

HOUSE COMMITTEE ON ELECTION AND RULES

June 03, 2005 Hearing Room D

1:00 P.M. Tapes 60 - 61

MEMBERS PRESENT: Rep. Derrick Kitts, Chair

Rep. Paul Holvey, Vice-Chair

Rep. Kim Thatcher, Vice-Chair

Rep. Billy Dalto

Rep. Mitch Greenlick

MEMBER EXCUSED: Rep. Debi Farr

Rep. Steve March

STAFF PRESENT: Cletus Moore, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

SB 1008 A – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/# Speaker Comments

TAPE 60, A

- 003 Chair Kitts Calls the meeting to order at 1:05 p.m. and requests that people in the audience sign up to testify. Asks that the committee stand at ease briefly.
- Chair Kitts Reconvenes the meeting momentarily and opens a public hearing on SB 1008 A.

SB 1008 A – PUBLIC HEARING

- 020 Cletus Moore Committee Administrator. Reads summary of SB 1008 A. Advises members of the SB 1008-A10 amendments (**EXHIBIT A**), the Revenue Impact Statement (**EXHIBIT B**), the Legislative Fiscal Statement (**EXHIBIT C**), and that SB 1008 A has a subsequent referral to the Committee on Budget.
- 052 Sen. Ryan Deckert SD 14. Testifies in support of SB 1008 A. Explains that SB 1008 A creates a public corporation called Oregon Community Power to purchase and operate PGE. States that since the initial hearings on this bill much has occurred in the City of Portland. They are well into discussions and have signed a confidentiality agreement. States that he, Sen. Nelson and Rep. Berger introduced SB 1008 A because they were frustrated by a lack of appealing options to take over operations of PGE. States they see this as an option for the customers of PGE. States that a workgroup was authorized by the Chair of the Senate Business and Economic Development Committee which included just about everyone playing in the field. Explains there were three issues they needed to address: benefit to ratepayers; ensure there was accountability; appropriate representative governance structure.
- 101 Sen. Deckert Explains the benefits they see in SB 1008 A. States that this proposal marries the benefits of a public mission, liability and rate reduction, and also keeps it at arms length from government and allowing it to run like a private corporation. Comments on financial advantages by not having to pay taxes. They estimate that \$140 million would be saved just in interest rates that would be plowed back into lower rates. The approximately 10 percent that now goes to shareholders would be managed on behalf of customers and put back into rate reduction.
- 150 Sen. David Nelson SD 29. Explains that PGE owns two power plants in Morrow County and is the largest property tax payer for Morrow County. PGE's concerns are how they would get any representation if Portland owned the company. Portland has the right to do what they are

doing. PGE would rather be involved in a statewide concept. Another constituency is the consumer owned utilities. There are three consumer owned utilities, and one municipal utility in his district. Their concern is that Bonneville is oversubscribed and that could affect their rates. In the bill, they have a provision that Oregon Community Power will hold local communities harmless for property taxes and franchise fees that PGE now pays and the Oregon Power Corporation cannot exercise the right to claim preference power from Bonneville Power. Those issues have been answered. States there is another proposal that may be presented to the committee today that somehow the committee may marry the Portland concept with the statewide proposal but he does not know what it would do.

- 196 Chair Kitts Advises Sen. Nelson that it is not the intention of this committee to marry any bill today but it is something the committee could do, and asks that Sen. Nelson review the proposal.
- Sen. Nelson Responds that he appreciates the committee being willing to look at many things. It is a very interesting and important concept.
- 203 Rep. Vicki Berger HD 20. States that Sen. Nelson, Sen. Deckert and she have been working very hard on this concept in the Senate. It reflects a huge amount of work by a lot of people in a form that is appropriate for the importance of it. It is created out of a legislative process where everybody was at the table to bring their issues forward so they could create in a public entity in a public way.
- Rep. Berger Explains that in rate setting, the power will not be subject to the Public Utility Commission (PUC) rate review; the customers themselves have devised a rate setting procedure based on standards of costs-based rates for each class of customer. The rates will include costs to maintain and operate electric utility distribution and transmission lines, pay property taxes and franchise fees, and debt service. All the local government entities will be held harmless. Rate settings will occur under rules relating to open meetings and public records. SB 1008 A provides for an annual independent audit of Oregon Community Power. The legislation requires Oregon Community Power to maintain books and records in accordance with generally accepted accounting principles and a uniform set of accounts established by the Federal Energy Regulatory Commission (FERC), and great care has been taken to transfer the responsibilities and obligations of PGE over to Oregon Community Power regarding the public purpose provisions of Oregon's competitive electric market legislation, SB 1149 (1999).
- 252 Rep. Berger

