

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

June 13, 2003 Hearing Room E
10:30 AM Tapes 79 - 80

MEMBERS PRESENT: Rep. Dan Doyle, Chair
 Rep. Linda Flores, Vice-Chair
 Rep. Laurie Monnes Anderson, Vice Chair
 Rep. Vic Backlund
 Rep. Phil Barnhart
 Rep. Betsy L. Close
 Rep. Joanne Verger

STAFF PRESENT: Cara Filsinger, Administrator
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: SB 886 A – Work Session
 HB 2356 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
Tape 79, A		
004	Chair Doyle	Calls meeting to order at 10:37 a.m., announces order agenda items will be considered, and that HB 3611, HJR 54 and HB 3565 will not be considered today.
014	Chair Doyle	Opens a work session on SB 886 A.
<u>SB 886 A – WORK SESSION</u>		
	Chair Doyle	Explains that the SB 886-A4 amendments (EXHIBIT A) are intended to put more certainty in the bill. Notes concern from the Department of Human Services (DHS) about providing training for volunteers and driving up the costs. Explains the amendments.
068	Rep. Flores	MOTION: Moves to ADOPT SB 886-A4 amendments dated 6/9/03.
068	Rep. Monnes Anderson Chair Doyle	Asks if the entities will at least be told about confidentiality in child abuse. Explains that faith-based organizations are currently under the child abuse reporting requirements and DHS must assure that the organizations are aware of the issues as well.
108	Rep. Verger	Asks what they anticipate after the pilot program ends.
104	Chair Doyle	Responds that on page 3, Section 2(2) says DHS shall provide a report to the legislative assembly on the program. Sen. Shields' goal is to provide opportunities for faith-based and civic organizations to help members of their own organizations with issues they may not now know about. It is providing support to individual members of those organizations that need state assistance and will get them off state assistance sooner because of the additional support from their own community.
139		VOTE: 7-0-0
	Chair Doyle	Hearing no objection, declares the motion CARRIED.

140 Rep. Flores **MOTION: Moves SB 886 A to the floor with a DO PASS AS AMENDED recommendation.**

145 **VOTE: 7-0-0**
AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.

Chair Doyle

150 Rep. Doyle **MOTION: Moves SB 886 A be placed on the CONSENT CALENDAR.**

152 **VOTE: 7-0-0**
Hearing no objection, declares the motion CARRIED.

Chair Doyle

157 Chair Doyle Closes the work session on SB 886 A and opens a public hearing on HB 2356 A.

HB 2356 A – PUBLIC HEARING

151 Rep. Mary Gallegos District 29. Testifies in support of HB 2356. States she lives in Cornelius, is a PGE ratepayer, and has never had the opportunity to vote for anyone running for mayor or city council or other government positions within the city of Portland. States she is concerned about what happens when the public takes over a utility that serves her and her constituents. She believes they need representation at the table. Believes that the best intentions sometimes have unintended consequences. She is concerned about the precedents this takes; PGE has assets all over the state, including water rights. Believes this bill allows the legislature to represent those people who do not necessarily have a place at the table. It is a great idea and great plan and she is sure everyone would support it and support the City of Portland should they want to take over the private company and create a public utility.

230 Rep. Barnhart Asks how it is different now than it would be under public ownership by the City of Portland.

240 Rep. Gallegos Responds that the stockholders are willing participants and take a gamble. States that she, as a taxpayer, does not have a say right now in the PUD to be created but may be obligated as a ratepayer and would have no say at the table.

241 Rep. Barnhart Asks if Rep. Gallegos would recommend a special session to “operationalize” this bill.

Rep. Gallegos Suggests the timing for discussion of legislation could be coordinated with a possible special session.

261 Rep. Close Asks if this would be regulated by the Public Utility Commission (PUC).

Rep. Gallegos States she is waiting for a response from Legislative Counsel. Under SB 1149 (2001) they would not be subject to PUC regulations. States there is a lot that needs to be resolved before this takes place.

Rep. Barnhart Asks if there are circumstances where it would be reasonable for the City of Portland to take over PGE.

Rep. Gallegos Responds she has concerns about rates, how it would affect our economy, and who is obligated to pick up the tab should there be failure.

