I have no independent recollection of that. And there were probably half a dozen of them. Some of them told me later that after I had left that evening is when they planted the first seeds of their revolt to get rid of Lenny Sawyer as Speaker.

Ms. Kilgannon: Is it because he was somehow associated with this bill? Was this kind of the final straw for them? Was there a relationship between this bill and that happening? Is it because he was too close to Bob Perry?

Mr. Brazier: Lenny was clearly of the old school. And I think these young guys just generally didn’t like that. Anne, it’s difficult to understand and you’ve interviewed a lot of former legislators and whether they’ve commented on this, it’s almost impossible to understand a legislative political caucus unless you’ve been a part of it.

Ms. Kilgannon: It’s like its own world.

Mr. Brazier: And there rarely is a caucus that isn’t divided. I mean there are no two people in the world who

agree on everything. And when you put fifty strong-minded people, or sixty strong-minded people, or however many in a room, day after day after day, for the lack of a better term I will say factions grow up. In any event, by 1975 there was some real dissatisfaction. When I went to lobbying in 1977, that's the kind of stuff as a lobbyist that you want to stay completely away from, I mean you don't even want to know about it.

Ms. Kilgannon: Well, it would be a swamp for you. And if you stepped wrong, you'd never be seen again!

Mr. Brazier: But it helped me when I became a lobbyist because several of these people who moved on to more senior positions helped me out a lot.

Ms. Kilgannon: They had a good association with you? Now, there's something I want to back up and ask. You were chair of the Utilities Commission; what was your relationship as a commissioner to the Legislature? You're an executive appointee, but this was not a governor's bill. This was a legislative matter passing through. You testify, you do things, but what exactly is that relationship?

Mr. Brazier: Well, you've got to understand that this is a totally different era than it was thirty years ago. One of the things that I said from day one, from the day I was appointed chairman of the commission, even though I didn't really know what it did, I tried to be a fast learner. I argued: "We will never do anything that will embarrass our governor, and we will try to keep a low profile." Now, as I learned the process, I looked around and learned, in some states, particularly in the South, that the utilities commission is elected. And they run statewide and they are much more high profile than in this state.

Ms. Kilgannon: Like our Lands Commissioner?

Mr. Brazier: Like our Lands Commissioner. And I think—I could be mistaken on this—but I think in North Dakota, their US Senator, Kent Conrad, was formerly on their utilities commission. There are a number of people in the southern states; in Texas they had the railroad commission and it was a lot of these people who are high in the Bush Administration; you'd hear about their prior association with the Texas Railroad Commission. You know, my attitude always was to try to stay below the horizon, but it's impossible to do.

Ms. Kilgannon: A lot of contentious issues.

Mr. Brazier: Yes, I learned very quickly. During the first year in 1971 we had a rate case from Washington Natural Gas and one from Pacific Northwest Bell, which is the predecessor to US West. And of course, you had eleven months and as it turned out the telephone company case was finalized, I think, on the last working day before Christmas. And we just filed the order and submitted it. The first working day after Christmas I got a telephone call from the fellow who was then the United Press guy here in Olympia, who I had known through my years in the Legislature, who was a fairly close friend of mine. And he just chewed me out royally. He accused me of trying to hide the order which had never ever entered my mind.

Ms. Kilgannon: Oh, “passed at midnight,” one of those?

Mr. Brazier: Well, you know, if you want to get something out in politics that doesn’t make the headlines, you do it the last thing Friday afternoon because people don’t read the Saturday paper and certainly don’t watch TV news.

Ms. Kilgannon: Especially the Friday before Christmas.

Mr. Brazier: So anyway, I learned my lesson there, never again. I mean, I made sure that we never issued an order the last working day before a holiday and not alert the press that it was coming. But I think, in my recollection too, is that in that case, that we were up against a deadline and we had to issue the order.

Ms. Kilgannon: It just happened that way; it wasn’t planned?

Mr. Brazier: But those are the kind of lessons you learn the hard way.

Ms. Kilgannon: So, as a commissioner you come before the Legislature—I’m just trying to get a sense of your voice in this.