States that Oregon needs power that is affordable, accessible, locally controlled and that we have a golden opportunity right now. The critical piece is that a public power structure has to represent everyone in Oregon. Submits PGE service area map (**EXHIBIT D**) and explains there are 10 different areas in the Oregon where PGE is creating power through some sort of facility. PGE is a statewide asset. It is a statewide issue. This gives us a governance structure for a statewide public utility. It is a model that will help Oregon and is a huge economic development piece because the cost of power will make a big difference in our ability to attract the kinds of businesses Oregon will need to keep our economy going.

- 280 Rep. Greenlick Comments that he has become a little familiar with the public corporation model because of his proposal to expand the Oregon Health and Science University (OHSU) window to include Portland State University (PSU). States his understanding is that a public corporation is basically the same as a state government agency; it is part of the Executive Department of the state. States the difference is that not every statute that applies to a state department applies to this. Requests an outline of what statutes apply to the public corporation as opposed to which statutes do not apply to the public corporation.
- 298 Sen. Nelson Comments that the OHSU model was designed to give health care the ability to be more flexible. Gives example that employees of Oregon Community Power would not be eligible for PERS. States they are trying to figure out an organization structure that can be flexible. It will be run by a board of directors and people who are experts in the business.
- Rep. Greenlick Responds that the board is appointed by the governor and is serving as an executive arm of the state. Asks if the open meetings law would apply. Suggests the witnesses could provide the information in a memorandum.
- Sen. Deckert Comments that they wanted to say in law that these would not be PERS employees. They attempted to put this at arms length for a lot of reason. One is, they believe, the entity could acquire stock, which is a big issue for the trustees of Enron.
- 335 Chair Kitts Asks Sen. Deckert to put his response on the statutes in a letter.
- Chair Kitts Asks if the question of whether or not the corporation would be able to acquire stock is still unclear.
- Sen. Deckert

Responds it was their bond counsel's opinion at the time that how it was drafted matters. If it is kept at arms length so it is not a state agency, (in the Constitution state agencies cannot acquire stock) they could acquire stock. It was drafted to ensure that the entity, Oregon Community Power, would be very much unlike a state agency in so many different ways, that it could acquire stock.

371 Rep. Greenlick Comments that when asked to be named to the OHSU board he was told he could not as a legislator because OHSU is in the Executive Department of the state. It just does not have to conform to all the various statutes; only to the statutes that are written into its legislation. States his assumption is if a board is appointed by the governor, it is a part of the executive arm of the state but with very narrow constraints.

433 Gary Conkling Representing Washington County. Testifies in support of SB 1008 A. States that a public corporation can be customized to fit the task. Gives example of the Port of Portland, OHSU, and the State Accident Insurance Fund (SAIF) and states they are quite different from each other because they have different responsibilities and different needs. Oregon Community Power could also be uniquely designed to meet the requirements of operating a sophisticated utility such as PGE. It also has the benefit of being a unique utility that is customer owned without impacting in any unintentional or inadvertent ways the statutes on municipal utilities, people's utility districts, or rural electric coops. States that he thinks the sponsors gave a good explanation of the purpose of the bill.

TAPE 61, A

017 Conkling Explains that SB 1008 A provides for a seven-member board appointed by the governor and confirmed by the Senate. This bill provides for a nominating committee consisting of people who have a statutory standing or are the most frequent representatives of commercial, industrial and residential ratepayers. They will have an influence on who will be board members. There will also be representatives of cities and counties. Reviews qualifications of board members listed on Page 4 of SB 1008 A. States he believes this proposal is very elegant, effective and much less expensive than the system we have today in terms of representing ratepayer interests.

056 Conkling Reviews part of list of applicable and non-applicable state statutes prepared by Legislative Counsel (**EXHIBIT F**). States that a thoughtful effort has been put in place to make sure that Oregon Community Power would be able to function and operate in a business-like fashion.