299 Gary Conkling Regional Power Study Group. Explains their coalition group includes Multnomah, Washington, Clackamas and Marion counties. States they have entered into an intergovernmental agreement to work on a governance structure and a set of

		operating principles for a publicly owned utility in the event the City of Portland is successful in acquiring PGE through an auction process. States that the auction, at Enron and its creditors' discretion, has been made secret. Most do not have any knowledge about how the process is going.
361	Conkling	States he wants to express opposition to HB 2356, not because there is a lack of sympathy for why it has come forward. Thinks a discussion in front of the legislature is perfectly appropriate, but does not think this is a useful tool to help the public interests. There are state and regional interests and a mix of other special interests in Oregon that bare on the sale of this utility. The debacle of Enron has brought us to this place. Comments on effects of the Enron bankruptcy.
412	Conkling	States that PGE is an important asset. If there were a private buyer, his clients and he thinks the City of Portland would be happy if the private sector purchaser had the goal of running the utility locally for the benefit of ratepayers and the communities served by the facilities. There is no evidence of a private sector company on the horizon. As best he knows today, Northwest Natural is not now a bidder in the auction process. If Northwest Natural is not interested, one has to look at who might be interested. States that, according to Enron, purchasers might include a creditors' management committee. Explains that the objective of credit management trying to get out of bankruptcy is to maximize profits as quickly as possible so the assets can be sold as quickly as possible to get the creditors the money they want.
TAPE 80, A		
001	Conkling	Gives examples of PG&E of California being stripped apart and sold. States that the one and only opportunity he is aware of for potential local control is what the City of Portland is doing. Suggests there should be a coalition to support their effort, not finding barriers to prevent it.
021	Conkling	States the more legitimate discussion ,and the one they are having with the City of Portland is on-going and they have reached some tentative agreements about, is how such a publicly owned utility would be managed with a regional governing board that would reflect the broader interest of the district that PGE serves, that it would have an arms-length relationship with the City of Portland (it would not be a bureau), and the exploration of creating an actual regional utility that would be a separate entity apart from the City of Portland.
033	Conkling	Adds that there is also the issue of preference power from Bonneville Power. It is a substantial issue not only for the ratepayers in the PGE service territory, but everyone else who receives preference power because they are a publicly owned utility. Comments on the residential rate exchange in lieu of preference power. States that as he understands it, as a publicly owned utility, this new utility would not qualify under federal law for the cash benefit and there isn't enough power for the utility to acquire; it is an issue that needs to be negotiated.
049	Conkling	States that this bill is not a useful bill to deliberate over but we need to have the discussion. Asked that the bill be allowed to rest.

060	Rep. Close Conkling	Asks if the counties were to take this over as a PUD, how would that compare to PUDs in the United States in size. Responds that the people he represents are not interested in forming a PUD nor is the City of Portland. States there is an effort that is completely separate from anything they are involved with. An initiative was qualified and placed on the ballot in Multnomah County to form a PUD in Multnomah County. That is not what they are proposing. They are talking about a purchase of PGE and running it as a public utility as it is today.
079	Rep. Close Conkling	Asks how the four counties together would compare nationally to public entities that are utility. Responds that the PGE service area is broader than the four counties. It would be larger than any other publicly owned utility in Oregon.
095	Rep. Close Conkling	Asks if it would be the third largest in the United States. Responds it might be; it would be large.
097	Rep. Close Conkling	Asks if there is a scenario where the four counties could get lower power rates than other counties under another utility. States that under federal law publicly owned utilities do qualify for preference power from the Bonneville system. The power has to exist before they can get it and it has variable pricing. States that he doesn't know if preference power being sold by Bonneville is as much of a bargain as it once was, but it changes over time. Adds that the entity would qualify for preference power, but questions whether they would take it. Perhaps they would not because there is not enough of it. Bonneville would have to go out on the market to buy power to meet the demands.
117	Rep. Close Conkling	Asks if one county could get lower rates than others. Responds the scenario would not be different than it is today. States that the four counties he is representing are not trying to form something separately.
126	Rep. Barnhart Conkling	Asks why Oregonians care whether PGE is broken up. Responds that some of the generating and distribution assets of PGE are very advantageous and have value separate from operating a utility. As a whole, PGE is profitable. Believes if PGE is broken up, there is a chance of having higher rates.
218	Rep. Barnhart Conkling	Asks if private individuals who might invest might find it more advantageous to themselves to buy only a piece of the company. States that an investor-owned utility is subject to rate regulation, including return on investment. States that investors will look at opportunity, costs, and how else they might invest their money. Thinks portions of the utility looks more attractive than running the entire utility as an investor-owned utility.
248	Rep. Barnhart Conkling	Asks where the people are that might buy this, whether they might be all over the world. Responds affirmatively. Comments that Enron has assets all over the world.
261	Rep. Barnhart	States that the trustee in the bankruptcy court has the obligation of maximizing the value of the business for the creditors and has no interest or reason under law, to protect the ratepayers. Asks if his statement is correct.
266	Conkling	Responds he believes Rep. Barnhart is correct.
269	Rep. Backlund	Asks whether the employees would be public employees and be

