

# SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

January 20, 2005  
1:00 PM

Hearing Room B  
Tapes 3 - 4

Corrected 10/18/05

**MEMBERS PRESENT:** Sen. Rick Metsger, Chair  
Sen. Bruce Starr, Vice-Chair  
Sen. Jason Atkinson  
Sen. Ryan Deckert  
Sen. Laurie Monnes Anderson

**VISITING MEMBER:** Sen. Vicki Walker

**STAFF PRESENT:** Theresa Van Winkle, Committee Administrator  
James Goulding, Committee Assistant

**ISSUES HEARD & WITNESSES:** Adoption of Committee Rules – Organizational Meeting  
Portland General Electric sale – Informational Meeting  
Lee Beyer, Chair of Oregon PUC  
Paul Graham, Oregon Dept. of Justice  
Robert Bingham, Enron  
Mitchell Taylor, Enron  
Michael Morgan, Enron

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 3, A</b>		
003	Chair Metsger	Calls the meeting to order at 1:11 PM. Makes opening comments on the committee staff working for the committee. Introduces assistant James Goulding and administrator Theresa Van Winkle. Introduces Senators Laurie Monnes Anderson, Ryan Deckert, and Bruce Starr. Comments on the positive results of his partnership with Vice-Chair Starr during the interim on the Joint Transportation and Economic Development Committee. Opens organizational meeting to adopt committee rules <b>(EXHIBIT A)</b> .
<b><u>ADOPTION OF COMMITTEE RULES - ORGANIZATIONAL MEETING</u></b>		
015	Vice-Chair Starr	<b>MOTION: Moves to ADOPT the proposed Committee Rules.</b> <b>VOTE: 4-0-1</b> <b>EXCUSED: 1 - Atkinson</b>
020	Chair Metsger	<b>Hearing no objection, declares the motion ADOPTED.</b>
025	Chair Metsger	Outlines additional unofficial rules, including 48 hour notice for posting. Notes intent to post hearings of bills 96 hours ahead of time when possible. States intent not to pass any bill out of committee without bipartisan support. Talks about transforming existing bills into new bills and making it known in advance to avoid surprises.
060	Chair Metsger	Opens informational hearing on the sale of Portland General

Electric.

**PORTLAND GENERAL ELECTRIC SALE - INFORMATIONAL HEARING**

065	Chair Metsger	Makes introductory comments on the Portland General Electric (PGE) purchase. Points out they are not commenting on merits of the case, but making sure the Public Utility Commission (PUC) has the tools needed to protect public interest.
090	Sen. Walker	Presents a draft of LC 819 ( <b>EXHIBIT B</b> ) to the committee members. Inquires about forthcoming hearing schedule and scope of questions that can be asked.
095	Chair Metsger	Talks about testimony anticipated over the next two meetings.
100	Sen. Walker	Wonders about the types of questions she can ask.
105	Chair Metsger	Clarifies the purpose and scope of the testimony.
110	Sen. Walker	Notes she may occasionally step out of the scope of the hearing.
115	Lee Beyer	Oregon Public Utility Commission, Chair. Introduces Paul Graham. Presents written outline of his testimony to the committee ( <b>EXHIBIT C</b> ). Makes opening comments on the nature of the PUC and PGE. Goes over ground rules of what he may and may not legally answer. Begins presentation of testimony, touching on delicate issues.  Begins overview of the PUC and their history, creation, and function. Feels the agency's role is to regulate practices making sure utilities function, are of good quality, and are reasonable and affordable.
200	Beyer	Presents testimony on the general practices and functions of the PUC. Presents the standards by which the PUC gauges the activities of utility providers. Discusses recommendations and decision making processes. States that PUC follows the rules of judicial procedure, similar to what courts do. Interested parties can gain access to trade secrets and other documents and challenge them if warranted.
300	Beyer	Outlines history of mergers and acquisitions. Discusses PUC credit rating and its high standards. Feels their job is to make sure customers get good utility quality at a fair and reasonable rate. References the Enron scenario. Discusses Enron's attempt to sell its assets. Presents the current tools available to the PUC and the control that it has.
395	Sen. Walker	Asks for clarification on his written testimony.
400	Beyer	Clarifies the item that he is referencing. Continues discussion of his testimony.
420	Sen. Walker	Inquires if the action meets requirements for public interest written in statute. Asks how they can make a decision having not before adopted a legal standard for the PUC.
<b>TAPE 4, A</b>		
010	Paul Graham	Oregon Department of Justice. Points out that at the time it was written they had never had a case of this type. States that in other scenarios they had stipulations based on findings in other cases.
025	Sen. Walker	Wonders if this is a precedent setting standard in defining public benefit.
030	Graham	Affirms that it is and they have to create a standard to define this issue.
035	Sen. Walker	Brings up the possible role of the legislature in defining the standard.
040	Graham	States it is possible.