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| 076 | Conkling | Explains that Oregon Community Power acquires eminent domain only at the point of purchasing the utility; it does not have the ability to use eminent domain to acquire PGE. It is the intent to use eminent domain only in the normal conduct of business and it cannot use eminent domain to acquire exclusive territory of any other utility. |
| | Conkling | States there are a number of accountability provisions that Rep. Berger noted, including independent audits. Comments that a policy question is who would actually issue the bonds relative to an acquisition of the utility—whether it would be the State Treasurer or the utility itself. The way the bill is currently written, the State Treasurer is authorized to issue the bonds. States that it is also possible, and there may be advantages, to have the utility itself be the bond issuer. This is relevant, particularly in any kind of a context where there is the potential of the City of Portland being the bidder but ultimately Oregon Community Power being the buyer takes effect. Discussion is going on about the potential merger of a bidding and acquisition strategy involving the City of Portland. It is relevant to have some thought about the bond issuance because it would in fact be either the utility or the state that would be issuing non-recourse revenue bonds. These are not bonds backed by any general obligation of taxpayers but are based on the assets and cash flow from ratepayers of the utility itself. |
| 109 | Brad VanCleve | Industrial Customers of Northwest Utilities (ICNW). Testifies in support of SB 1008 A. States they are here to support SB 1008 A, not necessarily because they think it is the only answer to the PGE ownership question, but they think it might be the right answer and needs to be an option on the table. In looking at the various options for PGE ownership, they have looked at some guiding principles. They think there needs to be 1) a model for stable, long-term ownership of PGE, 2) an opportunity to lower costs and hopefully reduce PGE's high rates, 3) the policies of SB 1149 (1999) that provides for direct access and funding of public purposes need to be incorporated, 4) they think there needs to be a fair and non-discriminatory process for setting rates, and 5) there needs to be an independent but accountable governance structure that represents the interests of customers. |
| 135 | VanCleve | States that they believe SB 1008 A satisfies each of their goals and on the important goal of lowering costs, while there is no guarantee that PGE's rates will go down, Oregon Community Power creates the following cost advantages: ability to finance with tax exempt debt; an exemption from income taxes; no required rate of return for utility share holders. |
| 140 | VanCleve | |

States they were asked early on to assist in the drafting and development of SB 1008 and unlike some of the other options on the table, the customers had a very strong role in developing the concept. States his role was to focus on three areas: incorporating the relevant provisions of SB 1149 without making substantive changes to existing law; ensuring that the transition process to the new utility would be as easy as possible from a customer perspective; and ensuring that a fair and non-discriminatory rate process was put in place to replace PUC regulation.

- 150 VanCleve Explains provisions in SB 1008 A that address the three issues he was asked to assist with. Oregon Community Power is required by the statute to offer direct access to all non-residential customers. This is the same obligation that PGE currently has and it would be transferred to the new public corporation. On the issue of portfolio access, which is the pricing options for residential customers, the bill leaves the decision up to the board. With respect to public purposes, Oregon Community Power would collect the three percent public service charge that is currently in PGE's rates and would continue to provide those moneys to the Oregon Energy Trust or such other entity as the Oregon PUC designates.
- 164 VanCleve States that if Oregon Community Power is put into existence and acquires PGE or its assets, the PUC will not regulate the rates of Oregon Community Power but will have a significant role in the implementation of SB 1149 options. It will continue to regulate energy service suppliers (the power supplies that directly serve some of PGE's customers). It will be responsible for resolving disputes between the energy suppliers and Oregon Community Power and will continue to enforce the consumer protection rules under SB 1149 and the PUC will continue to administer the collection and use of the three percent public purpose charge.
- 177 VanCleve States that the next issue has to do with the transition period. Their purpose was to create as seamless a process from the customer point of view as possible. The bill requires that Oregon Community Power adopt the existing rate schedules of PGE. These will remain in place until the board adopts a set of rules governing rate hearings and conducts a rate case to set new rates. On day one, customers will see little change. This includes adopting all the existing tariffs, rules and billing systems of PGE. The books and records of Oregon Community Power will be kept in accordance with generally accepted accounting principles and FERC rules so there will not be any change in the accounting practices during the change.
- 192 Chair Kitts Asks which section of SB 1008 A includes language on accounting practices.