	Conkling	in PERS if the City of Portland buys PGE and forms a PUD. Responds that if the City of Portland purchases PGE, it would not become a PUD. It would be publicly owned with municipal utility structure. Gives example of the City of Tacoma that operates a municipal utility. Adds they are exploring the possibility of a different structure—a structure that would be a regional utility and separate from the city itself. In either case, the employees would be public employees, but does not know whether they would be eligible for PERS.
292	Rep. Verger	Asks Conkling to explain what he means by a regional utility separate from the City of Portland.
	Conkling	Comments on efforts by the counties to create a regional utility. They proposed to do that through a series of intergovernmental agreements. People felt that would be a cumbersome and wobbly foundation. The alternative idea was a state-chartered public corporation. States that the legislature would create the public corporation and it would not interfere with state laws relating to municipal utilities, PUDs, or electric co-ops.
335	Conkling	Explains they have attempted to be constructive partners with the City to try to create options to look at. It may be there is no other practical option at the outset of a purchase.
348	Rep. Verger	Comments that they do not know there are not other private buyers that are bidding.
	Conkling	Responds that Rep. Verger is right, they do not know. Believes if they had a great buyer, a bidder would have been announced and this process would be moving along. Comments that the book value of PGE is between \$1.8 billion to \$1.9 billion. Enron paid more than \$3 billion to buy PGE.
371	Rep. Verger	Asks if the regional power group has confidence that if the sale were to go through, either a state-chartered operation or a municipal utility has the expertise within that confine to run a utility and to be successful.
379	Rep. Conkling	Responds that a lot of their discussion has been on Rep. Verger's question. Believes there is absolute agreement between city and county officials and other stakeholders to having a professional board of men and women who have business understanding and some utility experience who could serve as a real governing board and policy setting board for a management system to operate the utility.
405	Sandy Flicker	Oregon Rural Electric Cooperative Association. Testifies that she speaks not in favor of or in opposition to HB 2356 A, but to bring the perspective of the rural people in the state. This issue has an impact on people who live in rural Oregon. Comments on service areas of cooperatives, municipal electric utilities, and PUDs; they serve about 65 percent of Oregon geographically and about 10 percent of the population. They are all private entities; they are private, not-for-profit utilities that are governed by the locally elected boards of directors, and are preference power customers of Bonneville. The cost of Bonneville power and access to Bonneville power is extremely important to rural electric cooperatives. When they are aware of an entity the size of PGE that would, by federal law, have access to that power, it causes some concern as to how it would impact their rates. Bonneville has already over extended themselves in purchasing

more power than they can generate and that has increased costs tremendously to them, but they do have an obligation to serve preference power to preference customers.

TAPE 79, B

019	Flicker	Comments on SB 1149 (2001) and exemptions granted them. Comments about concerns about unintended consequences, cost shifts, and what happens with preference power. States they have not had any acknowledgement of their concerns from any of the groups and are anxious and frustrated that the process has moved rather slowly.
065	Flicker	States they are concerned about the legislature playing a role in formation of a utility. States they are waiting for assurances from the City of Portland and from the regional group that there is a way to address the issues of the rural folks. States that local control is a good way to operate a utility.
083	Chair Doyle	Asks if there should be local control by one city that deals with all the other cities.
	Flicker	Responds that it is a very legitimate question and that she can only compare it to Harney Electric in Burns that goes across county lines.
117	Chair Doyle	Comments that there were factors other than SB 1149 (2001) that also caused rate increases.
123	Flicker	Agrees with Chair Doyle.
152	Matt Wingard	Former Executive Director and member of Oregonians for Jobs and Power. States they have not taken a position on the bill but have in the past provided informational presentations and he has been asked to do that today.
	Rep. Backlund Wingard	Asks Wingard to explain who their organization is. Explains their organization was formed by private businesses, elected officials, and concerned citizens in response to what was happening when the counties were considering turning PGE into a public utility of some kind. States their members had questions and the counties were not forthcoming about their plans and what the effects were. Submits copies of their study, "The Economic Costs of the Proposed Government Acquisition of Portland General Electric" prepared by ECONorthwest (EXHIBIT B).
181	Wingard	States they are concerned about what is perceived to be an anti-business climate and anything that sends a message that Oregon is not pro business and pro private enterprise. They are also concerned about what this public utility would look like. It would be the largest public utility in the Pacific Northwest. Explains proposal by the City of Portland to buy PGE.
199	Wingard	Comments on the county group meeting in secret and not reporting what they talked about, what direction they were going, or what they were deciding. States that the counties and city has been equally secret about their process as has Enron.
207	Wingard	States that two proposals are publicly known. One is the ballot initiative that would turn the PGE service territory in six counties into five PUDs; Polk and Marion or Yamhill counties would be combined. The group decided to go ahead with only the Multnomah district first. Comments that the effect would be to break up PGE and it would be easier to make the case to Washington and Clackamas counties that they should also pass a