Mr. Brazier: Most of these agencies now have public information people. That was not true then. And if we had dealings with the Legislature, the entire time I was there, either one of the other commissioners or I went to the Legislature. We never, unless we were sending somebody up just to provide technical information, we never, ever sent somebody to do our work.

Ms. Kilgannon: You were the public face.

Mr. Brazier: After I’d left the commission, I had occasion—many times—to talk to people who in subsequent administrations became department heads. And one piece of advice that I always gave them was, “If you have an issue before the Legislature that’s important, go do it yourself,” because the Legislature does not readily accept an underling coming to make the case. I say if it’s important enough to your department that you need to have it, then when it comes to testifying—I mean, you can send somebody else to do some of the lobbying but I say when it comes to testifying—go do it yourself. And to this day, I strongly believe that.

Ms. Kilgannon: Yes, the psychology of it...the message you’re giving...

Mr. Brazier: Most legislators get sick and tired of agency people coming in and browbeating them. And the attitude is, I think, among many legislators is if this thing is important enough to your agency then you come tell us about it yourself.

Ms. Kilgannon: And your word about this bill, your displeasure, your discontent with it, would that sway legislators?

Mr. Brazier: It apparently didn’t.

Ms. Kilgannon: Would it at least alert them that there was an issue if they wanted to notice that?

Mr. Brazier: In my naiveté, I did not realize until very recently that in the case of HB 435, the House Republicans, the caucus had locked up and made it a caucus position. I was told very recently by a friend of mine who was in the press at the time that this legislator who was part of the Republican Caucus, and who was an extreme moderate, had come to him and he asked why the caucus was locking up. I mean, he voted with the caucus but I did not know that at the time, and I made my pitch to a lot of legislators. I think the only one that I know I truly influenced was Gordon Walgren.

Ms. Kilgannon: The Senate chair of the Utilities Committee.

Mr. Brazier: Gordon voted “no” consistently and has in the intervening years thanked me on numerous occasions for talking him into voting against that bill. And, of course, Gordon and I have been good personal friends for forty-five years. But you know, because he was the chairman of the committee, as I recall, in the seventies—

Ms. Kilgannon: He was, yes.

Mr. Brazier: —he was under a lot of pressure and I just said, “Gordon, no.”

Ms. Kilgannon: So at least in some circles your voice would have had an influence. But perhaps not where you thought it was going to.

Mr. Brazier: Gordon has thanked me for talking him into voting no. I don’t know, once that thing was over and done with, and the Governor had vetoed it, I tried to forget about it. I mean, Anne, by the end of that ‘75 Session, I was physically and mentally exhausted.

Ms. Kilgannon: Yes, you were fighting it, but were you being lobbied, too? Was it proper—was it all right—did people lobby you?

Mr. Brazier: Oh, it’s okay. There was no question about where I stood.

Ms. Kilgannon: But were you browbeat to change your mind?

Mr. Brazier: Some of the utility lobbyists despise me to this day. I was called—the government called me as a witness in the Jerry Buckley case. And I was very favorably disposed toward Jerry because he did his job for Washington Water Power, but he left it at the door. There was no personal aspect of it. Several of the other utility lobbyists took it as a personal affront and despised me forever more. A couple, in particular, I don’t think, have ever backed off from that position. I mean, I was doing what I thought was right. They were doing, apparently, what they thought was right, it was what they were being paid to do. And I can’t quarrel with that. But to make it personal as they did...

Ms. Kilgannon: That seems unusual.

Mr. Brazier: I think that most of them blamed me for the governor's veto. I can understand how you've been a lobbyist and you work your tail off all session, you finally get success by one vote on the last night of the session and then the Governor vetoes the doggone bill.

Ms. Kilgannon: Sure, it would drive you crazy.

Mr. Brazier: I would suspect there's some animosity. I mean if it had been one of my cases I would have felt that way. But the fact is, for three years I didn't know why the Governor vetoed the bill until he finally told me long after he was no longer governor.

Ms. Kilgannon: So, somehow he read it the same way you did. I mean, you helped him to see that, but he also just saw it? Is that it?

