

## HOUSE COMMITTEE ON COMMERCE

May 10, 1999 Hearing Room 350

3:00 p.m. Tapes 53 - 54

**MEMBERS PRESENT:** Rep. Jim Hill, Chair

Rep. Al King

Rep. Jerry Krummel

Rep. Bob Montgomery

Rep. Diane Rosenbaum

Rep. Bill Witt

**MEMBER EXCUSED:** Rep. Ryan Deckert, Vice Chair

Rep. Anitra Rasmussen

Rep. Mark Simmons

**STAFF PRESENT:** Jason Cody, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:** SB 380 ñ Public Hearing and Work Session

SB 624 ñ Public Hearing and Work Session

SB 931 ñ Public Hearing and Work Session

SB 1149-A ñ 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 53, A		

003	Chair Hill	Calls meeting to order at 3:03 p.m. and opens public hearing on SB 380.
<b><u>SB 380 ñ PUBLIC HERAING</u></b>		
005	Jason Cody	Administrator. Explains SB 380.
010	Pete Shepherd	Oregon Justice Department. Submits and reviews outline of comments in support of SB 380 <b>(EXHIBIT A)</b> .
040	Chair Hill	Closes public hearing and opens work session on SB 380.
<b><u>SB 380 ñ WORK SESSION</u></b>		
043	Rep. Montgomery	<b>MOTION: Moves SB 380 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0-4</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 4 - Reps. Deckert, Krummel, Rasmussen, Simmons</b>
	Chair Hill	<b>The motion CARRIES.</b>  <b>REP. ROSENBAUM will lead discussion on the floor.</b>
052	Chair Hill	Opens a public hearing on SB 624.
<b><u>SB 624 ñ PUBLIC HEARING</u></b>		
054	Cody	Explains SB 624.
59	Gary Bauer	Oregon Telecommunications Association. Comments he is appearing on behalf of the small telecommunications utilities that are members of their association. Submits and reads portions of a prepared statement in support of SB 624 <b>(EXHIBIT B)</b>
083	Roger Hamilton	Public Utility Commission (PUC). Comments they would prefer 30,000 but the 50,000 affects two small companies. It is all right with the PUC.

090	Chair Hill	Closes the public hearing and opens a work session on SB 624.
<b><u>SB 624 ñ WORK SESSION</u></b>		
097	Rep. Montgomery	<b>MOTION: Moves SB 624 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0-4</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 4 - Reps. Deckert, Krummel, Rasmussen, Simmons</b>
	Chair Hill	<b>The motion CARRIES.</b>
		<b>REP. KING will lead discussion on the floor.</b>
104	Chair Hill	Opens a public hearing on SB 931.
<b><u>SB 931 ñ PUBLIC HEARING</u></b>		
108	Cody	Explains SB 931.
117	Brian Boe	Portland General Electric. Submits prepared statement and testifies in support of SB 931 <b>(EXHIBIT C)</b> .
151	Roger Hamilton	PUC. Submits prepared statement and testifies in support of SB 931 <b>(EXHIBIT D)</b> .
161	John Gervais	National Electrical Contractors Association (NECA). Testifies in support of SB 931 because of the PUC oversight.
177	Rep. King	Comments he has some concern about "batch processing". Does not see a limitation on the number of properties. Ten properties could equal one million dollars.
185	Boe	Responds he believes there is appropriate protection by PUC.

195	Hamilton	Comments that this applies to third party transactions, not affiliates. The PUC would retain the traditional authority over affiliate transactions. Adds that the review period gives the PUC ample opportunity to check.
209	Rep. King	Asks if all the sales between \$25,000 and \$100,000 are contingent upon PUC's final authority.
210	Hamilton	Explains they would require notification prior to completion of the transactions.
215	King	Comments it is his understanding that aggregation is not covered.
217	Hamilton	Responds that he does not believe that aggregation is specifically covered in the language of the bill.
213	Chair Hill	Closes the public hearing and opens a work session on SB 931.
<b><u>SB 931 in WORK SESSION</u></b>		
<b>225</b>	<b>Rep. Witt</b>	<b>MOTION: Moves SB 931 to the floor with a DO PASS recommendation.</b>
227	Rep. King	Comments that aggregation does seem like it is a problem and if it becomes a problem, it can be dealt with then. Thinks that dealing in good faith in the interim will be fine and he will support the bill.
<b>233</b>		<b>VOTE: 6-0-3</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 3 - Reps. Deckert, Rasmussen, Simmons</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>  <b>REP. WITT will lead discussion on the floor.</b>
		<b>NOTE: REP. WITT IS CHAIR FOR THE PUBLIC HEARING ON SB 1149.</b>
235	Chair Witt	Opens a public hearing on SB 1149-A.