045	Beyer	Points out they function under the laws defined by the legislature. Moves to discussion on the current proposals. Discusses formal cross examinations in their decision making process. Talks about what is involved in creating a procedure. States there are 47 formal intervenors in the case such as the City of Portland and others. Outlines the meetings held in the greater Portland and Salem areas. Points out the volume of responses received on the topic.
115	Beyer	States their decision can be appealed. Concludes his comments on the process. Voices that the commissioners are taking this issue very seriously. Points out that any action taken will generate responses that are half positive and half negative.  Moves on to discuss the Enron bankruptcy filed in New York and how it relates to the PUC. States PGE will be owned by someone else once the liquidation of Enron is complete. Details the possible outcomes regarding the sale of the utility, including the PUC role in a parcel purchase. Details the tax structure and different strategies.
225	Chair Metsger	Thanks Mr. Beyer for his testimony. Wonders about the statute regarding serving the public's best interest. Discusses the complexity of defining what the "public interest" really means. Offers the question of whether the legislature should give them assistance in the decision making ability to serve the statute.
245	Beyer	Replies that would make his job easier having more power, but it would be difficult to do. Talks about the broader areas of public interest, feels they don't have the mandate for that decision making power.
270	Chair Metsger	Discusses Sen. Walker's LC 819 draft. Wonders about the rate setting process and their involvement with a holding company. Asks about the potential of a ratepayer paying for their own credits.
300	Beyer	States he cannot respond on this matter.
305	Graham	Points out the tax issue does not involve just the PGE, but any utility. Feels that a generic approach is best so all companies can be represented. Talks about the commission's role. Feels it is a tax issue and not a regulatory issue.
340	Chair Metsger	Offers additional questions on intervenor funding to oppose proposals, asks for his evaluation on this issue.
365	Beyer	Replies that only 3 or 4 parties have applied. Feels it has helped them receive the assistance they need.
385	Chair Metsger	Asks what standard a court would use to evaluate the actions of the PUC.
390	Graham	Responds that it is an appellate standard through a circuit court. Details the criteria of a court challenge.
<b>TAPE 3, B</b>		
005	Chair Metsger	Clarifies Mr. Graham's answer.
007	Graham	Concurs with the clarification.
010	Chair Metsger	Asks if there are any concerns of having such a large customer base served by a publicly owned utility without legislative direction.
020	Beyer	Declines to answer the question.
025	Sen. Walker	Asks for permission to ask several questions. Wonders about court evaluation regarding public benefit.

030	Graham	Replies that if it is felt the commission has misapplied a law, they can be challenged.
032	Sen. Walker	Wonders about the process of sealing trade secret records.
035	Beyer	Replies with his understanding that sealing records is a fairly standard procedure. States incidents where the decision may be challenged.
055	Sen. Walker	Feels it is not in the public's best interest to seal documents. Talks about sealed documents outlining the problems with Enron's practices.
060	Graham	Responds that they receive a lot of requests for documents; some secret. Outlines the protective agreements between businesses and the PUC. Points out many have had access to those documents to protect their customers.
080	Sen. Walker	States she had asked to see the documents in question. Points out the Attorney General's investigation of Diana Goldschmidt's role on the Oregon Investment Council. Wonders if they have held the record open for the report now that it is complete.
090	Graham	Replies that they will take official notice of the information in the report when they receive it.
100	Sen. Walker	Details LC 819, and asks him to bring up some points discussed between them prior to the meeting.
115	Beyer	Replies Enron has ultimate rights to PGE and is required to sell it.
120	Sen. Deckert	Wonders what has been learned since the 1997 sale of Enron.
125	Beyer	Responds about movement of funds and having access to records.
145	Sen. Deckert	Voices the value of Mr. Beyer's presentation. Wonders if they have approved each acquisition request. Asks if the legislature could do a better job by being specific in its decision making.
160	Beyer	Replies that most have been concluded via settlement. Points out the importance of creating clear intent in their laws.
175	Vice-Chair Starr	Wonders about the ramifications for leaking sealed documents to the public, as occurred last year.
185	Graham	States there has been a PUC violation of the law, and that the ones who released the leaked documents can be fined, sanctioned, or barred.
190	Vice-Chair Starr	Asks if there have been previous violations.
195	Graham	Replies this is the first time it has happened at the PUC.
200	Chair Metsger	Thanks Mr. Beyer and Mr. Graham for their testimony. Invites Robert Bingham, Mitchell Taylor and Michael Morgan of Enron to testify.
235	Robert Bingham	Interim Chief Financial Officer, Enron. Presents written testimony to the committee ( <b>EXHIBIT D</b> ). Outlines the current state of Enron and that when the assets have been liquidated the company will cease to exist. Reads the written testimony relating to the current liquidation of Enron's holdings.
395	Chair Metsger	Wonders about the consequences of failing to sell PGE. Offers that there is greater value in the entire entity, than dividing into its separate parts.
410	Mitchell Taylor	Managing Director, Enron. Responds that PGE would essentially revert back to a publicly owned utility.
415	Chair Metsger	Asks Mr. Taylor to identify himself for the record.
420	Taylor	Identifies himself.
425	Sen. Walker	Inquires if there is a set deadline for completion of the liquidation