Mr. Brazier: I really can't explain it. I do know that he had a steady stream of calls from—not from the lobbyists but from the CEOs—of the utilities. And I did have one visit with him; I told him why I thought it ought to be vetoed. I figured, "I'm done now," you know. Dan Evans is a very unusual person; he was an outstanding chief executive of this state and just as straight as straight can be. I mean, sure he dealt with the Legislature and made deals but it was always above board, it was never *sub rosa*; you know, there was never any—as far as I know, and I've know him for more than forty years—there was never ever any monkey business.

Ms. Kilgannon: Did this issue go away after this? Did the utility companies try a different tact? What happened? They needed this badly but then what did they do, did they rework their strategy?

Mr. Brazier: What ultimately happened is, after I had left the commission the issue ended up in the Supreme Court. And I think they held that you could not, under the existing law—which was different from the legal advice that I had—that the commission could not allow construction work in progress. Now I suspect my attitude would have been somewhat different if I'd known how the court was going to rule. But Anne, the utility cases tend to be fairly complex. The courts do not have a great deal of expertise. And to this day, I disagree with the opinion of the court, which held we could not allow that, because my primary advisor was Frank Hayes who clearly had more expertise in utility law than anybody on the Supreme Court, or the Supreme Court collectively.

Ms. Kilgannon: Well, it is such a specialty. Part of your argument was that the commission already had these powers. So did instances come up where, with the powers you already had, you could say, "Yes, you may do it there, or you may not do it here?" Did it go that route?

Mr. Brazier: My opinion, and the legal advice that I had upon which we acted, was that in an appropriate case, if we deemed it right, that we could include construction work in progress, in the rate base. Their position was they wanted to write it into statute so that it would be allowable in every case. Which I still don't believe is appropriate.

Ms. Kilgannon: It would certainly diminish your role.

Mr. Brazier: I don't think the Supreme Court decision, which outlawed it entirely, is right either.

Ms. Kilgannon: Sort of a pendulum swing there, all or nothing?

Mr. Brazier: Once again, I don't feel that I have the expertise now. I figure I had a fair amount thirty years ago, but I also had the advantage of being advised by experts.

Ms. Kilgannon: Right. Now, this was a private utility issue. Does this legislation or court case have anything to do with what developed in the WPPSS case?

Mr. Brazier: No, I don't think so.

Ms. Kilgannon: There's no relationship there? There seemed to be some of the same issues about construction costs and bonds. But I'm no expert.

Mr. Brazier: You go back into that era, because the thing has pretty much calmed down over the years, and there's been a great deal of interaction between private and public utilities in the last thirty years. The public power community was absolutely and totally opposed to any kind of legislation in any way, shape, or form that would submit them to the authority of the Utilities Commission. I mean, regardless of the merits, they were opposed to it. And of course, during the same time frame, 1974-75, we had very, very serious energy shortages. And there was discussions of how to handle that and what should be done. While in electricity we got a cross between public and private. In the gas area, it's all subject to regulation.

Ms. Kilgannon: This is the time of OPEC and the gas lines.

Mr. Brazier: Yes, and in natural gas, I think this was the beginning of '74, which would be earlier than this legislation, we had a shortage and a cold spell and there were these priorities; we had to cut off gas. Well, it was Christmas and the first week in January in 1974. And the Commission was going to have to start cutting off industrial gas supplies. Well, then everybody that's in a certain classification feels they are first among equals, and the obligation would have fallen upon the commission to say who got cut off. And I remember being very, very nervous about this. Fortunately, the weather warmed up and we didn't have to ever cut them off.

But the Legislature all during the late seventies, during Dixy's administration and even afterwards, was inundated with very, very serious energy problems.

Ms. Kilgannon: Yes, everyone was really jittery all through that era; there were a lot issues.

Mr. Brazier: Dixy ended up firing the head of the energy office and it was very difficult. It was after I'd left the Utilities Commission when it really got tenuous. But it was almost unprecedented. I believe it was probably in the fall of '73, may have been '74, they had a special short session of the Legislature on energy issues and I can remember I addressed a joint session of the Legislature in the House chambers during that short special session. My memory of it is fairly vague at this time, but I don't know of any instance since when a department head ever addressed a joint session of the Legislature.