**SB 1149-A n PUBLIC HEARING**

252	Tom Imeson	PacifiCorp. Introduces Katherine McDowell, attorney. Submits and reads a prepared statement and proposes amendments to SB 1149-A ( <b>EXHIBIT E</b> ).
308	Imeson	Continues reading statement ( <b>EXHIBIT E, page 2</b> ).
380	Imeson	Continues reading statement ( <b>EXHIBIT E, page 3</b> ).
<b>TAPE 54, A</b>		
005	Imeson	Continues reading statement ( <b>EXHIBIT E, page 3, last paragraph</b> ).
010	Rep. Hill	Asks if the language in SB 1149-A would allow the Public Utility Commission (PUC) to require the sale of PacifiCorp assets.
010	Imeson	Responds that SB 1149-A states that the commission should provide incentives for divestiture. Does not think the bill requires it. But it does enable an administrative determination of stranded costs.
017	Imeson	Continues reading statement, ( <b>EXHIBIT E, page 3, last paragraph</b> ).
036	Rep. Hill	Asks if SB 1149-A would allow the commission to direct PacifiCorp to pay someone who is no longer on their system a credit based upon benefits.
046	Imeson	Responds they believe the way the legislation is currently drafted it could not only do this, but do this based not on the sale of any property, but on administrative determination of studies about whether these generating assets are above market or not. If they felt there were benefits for customers that PacifiCorp would have to pay that to the customers.
054	Rep. King	Asks if they discussed amendments while the bill was on the Senate side.
055	Imeson	Responds they did discuss potential amendments with the Chair of the committee and sponsor of the bill and were advised they should take their amendments to the House. The amendments were consistent with what they are proposing today.
060	Rep. King	Asks if there are stranded costs associated with industrial users for their distribution because of installation of hardware.
078	Katherine McDowell	Counsel. Responds that she believes the costs referred to by Rep. King are probably distribution costs to help provide services to customers. Those costs would remain a part of the distribution charges that customers would continue to pay even in a deregulated market.

092	Rep. King	Asks if someone could be paying a higher price for the distribution than someone who did not have special investments related to delivering their power under the previous rates.
102	McDowell	Explains that typically contract customers who have special costs and needs associated with their distribution service are often provided service under a contract. The bill says contract provisions would stay the same. Would guess the customers would pay those charges in their distribution rate. Does not believe that distribution-related costs in that situation would be stranded costs. Adds that she thinks the kinds of stranded costs one would see associated with distribution services are potentially the kind of costs that are associated with ramping up for direct access.
122	Rep. King	Asks if Ms. McDowell is indicating PUC will not have authority over stranded costs.
132	Imeson	Responds they have proposed that if a customer chooses to leave the system, there would not be stranded costs assessed against that customer nor would there be a stranded benefit charge assessed against the utility.
137	Rep. King	Comments he keeps looking for flexibility. He wonders about flexibility of subsequent enrollments for the initial collection and also in terms of a secondary market.
149	McDowell	Responds she thinks PacifiCorp's amendments provide greater flexibility because the amendments permit everyone to stay on a cost of service rate if they choose. The current bill offers direct access and does not require the continuing provision of the cost of service rate to industrial, large customers. Current customers would like to maintain the status quo. Residential customers have expressed no interest and the bill currently reflects their lack of interest in moving forward. PacifiCorp's amendments are designed to give more flexibility. If people want to stay with the current system, the amendment would permit them to do it, but it also permits the larger customers, if they choose to go to market, to be able to do that. The amendments say if the customer chooses to go to market, the customer cannot come back and be paid for the privilege of getting to choose a different supplier.
176	Rep. Hill	Asks if PacifiCorp is suggesting the company keep the benefits or takes the losses.
189	Imeson	Responds that what they are proposing goes to those customers who leave the system. For the rest of the regulated system it would be handled similar to the way it is handled today when they look at depreciation and investment. PacifiCorp is willing to say that for those customers who choose to leave the system and go to direct access, that PacifiCorp would be left with the risk that is implied, any responsibility for that. On the other hand any benefit related to that as well.
201	Rep. Hill	Asks how the losses would not fall back on those who choose to stay.