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| | VanCleve | Responds the language is in Section 23. |
| 197 | VanCleve | States that SB 1008 A creates a process for ratemaking. It creates a process that Oregon Community Power would engage in that is similar to a rate case that would take place at the PUC. There would be an evidentiary hearing. The procedures would be similar to a contested case under the Administrative Procedures Act. There would be a state administrative law judge that would preside over the case and decide it, and the rate decision could be appealed as a contested case under ORS Chapter 183. |
| 208 | VanCleve | States that SB 1008 A does provide that the acquisition of PGE by Oregon Community Power is not subject to approval by the PUC. They think Enron would view this provision favorably. |
| 216 | Jeff Bissonette | Citizen Utility Board or Oregon (CUB). Submits summary of SB 1008 A (EXHIBIT E). Explains that they prepared the summary of SB 1008 A for the Senate Business and Economic Development Committee in April and states that things have not changed. Explains that in coming up with the governance structure, the process, and nominating procedures, they tried to make sure there is direct customer involvement and accountability, that there is a role from a statewide interest, and that there is involvement from interests throughout the state. The nominations are by customer groups and from areas represented by cities and counties, then gubernatorial appointment and Senate confirmation. States they share Sen. Nelson's goal to make sure that current customers of Bonneville Power Administration are held harmless. They also want to make sure customers of PGE are held harmless. Section 24, the preference power section, is place holder language. States they still need some discussion on that language. States this is a utility that has been developed by customers. The key factor is the customers deciding the future of their utility. |
| 257 | Chair Kitts | Asks if they would support the bill if he were to have an amendment drafted to delete lines 17 and 18 in Section 5. |
| 283 | Bissonette | States that the Citizens' Utility Board is a group that has statutory standing to represent residential customers. As the group that has that statutory standing, they would like to know what Rep. Kitts would be replacing the language with. |
| 292 | Chair Kitts | Asks what if he just took the language out. |

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| | Bissonette | Asks why Chair Kitts would want to remove the voice of the residential ratepayers. |
| | Chair Kitts | Asks that Bissonette answer the question. |
| | Bissonette | Responds they would like to have a better understanding of the thought behind the proposal. If Chair Kitts is removing residential ratepayers, it removes an entire class of customers and he is not sure they would agree with that. |
| 310 | Chair Kitts | Asks if VanCleve would still support the bill if he were to have an amendment drafted to delete lines 21 and 22 |
| 310 | VanCleve | Responds that the long term solution to the nominating committee is in Section 4 starting at line 9 where it provides that a representative from the different customer classes will be part of the nominating committee as well as some other local interests. The provision in Section 5 was put in for the first nominating committee and it was a matter of expediency so that a board could be formed in a timely manner after the passage of the bill. As long as the basic structure of it being a customer-driven nominating committee is in Section 4, they would support the bill even if the ICNU reference in Section 5 were deleted. |
| | Chair Kitts | Asks if he would support the bill if he took out their reference by name. |
| | VanCleve | Responds that he thinks that is correct as long as the bill provided an expedient way to get a board in place. If the language were deleted, it might leave a gap. |
| 331 | Chair Kitts | Comments that he wants to make sure there is support of the bill on the merits of the bill and not the personal involvement in the bill. |
| 353 | Julie Brandis | Associated Oregon Industries. States that AOI does not see this as the only option out there. States that all the groups are active with the City of Portland proposed acquisition. Believes all the groups will be briefed by next week on the stock distribution as proposed by Enron and PGE. They do not have a say in that and they are on board with that because it is a part of the bankruptcy plan. Their time to comment on that was during the drafting of that plan. What is important to them is that there is an expedient customer-drive approach to how the board is formed. Thinks the groups opposed one proposal this week because it lacks some of the structure that is in SB |

1008 A, not because they were not part of it. It is because it is not a customer-driven proposal.

- 386 Chair Kitts Reads line 27 of Section 5 and states that it is his understanding that the slate would each propose three names. Asks if 21 names would be presented to the governor.
- 402 Bissonette States the group would forward three names for each seat; there would be 21 names.
- 411 Chair Kitts States he understands the need to have representatives of the cities and counties and industrial and residential. Asks if there is any role for John Q citizen.
- 425 Brandis States they utilize their members and those are the citizens, and that their members are driving the economy. Comments on selection process of a representative for AOI.
- 447 Chair Kitts Reads language of (6) of Section 6 of the bill and questions if the qualifications include John Q citizen.
- 460 Bissonette States that in addition to their grassroots membership, it is a part for the governor who is making the appointment and those elected by the citizens of the state. They can voice their opinions about who is under consideration, who is up for renewal, etc. and is sure the governor will hear about that. With Senate confirmation, individual Senators will hear from their constituents. Believes there are a number of ways that John Q citizens will insert themselves through individual organizations or their elected representatives. States that is one of the reason they chose this approach.

