

## HOUSE COMMITTEE ON COMMERCE

May 19, 1999 Hearing Room 350

1:00 p.m. Tapes 64 - 67

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

Rep. Ryan Deckert, Vice-Chair

Rep. Al King

Rep. Jerry Krummel

Rep. Bob Montgomery

Rep. Anitra Rasmussen

Rep. Diane Rosenbaum

Rep. Mark Simmons

Rep. Bill Witt

**STAFF PRESENT:** Jason Cody, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:** SB 1034-A ñ Public Hearing and Work Session

SB 1149-A ñ Work Session

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 64, A		
		NOTE: REP. WITT IS ACTING CHAIR FOR THIS PORTION OF THE MEETING.

004	Chair Witt	Calls meeting to order at 1:49 p.m. and opens the public hearing on SB 1034-A.
<b><u>SB 1034-A n PUBLIC HEARING</u></b>		
009	Jason Cody	Administrator. Explains SB 1034-A.
020	Larry Harvey	Oregon Landscape Contractors Association. Submits and summarizes prepared statement in support of SB 1034-A ( <b>EXHIBIT A</b> ).
048	Rep. Rasmussen	Asks what is meant by "cord connected to ground fault interrupter receptacle".
052	Harvey	Explains that in most cases the pieces come ready to assemble and be plugged in.
057	Rep. Rasmussen	Asks what kind of license is required for installation of low-grade electricity.
059	Harvey	Responds he has only familiarized himself with the statute that allows landscapers to do low voltage work within certain contexts.
065	Rep. Rasmussen	Asks if landscapers wire for timing cycles.
073	Harvey	Responds there are a variety of products available at retail and wholesale. Explains these are units that would plug into each other but there are variations of the produces and it would not be unusual to have a system that would be triggered by a photo cell or motion detector or time.
081	Craig Smith	Staff, Landscape Contractors Board. Comments the board supports SB 1034-A.
093	Joe Brewer	Administrator, Building Codes Division. Comments the division has worked with the proponents of the bill to address specific needs. The restricted energy license allows individuals to do work up to 100 volt amperes. Some very specific restrictions have been placed on the license and allows work to be done up to 300 volt amperes.
107	Chair Witt	Closes pubic hearing and opens work session on SB 1034-A.
<b><u>SB 1034-A n WORK SESSION</u></b>		
111	Rep. Deckert	<b>MOTION: Moves SB 1034A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>

		<b>EXCUSED: 2 - Reps. Hill, Simmons</b>
	<b>Chair Witt</b>	<b>The motion CARRIES.</b>
		<b>REP. KING will lead discussion on the floor.</b>
122	Chair Witt	Closes the work session on SB 1034-A and opens a work session on SB 1149-A.
<b><u>SB 1149-A ñ WORK SESSION</u></b>		
123	Cody	Explains that the committee has several amendments before them:
136		<ul style="list-style-type: none"> <li>• -18A are committee amendments (<b>EXHIBIT B</b>)</li> </ul>
		<ul style="list-style-type: none"> <li>• -14A are Rep. Hillís (<b>EXHIBIT C</b>)</li> </ul>
		<ul style="list-style-type: none"> <li>• -23A are Rep. Wittís (<b>EXHIBIT D</b>)</li> </ul>
		<ul style="list-style-type: none"> <li>• -16A are PacifiCorpís (<b>EXHIBIT E</b>)</li> </ul>
		<ul style="list-style-type: none"> <li>• -15A are Building Owners and Managers Association (BOMAís) and will be updated (<b>EXHIBIT F</b>)</li> </ul>
		<ul style="list-style-type: none"> <li>• - 22A are the coalitionís amendments updating the ñ13A and including IBEW amendments (<b>EXHIBIT G</b>)</li> </ul>
		<ul style="list-style-type: none"> <li>• conceptual amendments are also from the Coalition (<b>EXHIBIT H</b>)</li> </ul>
153	Cody	Describes ñA18 amendments.
164	<b>Rep. Witt</b>	<b>MOTION: Moves to ADOPT SB 1149-A18 amendments as hand engrossed and dated 05/14/99.</b>
171		<b>VOTE: 7-0-2</b>  <b>AYE: 7 - Deckert, King, Montgomery, Rasmussen, Rosenbaum, Witt, Hill</b>  <b>EXCUSED: 2 - Krummel, Simmons</b>