		PUD initiative because the entity has been broken up, if it passes in Multnomah County.
229	Wingard	States there is a question about whether or not any of these condemnation proceedings would be allowed to condemn or gain access to anything outside the county boundaries. They believe the PUDs would be able to condemn only what is within the counties. Essentially they would get all the service territory but practically none of the generation. Clackamas County would end up with the hydro. The Clackamas County voters should be encouraged to vote for it because they would end up with more generating capacity than they need to provide so they could sell power. All the other PUDs would have no generating capacity and would have to buy all their power on the market. It would free up the creditors to sell it off.
250	Wingard	States that the other concept is the City of Portland purchasing the entire utility and making a promise to work with the six counties to create an advisory board or governing board, or both, to run the organization.
256	Wingard	States a draft governing proposal on May 7, 2003 that was not meant to be a public document includes a hint of where the City of Portland is going and what they are thinking about. It goes to the concern a lot of people have about how there could be a utility owned and run by the City of Portland and supposedly serve the interests of all six counties. States that when the counties began discussion, that is why Polk and Yamhill opted out of the discussions.
269	Wingard	States the draft proposal would be a nine member governing board but the mayor of Portland would appoint all nine members. Because of their fiduciary responsibility to pay back the money they are issuing bonds for to purchase the entity, the City of Portland would maintain legal power over all the decisions that the utility would make.
322	Wingard	States they would also create an advisory council that would have nine members. They would have a member from Associated Oregon Industries (AOI), a member of Industrial Customers of Northwest Utilities (ICNU), a member of the Citizens Utility Board (CUB), a member of the League of Oregon Cities (LOC), a member from the City of Portland, a member representing issues of "social equity", one member representing environmental interests, and two members that the six counties could appoint. Polk and Yamhill counties had serious concerns and commissioners in other counties have concern about whether or not the six counties would be represented well. In the draft proposal, only two members of the nine member board would be representing the interests of the six counties.
301	Wingard	States they are not convinced this scenario allows all the ratepayers throughout the six counties to be equally represented as ratepayers or politically.
	Wingard	States they asked ECONorthwest to address the questions whether rates would come down because promises were being made that rates would likely come down. ECONorthwest concluded that was not likely for various reasons. States that the City of Portland commissioned a study to answer that question and did not release the study until after they made the decision to