TAPE 60, B

- 016 Chair Kitts Asks if the language in Section 11 of the bill, line 4, is saying that the board or any person the board delegates has the authority to set compensation for the board members themselves.
- 035 Bissonette Responds it is the intention to have compensation for the board and to make sure the board members are professional.
- 049 Chair Kitts Asks if the language was meant to set a salary schedule.

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| | Bissonette | Responds they were trying to create a public corporation but give it flexibility so they can attract qualified utility managers. |
| 045 | Chair Kitts | Comments that “any person delegated by the board” could make a contract and pay anything they want. |
| | Bissonette | Comments he thinks it is also understood that the board is setting a budget and the staff is familiar with that budget and constraints put on it. States he does not think the section is intended to be as broad as Chair Kitts is reading it. |
| | Chair Kitts | Asks if Bissonette would agree that the language is as broad as he is reading it. |
| | Bissonette | States he believes the intent was to make sure the board has broad authority, but to let the board itself decide to delegate the powers and put the most common parameters on them. The most common parameters put on any delegation is within the budget the board itself adopts. That is in any organizational structure. |
| 082 | Chair Kitts | Comments that the salaries would have to fit within the budget the board adopts. |
| | Bissonette | Responds that is the way it usually happens in any organization and if a senior manager or chief executive officer pays something that breaks the budget, there is usually pretty serious discussion between the board and the senior officer or chief executive. |
| | Chair Kitts | States there is nothing in the bill about how high the budget can be. |
| | Bissonette | Responds that the board is accountable to the customers and if the members like serving as the board and are acting in the interest of customers, they are going to want to keep a tight rein on expenses and will adopt a budget that is commensurate with the revenue and try to reduce costs because they are serving in the interest of customers. |
| 093 | VanCleve | Comments that the board is serving at the pleasure of the governor and if they are guilty of mismanaging the utility, they can be removed for cause. Adds that a person would be subject to removal for overpaying a consultant, if it rose to the extreme that Chair Kitts is suggesting. States that the PUC could authorize a utility to recover completely unreasonable costs, but if they did that they might be subject to removal. |

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| 107 | Chair Kitts | Comments that with the PUC there is an accountability issue between the company and the ratepayer. In this situation, in Section 6 in line 10 on page 4, it says the member may be removed by the governor after notice and public hearing. Gives example of paying a salary that may be too much but it is in the budget and is not negligent. |
| | VanCleve | Responds that he believes the theory was that the board members would be compensated in the same way that board members of similar private companies are compensated. Thinks that would at least establish a bar for comparison. |
| 123 | Bissonette | Comments that if a board member went over the edge, he probably would not find himself on the list of a nominating committee when his seat is up. |
| 132 | Conklin | Comments that in working with Legislative Counsel in developing the text for SB 1008 A, they asked Dexter Johnson was to make sure they gave Oregon Community Power the ability to function in a business-like manner as a utility. Believes the initial question Chair Kitts asked about (12) is a reflection of attempting to make sure that Oregon Community Power would have the ability to have a general manager. |
| 143 | Chair Kitts | Reads Section 15 on eminent domain and asks if the “inside” and “outside” the territory is property in Oregon. |
| 168 | Conkling | Responds that in PGE’s case that is generally true. |
| | Chair Kitts | Continues reading Section 15, and reads referenced Section 2. States that the language seems to cover everything. Reads language in (2) of Section 15 and asks if the language is rather broad. |
| | Conkling | Responds that it may or may not be broad. States that utilities, particularly those such as PGE, have, in addition to the distribution system that serves its service territory, transmission lines, access to the inter-tie, generating facilities, much of which is outside of its service territory. States that utilities are constantly in the business of doing substations and making other improvements mainly for safety and power reliability purposes. The have attempted to provide this customer owned utility with a set of abilities to use eminent domain when necessary in the conduct of its normal utility business, no more and no less. |
| 190 | Chair Kitts | |

Asks if they could acquire large amounts of land for the potential purpose to put a substation on whether or not they do.

Conkling States he thinks utilities do have to engage in some land banking. States that PGE has acquired land outside of its service territory for certain generating capacity and transmission lines. States if they have overreached, it was not their intent and if more narrowing language is appropriate, they would have no objection. Adds that the Chair has excellent questions and this is one of the reasons why they believe that having a legislative process review the creation of the utility at this level of detail is a very good thing.