Ms. Kilgannon: You gave them advice on energy policy?

Mr. Brazier: I don't remember.

Ms. Kilgannon: So, besides the drama and then the fallout from this bill and the lasting implications of that, how should we think about this bill? The energy companies were moving forward and they wanted certain things; did this put a stick in their spoke and then they went in a different direction or—

Mr. Brazier: Maybe in some ways it was a tempest in a teapot. I mean, I can remember during my years of representing the savings banks and savings and loans associations we had omnibus bills, in essence, to clean up our code. And at times it had some fairly substantial issues in it. I think in addition to first the rates under bond and the construction work in progress, that they looked upon this primarily as a clean-up their code type thing. I don't know that they've ever returned in the intervening thirty years with a similar type situation. I mean the regulatory situation has changed so much Anne, I don't even understand it anymore. I think in a lot of ways we were better off when we were regulated, but that's not the way of the modern world.

Ms. Kilgannon: Apparently not. But, I can see how you personally were put through the wringer on this. It, to me, crystallizes the role of the commission in regulating utilities. I'm trying to understand, it seems like it had to be more than just cleaning up their code because there was so much money involved and there was a lot on the line here. Much more than an ordinary, you know, "housekeeping measure." Why was this so critical?

Mr. Brazier: Once again, I'm giving you my point of view.

Ms. Kilgannon: Of course, that's what we're doing here.

Mr. Brazier: Let's look in particular at the telephone companies, of which in this state the subsidiaries of AT&T and the subsidiary of the GT&E were the major telephone providers. This was not only true here but nationally. You look over the years at people who attained presidencies in the top offices of Bell Operating companies and General operating companies. Almost without exception, some place along the line they had had an assignment for a couple of years with the regulatory agency, either state or federal. And if you were

on a fast track in the telephone company, you worked the regulatory side. And if you look, historically, at the people who ran what was US West, Pacific Northwest Bell, they almost always had some place along the line in their career, whether it was with that company or another Bell Company, they'd had a two-year term as a representative to the regulatory agency. I mean, at the time I left the commission I realized that the guy who got the assignment from PNB ordinarily was on the fast track. That was a part of his getting to the top. And clearly it was very, very important to them. If they got a very negative finding from the Utilities Commission, it cut into their earnings.

Ms. Kilgannon: And their plans.

Mr. Brazier: There were some states that were just basically impossible. And probably one of the worst in this part of the country was Montana, which had, and still has, an elected Utilities Commission. And they just had a terrible time there. I mean, if you were a utility providing a public service, telephone, electric, gas, whatever it was and you're providing adequate service, you're entitled to a return that is equivalent to an unregulated industry with the same level of risk in doing business. It's a very difficult equation; I mean, in the opinion of the utility what they're entitled to is "here." The opinion of the person who's in there representing the public is "here."

Ms. Kilgannon: You're holding your hands on the table quite far apart.

Mr. Brazier: And where it belongs is probably someplace in between and a responsible commission is duty-bound to find that common ground. And you rarely make everybody happy.

Ms. Kilgannon: And is that the measurement? When everybody's a bit unhappy you've probably got it pretty close?

Mr. Brazier: My attitude was, always, that if everybody is unhappy, we're probably about where we belong.

Ms. Kilgannon: But everybody's got to be at the table, the consumers, the businesses.