**TAPE 4, B**

		process.
005	Bingham	Replies there is no official deadline. Offers that they will be finished when they have addressed all remaining claims.
010	Sen. Walker	Mentions how Eugene's court system offers its documents on-line. Wonders if all the statements are available on-line.
015	Bingham	Replies that E-Law or Enron websites have all related documents available.
025	Sen. Walker	Inquires about the sale issue and the right to sale. Wonders if it is possible for a sale of the utility to the State of Oregon or City of Portland.
030	Bingham	Replies they have a new board of directors and they will consider the best viable offers made.
045	Sen. Walker	Ponders what PGE is doing to reduce its costs.
065	Bingham	States that PGE should be addressed directly.
070	Sen. Walker	Clarifies that Enron cannot address PGE's actions.
075	Sen. Monnes Anderson	Inquires on the options if the sale of PGE doesn't happen. Wonders what the process would be if they were to become a stand alone utility again.
080	Bingham	Relates the options, finding another buyer, and the option of liquidating their shares to creditors. States that it would be easier to sell the stock to creditors.
095	Sen. Monnes Anderson	Asks for clarification.
100	Bingham	States again the options for the sale of the PGE, or sale of its stock making it widely held.
110	Sen. Monnes Anderson	Wonder if a group of PGE stockholders could purchase the shares.
115	Mike Morgan	States that once the stock is traded anyone can purchase it.
120	Sen. Deckert	References the 'Project Tahoe' documents that were leaked. Asks if they are aware of them.
128	Bingham	Concurs they are aware of the documents.
130	Sen. Deckert	Discusses the documents and the comments made that PGE is undervalued and could be turned into a profitable business and sold. Wonders what their feelings are on the real value of PGE.
140	Taylor	Replies that from their perspective the document contained preliminary findings and that many within PGE do not agree with the findings.
155	Bingham	Offers additional information on the possible sale.
165	Sen. Deckert	Asks if Enron authorized any study of PGE's value before putting it up for sale.
167	Taylor	Replies they have, but not through third parties.
170	Bingham	Offers that there were some outside evaluations of PGE's value.
180	Sen. Deckert	Inquires if there were any outside independent audits performed.
185	Bingham	States that he does not know of any others studies performed.
190	Vice-Chair Starr	Wonders about the role of Enron's role in the assets they currently own. Asks how involved Enron is in running PGE's own operations.
200	Bingham	Replies that major decisions by PGE are ratified by Enron's board. Offers his recollection that Enron has not overturned any of PGE's decisions.
215	Vice-Chair Starr	Clarifies that PGE is essentially operating independently.
220	Bingham	Affirms that is correct.
225	Sen. Monnes	Asks if PGE could issue common stock to its holders.

230	Anderson Bingham	Replies that PGE will issue stock directly in accordance with the claims made.
233	Sen. Monnes Anderson	Wonders what would happen if PGE issued the stock.
235	Bingham	Replies claimants would get shares and could then sell them.
240	Chair Metsger	Thanks them for their testimony. Asks about employees of PGE that lost their retirement plans with Enron. Wonders where on the scale of credits would they stand.
250	Bingham	Replies he hopes the claims are lower than proposed.
255	Chair Metsger	Wants to clarify the ability of PGE employees to be claimants.
260	Bingham	Responds he doesn't know what the total would be.
265	Chair Metsger	Suspects that their possibility of receiving a significant amount is low.
270	Bingham	Replies that it depends on the definition of significant. Provides an estimate for a potential claim. Clarifies that they will get back the current value of their common stock, which is not expected to be very much.
275	Chair Metsger	Thanks them for their time. States they will hear the rest of the testimony at the next meeting. Outlines intentions for next meeting.
285	Bingham	Interjects that there was a complaint filed called the Tittle Action which relates to common stock and retirement claims. Points out they are close to a settlement in that case.
295	Sen. Walker	Asks for proper spelling of the Tittle Action.
305	Bingham	Clarifies the spelling.
310	Chair Metsger	Outlines plans to conclude testimony at Tuesday's meeting. Adjourns at 2:57 P.M.

## **EXHIBIT SUMMARY**

- A. Rules, Senate Business and Economic Development Committee, Staff, 3 pp.**
- B. Portland General Electric, LC 819, Senator Vicki Walker, 1 p.**
- C. Portland General Electric, Lee Beyer, 22 pp.**
- D. Portland General Electric, Robert Bingham, 5 pp.**