216 Rep. Dalto Asks if the land PGE purchased outside their territory was purchased privately or through eminent domain power, and if PGE currently has eminent domain power.

221 VanCleve Explains that PGE and all utilities do have a limited form of eminent domain power such that they can acquire easements and rights-of-ways to build transmission lines and those kinds of things. Explains they do not have the exact same eminent domain power as a government authority.

230 Rep. Dalto Repeats his question whether PGE acquired land through private acquisition or eminent domain power.

232 VanCleve Responds that it is his understanding that with the transmission corridor that will bring the new Port Westward plan into PGE's system, part of those rights-of-ways were acquired through private transactions and part are being acquired through eminent domain proceedings.

238 Rep. Dalto Comments that the powers conferred in Section 15 and Section 2 are pretty impressive powers for the public corporation. Asks at what point this Oregon Community Power stops at the PGE service territory or considers moving beyond the PGE service territory putting it into competition with other power territories using the public corporation eminent domain power.

254 VanCleve Responds that the way the bill answers that is that most of the state is already allocated through service territory agreements and exclusive service territory allocations. The bill specifically approves those arrangements. Oregon Community Power would not be able to try to serve the customers of PacifiCorp or any other utility.

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| | Rep. Dalto | Asks for identification of language in SB 1008 A that sets forth the arrangements. |
| 261 | Conkling | Responds he believes the language is in Section 23, line 41 on page 10 of SB 1008 A. |
| 267 | Chair Kitts | Asks if it would also be touched on in Section 15 (2). |
| | Conkling | Responds that Chair Kitts is correct. States the language was developed by the customers working with PacifiCorp and customer owned utilities. It was specifically included to accommodate their interests that the utility would not be able to use these powers to acquire their territory. |
| 291 | Chair Kitts | Asks if Oregon Community Power would be subject to the public records laws. |
| | Conkling | Responds that the list that Legislative Counsel provided (EXHIBIT F) includes public records and public meetings. |
| 303 | Rep. Thatcher | Asks if it is correct that the public contracting laws would not apply |
| 306 | Conkling | Responds affirmatively. Explains the concept was to create a customized utility to operate as closely like a professional business organization as possible. The notion was that they were creating an organization that was taking over an investor owned utility and the attempt was to try to make it as similar to that organization as possible, other than the fact it is a public corporation and would operate as a customer owned utility. |
| 325 | Rep. Thatcher | States she is missing a little piece relating to public contracting. States other public corporations do not abide by public contracting laws and other entities are not able to compete for certain contracts with them. |
| 344 | Conkling | States that was not done on the basis of costs. Thinks the simple test was to try to simulate a customer owned utility in the form of a public corporation that would act as close to a professional business-like organization, or as similar to PGE today as possible. States these are policy judgments. |
| 366 | Vice Chair Thatcher | Asks for clarification of the statement that they would offer direct access to all non-residential customers the same as the process is now, |

but the offer to residential customers would be left to the board. Asks what the process is for PGE currently.

- 374 Bissonette Responds that residential customers do not have direct access, only because they do not want it. They want the guarantee to service that the utility provides. That is the policy today and would be the policy under SB 1008 A. Most commercial and industrial customers have direct access and want to keep it. The effort was made to make sure that was continued under a public ownership because SB 1149 ordinarily does not apply to consumer owned utilities in Oregon. They wanted to make it very clear that although this would be a consumer owned utility, that all the policies that PGE is currently subject to as an investor owned utility would also apply if SB 1008 A came into being.
- 371 Rep. Thatcher Asks if the process with the administrative law judge would be an open process.
- VanCleve Responds yes, because everyone would have access.
- 419 Conkling States that the existing PUC rate setting process is an evidentiary-based one. The commissioners themselves must make a decision about rates based on actual evidence presented. The customers have attempted to create a system as being more elegant and less expensive than the current system. To simulate something similar to that for Oregon Community Power, they have proposed using an administrative law judge to serve basically as the referee.
- 404 Ken Strobeck League of Oregon Cities. Comments that the League of Oregon Cities represents the 240 cities in Oregon and he is speaking on behalf of the 52 cities including Portland that are within the PGE service territory. Submits list of principles adopted about two years ago by the League of Oregon Cities board when the first proposals came forward regarding the sale of PGE when it was involved in the Enron bankruptcy (**EXHIBIT G**). Stresses the importance of retaining the local taxes and fees.
- 492 Chair Kitts Comments that Section 24 preserves the cities' ability to nickel and dime the people as they see fit. Asks if the principles are the genesis of Section 24.
- 500 Strobeck States that Senators Deckert and Nelson and Rep. Berger worked with them on the creation of the language and they are fully on board with that principle. States that he also serves on the Advisory Council on

the City of Portland and they are advancing the same principles in that forum.