Mr. Brazier: Yes. And the consumer—public counsel was not nearly so formalized as it is now. I mean, now there is in the Attorney General's Office, an Office of Public Counsel. In those days, prior to the 1970s, the Attorney General appointed, on a case-by-case basis, a person to represent the interest of the public. I'm not sure that that was always the best method, although I saw—and this happened after I left—I saw occasions where I thought that the Public Counsel became more bound by philosophy than by attaining the best possible result. I mean, I have no reservations whatsoever that we were a responsible commission. I mean none of our utilities ever went broke; they always managed to maintain a reasonable return. One of the things that we suffered from in this part of the country—at least I felt we suffered from—and I made a number of trips

to New York and met with security analysts of utilities and so forth—that being 3,000 miles away from the seat of judgment perhaps cost our utilities one grade on their bonds. In other words, I think—once again I’m quoting from a long, long time back, but I mean, I was working on this thing fifty and sixty hours a week, every week of my life, and studying everything I could possibly study and learn. There was a utility in upstate New York called, I think it was, Orange and Rockland Utilities, which was having a very difficult time. But it still maintained the same bond rating as I think Puget Power had. And from everything I could ascertain, that it wasn’t even close between the level of the quality of management to the quality of their operation. But they were suburban New York, and we were three thousand miles away, and we just didn’t get the kind of—

Ms. Kilgannon: Media attention?

Mr. Brazier: I could be wrong on that, and I argued with those people back there at length, but it never seemed to do any good. This is something that I carried with me in my afterlife, and when I was in the banking business, for example, that we pay the price in the financial markets for being as far away as we were.

Ms. Kilgannon: I could see that, yes.

One thing I wanted to clarify for myself, you were a gubernatorial appointment. How much did you discuss, even in a general way, Governor Evans’ philosophy on utilities? I know you’re very independent minded, but you don’t want to embarrass the Governor. How much did you know what his wishes were? Did you have that kind of conversation with him or did you just have a sort of general sense?

Mr. Brazier: He appointed me to the commission.

Ms. Kilgannon: No words of wisdom passed?

Mr. Brazier: Now, this was 1971; I had been associated with him at that time for seven and a half years. I think it was pretty clear that my personal political philosophy was fairly close to his.

Ms. Kilgannon: So he appointed you, knowing you were already where he was?

Mr. Brazier: Meaning he knew pretty much where I was. I never, ever had any, to my recollection, *ever* had any discussion on anything I did as chairman of the commission other than to make the case against HB 435.

Ms. Kilgannon: So, he just knows you: knows who you are, knows your position and then you’re appointed and you’re over there?

Mr. Brazier: I said to my fellow commissioners on numerous occasions, “We are never going to do anything here if we can avoid it that will embarrass our governor.” Because I saw situations in a lot of states, and I think I’ve seen a couple here in the intervening years where the commission actions ended up being an embarrassment to the administration and I was determined that was never going to happen.

Ms. Kilgannon: Did you have a term? Other boards are appointed six, nine, four, whatever years. Did you have a term like that when you were the chairman?

Mr. Brazier: It was staggered six-year terms; there were two vacancies. I was appointed to the six-year term.
[tape off]

Ms. Kilgannon: I want to understand how the commission works.

Mr. Brazier: There are three commissioners, serving six-year terms. They are staggered so one term expires each two years. No more than two members may be of the same political party. A commissioner may hold over until a successor is appointed.

Ms. Kilgannon: And that person is appointed by the governor and confirmed by the Senate?

Mr. Brazier: Yes. Now, the reason that I left was, as of January 1, 1977, it became necessary for appointed officials to file these—

Ms. Kilgannon: Public Disclosure forms?

Mr. Brazier: PDC forms, and I had a couple of situations in my own professional involvement that simply I could not have disclosed. Plus the fact that Dixy had made it very, very clear that all Evans' people were out, and if anybody was clearly an Evans person it was me, so I wasn't going to give her a choice. But the interesting thing is I had never met Dixy. When I wrote my letter of resignation to the governor, I sent a copy to Dixy. And then I went to work for Washington Mutual. And a couple of months later, they had a reception at the mansion for the lobbying community. And I went through the receiving line and was introduced to the governor and she said, "Oh, I appreciate meeting you. You are the only person in the Evans administration who had the courtesy to send me a letter of resignation."

Ms. Kilgannon: Oh, my.

Mr. Brazier: That was my initial introduction to Dixy.

Ms. Kilgannon: I thought that was something everyone did, but I guess not. Is there anything else you would like to say about this bill?

Mr. Brazier: I don't think so.

Ms. Kilgannon: Thank you, then.

END OF INTERVIEW