213	McDowell	Responds there has to be a balance. Amendment would require PUC to develop a process to do deregulation to guarantee there is a balance between the interests.
236	Rep. Hill	Asks if there is a mechanism that instead of giving broad authority to the PUC, that the PUC come back to the legislature to debate how to deal with stranded costs or benefits.
255	Imeson	Responds their amendments try to work within the framework of SB 1149-A. Believes if the legislature wants to do that, they would probably do something similar to the UE 102 regulation.
268	Chair Witt	Asks what would happen to industrial and commercial rates if SB 1149-A were to go forward as written.
269	Imeson	Responds that PacifiCorp believes industrial and commercial customers pay a subsidy that flows to residential customers. Absent that subsidy, their rates would decline. With the bill, their opportunity to get rates that are at least at that level is probably fairly clear. The bill deals with subsidies in a pretty clear manner; they are eliminated unless there is a special provision.
291	Chair Witt	Asks what their company would do to retain customers.
295	Imeson	Responds they have worked in some instances to retain customers with special contracts that require PUC approval. PacifiCorp is involved in a number of efforts to reduce their costs and will continue to do that. Adds there are really two issues. One is the subsidy and the other is the cost of providing the service.
312	Chair Witt	Asks if they have any insight as to how consumers will break out of the portfolio options and what the impact will be on rates.
320	Imeson	Responds PacifiCorp did have a portfolio project in Klamath County. They think the portfolio approach is a sensible way of dealing with residential customers because it provides them some framework of choice within the current regulated environment.
340	Chair Witt	Asks if they have a sense as to what residential customers would choose and what the percentages would be among the portfolio choices.
341	Imeson	Responds they offered several options in the Klamath project. The options included a market, a green power rate and a community based rate. Of those who opted to go into the portfolio, the green power rate seemed to be attractive.
354	Chair Witt	Asks if it raised their prices.
354	Imeson	Respond yes, there was a slight increase in prices.

360	Chair Witt	Asks if their customer could expect a 10 percent rate increase if this bill goes forward.
368	Imeson	Responds that if the industrial and commercial customers were to leave, the subsidy would be transferred.
370	Chair Witt	Asks if the 10 percent increase is based on all commercial customers leaving.
386	Imeson	Responds another person can explain how they put the map together.
379	Andrea Kelly	Explains the 10 percent does assume that the rate subsidy is completely eliminated between customer classes. Unwarranted cost shifts wording is in the bill. Believes that could mean different things to different people and PacifiCorp would like clarity on whether the subsidy should persist after deregulation or not. It seems the general acknowledgment of the commission and industrial customers over time is that the subsidies need to be eliminated before going to direct access.
417	Rep. Hill	Comments that in Section 19 of the A-Engrossed bill it allows the PUC to require an electric company to enter into a contract with Bonneville Power Administration (BPA) and PacifiCorp has been investing in generation facilities to serve its own load. Asks what the effect would be on rates to customers. Asks if Bonneville rates are above or below market.
431	Imeson	Comments that Bonneville rates help set the market. Concern in the past have been if there is a requirement for the company to purchase Bonneville power and it turns out to be a bad decision, PacifiCorp would like the risk of that bad decision to be recognized by decisions made by the commission in requiring the company to do that.

#### TAPE 53, B

024	McDowell	Comments that the provision giving the commission the authority to require a company to purchase from Bonneville is new. The company has historically chosen what they want to purchase. There is a responsibility of whether the company's choice is a prudent decision or not. The bill includes language that says the company should recover its uneconomic costs associated with Bonneville purchases. Amendment assigns. If the company is required to purchase from Bonneville, it is fair to permit the company to recover the costs associated if that turns out to be poor purchases. The bill also defines uneconomic costs as costs incurred prior to the date of the act. The language that permits companies to recover uneconomic costs associated with BPA purchases could become ineffective because of the definition of uneconomic costs which cuts off after the effective date of the act. Adds that PacifiCorp made the argument on the Senate side that this should be done more slowly to make sure that the bill is internally consistent. This is one of the internal inconsistencies PacifiCorp has tried to correct in the amendments.
052	Rep. Hill	Asks if another effect would be that residential rates would go up if PacifiCorp were required to purchase power from Bonneville and were unable to sell it.