337	Wingard	allocate half a million dollars to look into the idea of buying and entering into negotiations with Enron creditors to buy the utility. The study concluded they were not likely to achieve lower rates. States that four of the five highest residential rates in Oregon are issued by public utilities; PGE is third. Five of the five highest commercial rates are issued by public utilities; PGE is ninth. Five of the five industrial rates are issued by public utilities; PGE is sixth.
351	Wingard	Comments on the report prepared for Oregonians for Jobs and Power (EXHIBIT B). Comments on preference power.
366	Wingard	States that currently the ratepayers in all six counties enjoy oversight by the Oregon Public Utility Commission. This entity would not have oversight and the ratepayers would be relying on the advisory board and the governing board to advocate their interests. There is concern whether that board would be representative of the six counties' interests.
382	Wingard	States there is also the issue of about \$50 million in taxes that PGE pays to cities and counties; those disappear under a public utility. States that the history with payments in lieu of taxes is not particularly good.
394	Wingard	States that IBEW told them they were not spending enough to study this. States that Oregonians for Jobs and Power commissioned a poll. The first conclusion was that it was easy to see why proponents of public power were moving forward; the only thing that the statistics prove is that 19 percent of the people are not reading the paper. People in the poll had an unfavorable opinion of the idea of the City of Portland controlling their power.
423	Wingard	Suggests an alternative is that the creditors could issue stock to themselves and basically return PGE to the situation before it was purchased. The original stockholders would be the creditors themselves but it would be a listed company and the stock price would be set based on supply and demand and over time the creditors could cash out their stock on the open market.
403	Rep. Barnhart Wingard	Asks what would be the effect on the costs if the company were broken up. Responds that they oppose breaking up the assets. PGE generates about 50 percent of the electricity they need to serve their customers. A breakup would require the buyer to go out on the market if the generation facilities are sold off separately.
471	Rep. Barnhart Wingard	Asks if breaking it up is not a possibility in the bankruptcy court. States that the indications they have heard from the creditors is that they have no interest in breaking up the assets and that is how they put it up in the auction process. States there is also a question whether the Oregon Public Utility Commission would allow the breakup.
TAPE 80, B		
036	Rep. Verger Wingard	Asks why the meetings were not open. Explains that the counties would send one commissioner to the meetings so they would skirt around the quorum and keep the meetings closed.
055	Tom O'Connor	Representing 11 municipal electric utilities in Oregon. States the municipal utilities have concerns and are in opposition to the bill. States that he supports the testimony of Conkling. They have

concerns about how a public owned entity would interface with them and others and separation from Enron. States that Enron is in an auction process to sell this asset. It is a receivership process. The one entity that has stepped forward to attempt to try to get a broad public interest is the City of Portland; they are under a gag order. It is critical they step forward because it could be stripped to its component parts. Comments on desires of Enron to break PGE into parts at the time they bought it. States it is important the City of Portland stepped forward and urges the legislature's involvement and further discussion of the issues and tracking it. Urges the legislature to not set up a preemption, which is the way the bill is written. Believes it would harm the negotiating process.

101 Rep. Verger Comments there is a public relations crisis in Oregon. States she feels it is incumbent on the City of Portland to be extremely open as soon as possible with the public so they do not harm everyone.

O'Connor Comments on the gag order imposed by Enron as part of participation in the auction process.

140 Rep. Backlund Asks if O'Connor has any reaction that a takeover would not lower rates.

O'Connor Responds that he does not think anyone at this stage of the game can say rates are going to be higher or lower because there is not enough information at this time.

163 Rep. Backlund Asks O'Connor what his reaction is on preference power if PGE should be taken over by the City of Portland.

169 O'Connor Responds they have concerns. States they are some of the smallest utilities in Oregon and they buy virtually all their power from Bonneville. The federal law allows a legitimate entity to have access to Bonneville Power. There are a variety of ways to do that.

185 Rep. Backlund States that preference power is a negative to municipals and rural co-ops.

O'Connor Responds it could be a negative. States that their existing situation is not so sure either. Comments that the consumer-owned utilities in the Northwest within the Bonneville system subsidize out of their rates the "residential exchange." They end up paying for a reduction in the rates of customers of private utilities around the state. The subsidy has gone up in huge amounts in a couple of years in large part because Bonneville did not have enough power.

213 Rep. Barnhart Asks if the process is established by the Bankruptcy court.

O'Connor Responds, yes.

Barnhart Comments he thinks the process of setting up a successor entity should be more open.

230 O'Connor Comments there have been open forums.

Rep. Barnhart Comments on the process and states that this is a very high risk situation that could cause increased power costs.

253 Chair Doyle Announces that the committee will continue to visit this issue. Comments that he thinks the City of Portland needs to understand their purchase should be conditioned on having more information about what the governance situation should be. States there are many outside the city of Portland that have no impact on

252	Rep. Backlund Gary Neal	decisions made by the city council in determining how PGE will be run if they do acquire it, and it is justified for the state legislature to be involved in the discussion. States he is also concerned about the secrecy of meetings. Port of Morrow County. Sends email in opposition to HB 2356 A (EXHIBIT C).
278	Chair Doyle Chair Doyle	Closes the public hearing on HB 2356 A. Comments on the State Fair bills and adjourns meeting at 12:22 p.m.

EXHIBIT SUMMARY

A – SB 886, SB 886-A4 amendments, Rep. Doyle, 1 p

B – HB2356, report, “The Economic Costs of the Proposed Government Acquisition of Portland General Electric,” Matt Wingard, 24 pp

C – HB 2356, email, Gary Neal, 1 p