512 Chair Kitts Asks if the City of Portland proposal incorporates their list of principles.

Strobeck Responds affirmatively.

TAPE 61, B

036 Tom O'Connor Director, Oregon Municipal Electric Utilities. Introduces Sandy Flicker with the Rural Electric Cooperatives and Libby Henry with the Eugene Water and Electric Board.

O'Connor States they were involved in the discussion on SB 1008 A for two elementary reasons. One is that the utility system in Oregon and the northwest is interrelated. You cannot do something to a utility the size of PGE and not affect every other utility in the state of Oregon. And, as a small consumer owned utilities they are almost entirely dependent on the power they receive from the Bonneville Power Administration to serve their customers. Any change in the status of PGE affects or has the potential to affect their power supply. The fundamental concern is that the formation of some new entity out of PGE, regardless of what its structure is, not cause a cost shift to the existing consumer owned utilities in Oregon. They buy their power primarily from Bonneville and Bonneville has a finite amount of power to go around. Comments on Bonneville's shortage of power during the energy crisis and states Bonneville had to buy power on the open market. Their customers' rates went up over fifty percent and they don't want to go through that again.

070 O'Connor States that PGE has significant generation resources and owns a piece of the north-south inter-tie and are able to move power between here and California and they have a huge marketing capability. Concern is that whatever structure is created it not be able to draw upon Bonneville in addition to their own resources and cause our rates to go up. States they will have amendments to deal with that in SB 1008 A because there is now discussion about all different kinds of entities that might be formed.

091 Chair Kitts Comments that Section 24 (a) and (b) talk about the federal electric power, which means Bonneville for the purpose of this section. It does not prohibit them from using Bonneville.

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| | O'Connor | States their amendments make a differentiation between power and financial benefits. It says it does not draw upon power but would be eligible for financial benefits as they are now. States, in response to Dalto's questions, Section 36 which they put in the bill also speaks to maintaining the exclusive distribution rights of consumer owned utilities which will be designed to ensure that the new entity could not take over their systems. There is also language in Section 15 (2)(a) that prohibits the use of eminent domain to take over their service territory or anyone else's. In response to Rep. Thatcher's question, existing municipal utilities are subject to public contracting and prevailing wage requirements. |
| 104 | Sandy Flicker | Oregon Rural Electric Cooperative Association. States she wants to make a clarification to make sure the committee understands Section 24 of SB 1008 A. It established a policy for no cost shifting between PGE customers and customers of a consumer owned utility in Oregon. They are asking that this committee consider a small amendment to Section 24 which would continue to Oregon Community Power, but would also say, "and any other entity, public or private, that purchases PGE". That is to guarantee that for the 300,000 or so electricity customers of the small communities in Oregon that there is no cost shift onto them with any new formation of PGE. States they will submit the amendments as soon as they receive them from Legislative Counsel. |
| 134 | Libby Henry | Eugene Water and Electric Board. States she is here regarding ownership of the Trojan nuclear plant which is now a waste facility and the assumption of some responsibility along with the other owners or whoever takes over this utility. States the language in Section 46 of SB 1008 A has already passed the House 57-1 in HB 3479, and they will have two clarifying amendments to go with it. |
| | Chair Kitts | Asks that Henry provide clarification of the language at a later meeting. |
| 152 | Chair Kitts | Closes the public hearing on SB 1008 A and adjourns the meeting at 2:43 p.m. |

EXHIBIT SUMMARY

A. SB 1008, -A10 amendments, Larry Campbell, 18 pp

- B. SB 1008, Revenue Impact Statement, staff, 2 pp**
- C. SB 1008, Fiscal Impact Statement, staff, 3 pp**
- D. SB 1008, map of PGE service territory, Rep. Berger, 1 p**
- E. SB 1008, Senate Bill 1008 Summary, Jeff Bissonette, 2 pp**
- F. SB 1008, list of laws applicable to SB 1008, staff, 2 pp**
- G. SB 1008, list of principles, Ken Strobeck, 1 p**