063	McDowell	Responds the way that section reads permits the company to recover its costs associated with those purchases if the purchases turn out to be a bad idea. The costs would be recovered or those who would be left on the system because they would be paying the cost of service rate.
070	Rep. Hill	Comments if there were a robust market for electricity and PacifiCorp had to buy it, the benefits would roll in.
076	McDowell	Responds that the customers would receive a lower rate in the form of a lower cost of service rate.
075	Chair Witt	Asks if Pacific Corp wants to be able to compete in the direct access game on a competitive basis with commercial and industrial customers who can purchase power competitively.
084	McDowell	Responds that the company is going to be required to continue to provide a cost of service rate to its residential customers and under the current bill the PUC could require PacifiCorp to provide a cost of service rate to all customers. The bill contemplates that incumbent utilities continue to provide cost of service rates to its customers. PacifiCorp is saying if customers want to stay on their incumbent utilities cost of service rate, they should be permitted to do so. If they want to leave and buy from somebody else, they can do that. PacifiCorp is not setting up a marketer who will be competing with the energy service providers (ESPs) for that commodity. For those who want a bundled cost of service rate, the company will provide that. That is not what ESPs are going to be offering.
102	Chair Witt	Reads from Mr. Imeson's statement ( <b>EXHIBIT E, page 2, last paragraph</b> ): "If a customer chooses direct access and makes some part of PacifiCorp's current generation surplus, then PacifiCorp proposes that the surplus portion of its generation be deregulated through a PUC proceeding designed to balance the interests of remaining cost of service customers and utility shareholders."
112	McDowell	Comments it is true that under their proposal a portion of the company's load would become surplus. That will happen when people leave the load. PacifiCorp proposes that the surplus load be deregulated. The company could sell the power into the wholesale market, which is what it currently does with its surplus generation, except the profits and losses connected with that sale would be treated differently. If the company wanted to compete directly with energy service supplies, the PUC has made its position clear that PacifiCorp would not be able to do it as a regulated company. It would have to set up an unregulated affiliate that would be governed by a series of fairness rules. Does not see it as an anti-competitive measure because if PacifiCorp wants to play in that market, then the PUC would set up fairness rules that would prohibit PacifiCorp from being able to unfairly take advantage of its incumbent status in Oregon.
131	Chair Witt	Comments that to the extent that power is deregulated, he would assume the amendment would say that losses in the sale of the deregulated power would not be carried over to raise the cost of service rate.
139	Imeson	Responds that is the point of the language. It severs the tie either way.
143	McDowell	Comments that if one believes the company has stranded costs, the deregulation

of those assets would be quite advantageous to utility customers. If the costs were to remain in the system, they would raise the cost of service to customers who stay.

- 151 Tom Cropper Portland resident. Testifies in opposition to SB 1149-A. Does not understand the benefits to residential customers. Submits videotape from the Eastside Democratic Club of program presented by Fair and Clean Coalition **(EXHIBIT H ñ OVERSIZED EXHIBIT)**. Adds that Oregon Constitution, Article 11D was passed November 8, 1932, by initiative but was never enacted. Comments on provisions of the Constitutional amendment.
- 199 Cropper Sees market in energy futures and there is already a network grid where companies can trade power.
- 202 Rep. Jim Welsh Testifies in support of SB 1149-A. Believes the legislature should move on this legislation. Suggest the committee take the time to listen to stakeholders. Believes there are plenty of controls and regulation in SB 1149-A. Believes all customers will know there is still regulation designed to protect them.
- 295 Chair Witt Asks if Rep. Welsh sees this bill as a positive step forward.
- 295 Welsh Responds affirmatively.
- 298 Chair Witt Asks how Rep. Welsh would compare this legislation to the proposed legislation of last session.
- 299 Rep. Welsh Responds that this legislation is not as comprehensive as the proposal of last session. Thinks that last session they were trying to draw distinctions between investor owned, municipal, and consumer owned utilities. Compares proposed legislation of 1997 to SB 1149-A.
- 366 Steve Waddington Northwest Power Manager, Reynolds Metal Company. Introduces Kent Moore, Troutdale Plant Manager, Josephine Myron representing workers of seven craft unions, and Gary Beck, president of local steelworkers union. Submits and reads prepared statement expressing opposition to the public purpose charge **(EXHIBIT F)**.

#### TAPE 54, B

- 025 Waddington Continues reading statement **(EXHIBIT F)**.
- 071 Rep. Simmons Asks if an amendment has been drafted.
- 071 Waddington Responds they do not have an amendment drafted but believe the subparagraph in Section 3 on DSIIs could be deleted.
- 073 Rep. King Asks what percentage of the power in Oregon Reynolds consume.

081	Waddington	Responds they are the largest electric consumer in the state and will provide statistics.
085	Rep. King	Asks where the cheapest power in the world is today and whether it will change in the foreseeable future.
091	Waddington	Responds that as he recalls the average cost of electricity worldwide purchased by aluminum smelters is about 20 percent less than the current BPA rate.
098	Rep. King	Comments Reynolds could go elsewhere and get cheaper power.
098	Waddington	Responds that companies like Reynolds will have opportunities to build smelters elsewhere but he is here to represent to the legislature that Reynolds wants to keep the two plants in Oregon and Washington and keep the employees working.
108	Rep. King	Asks why the Troutdale plant is struggling.
107	Josephine Myron	Chemist and representative of the crafts and some of the unions outside the steelworker union. Explains that aluminum is not controlled on the world market like gold, silver and tin. Comments on the collapse of the Russia's economy and impact on aluminum prices.
154	Kent Moore	Plant Manager. Comments on competition in the industry.
169	Gary Beck	President, United Steelworker Local 330. Comments that a lot of lives could be disrupted by this bill and asks that the committee turn the bill down.
181	Chair Witt	Comments that the bill allows a company to self-direct the public purpose charges, to use it internally in the facility for enhanced conservation. Asks if that is feasible for Reynolds.
185	Waddington	Responds they have looked at that provision carefully and there may be some ability to take advantage of that, but unless Reynolds makes a decision to make a capital improvement project at the plant, the amount of self-directed conservation they could get credit for appears to be rather small.
199	Rep. King	Asks if their opposition is to the public purpose charge.
205	Waddington	States that Reynolds is generally supportive of the purpose of the bill and would support competition. Their focus here today is on the public purpose charge. It is the only way Reynolds is included in the bill. If that issue is addressed and deleted from the bill, Reynolds would support passage of the bill.
220	Beck	Responds he is here in a joint effort with Reynolds to support amending the bill to exempt Reynolds from the tax.
223	Chair Witt	Asks that members note letter from Rep. Minnis <b>(EXHIBIT G)</b> .

241	Rep. Krummel	Asks if Reynolds will have their amendment drafted.
240	Chair Witt	Comments that Mr. Waddington has been in discussions with a number of proponents of this bill and is sure there will be some kind of an amendment coming forth to deal with the issue.
254	Chair Witt	Announces that the committee will schedule the bill for public hearing and possible work session on Friday. Encourages proponents of the bill to work constructively with the representatives from Reynolds and PacifiCorp and give consideration to their proposals in an attempt to get agreement.
268	Chair Witt	Closes public hearing on SB 1149-A and adjourns meeting at 4:41 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ SB 380, prepared statement, Pete Shepherd, 3 pp**  
**B ñ SB 624, prepared statement, Gary Bauer, 1 p**  
**C ñ SB 931, prepared statement, Brian Boe, 2 pp**  
**D ñ SB 931, prepared statement, Roger Hamilton, 1 p**  
**E ñ SB 1149, prepared statement, Tom Imeson,**  
**F - SB 1149, prepared statement, Steve Waddington**  
**G ñ SB 1149, letter, Rep. Karen Minnis, 1 p**  
**H ñ SB 1149, video tape, Tom Cropper ñ OVERSIZED EXHIBIT**