	<b>Chair Hill</b>	<b>The motion CARRIES.</b>
		<b>NOTE: Under suspension of rules, Rep. King votes AYE.</b> <b>SEE TAPE 65B AT 298.</b>
185	Cody	Explains the SB 1149ñA14 amendments.
<b>203</b>	<b>Rep. Witt</b>	<b>MOTION: Moves to ADOPT SB 1149A-14 amendments dated 05/14/99.</b>
234	Rep. Rosenbaum	Asks what the purposes are in ORS 456.625 (2)(a) to (e).
244	Chair Hill	Explains the statute is for the purpose of the Affordable Housing Trust Fund.
253	Rep. Deckert	Asks if this purpose is related to the original purpose.
252	Chair Hill	Explains the statute covers the Affordable Housing Trust Fund and the moneys could be spent for those purposes. Adds that energy assistance is in a different portion of the bill.
260	Rep. Deckert	Asks that someone explain how the money would flow and how it would be distributed.
260	Alan Kramer	Housing and Community Development Department. Explains that the trust fund is the only source of revenue the department has that pays for pre-development costs for affordable housing. The department uses the interest from the fund to pay the pre-development costs.
278	Rep. Deckert	Asks how the money, the three percent of the five percent, would be distributed.
280	Kramer	Explains that the money is placed in a fund and the interest is applied for by affordable housing builders specifically for affordable housing including long-term energy efficient types of building procedures so it remains affordable for a long period of time.
303	Peter Grandfossen	Assoc. of Oregon Housing Authorities. Speaks in favor of SB 1149ñA14 amendments. Comments that one hundred seven thousand households earn less than medium income and spend more than 30 percent of their income for rent and utilities and are at the risk of being homeless. Another 6,000 people are homeless, including 2,000 children. Problem for the people is absence of

		affordable housing. This amendment provides an opportunity for some funding for necessary housing. This amendment could provide an opportunity to provide some housing.
340	Rep. Krummel	Asks if there is a nexus between dollars collected for power use and a provision for grants for affordable housing.
343	Grandfossen	Responds that every unit will be built to code. This money can be interrelated with other housing money to make a package.
359	Rep. Krummel	Asks if the grants will go to builders or local governments.
361	Grandfossen	Explains there are a number of providers who go to the state department and present plans for buildings and compete with one another. As money becomes available it is made available for projects.
380	Rep. Krummel	Asks if the \$10 million is going to be leveraged .
382	Chair Hill	Explains the way the bill is printed today, there is no upper cap on low-income energy assistance. The amendments place a cap of \$10 million.
395	Rep. Krummel	Asks if the dollars for the revolving housing account will be leveraged.
400	Grandfossen	Explains that the dollars are heavily leveraged. Money through Housing and Community services Department is highly leveraged against available federal dollars, local dollars and against private mortgages. It is leveraged at 15 or 20 to one.
424		<b>VOTE: 8-0-1</b> <b>EXCUSED: 1 - Rep. Simmons</b>
	<b>Chair Hill</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
435	Chair Hill	Announces that the coalitionis consensus amendments have just been received and are being copied and will be available to everyone.
<b>TAPE 65, A</b>		
011	Cody	Explains that the SB 1149-A23 amendments ( <b>EXHIBIT D</b> ) have been submitted by Rep. Witt.

017	Rep. Witt	Explains the A23 amendments.
032	Rep. Montgomery	Asks if the Senate considered the A23 amendments.
	Rep. Witt	Responds the Senate considered the amendments and no decision was made at that time. Explains how the fund will be used.
044	Rep. Witt	Adds that he thinks the Senate decided to punt on the issue and that he let Sen. Derfler know he would be bringing the issue to the House committee.
053	Chair Hill	Asks if it was discussed in front of the Senate committee.
058	Rep. Witt	Responds affirmatively.
060	Rep. Krummel	Asks if this will have the effect of increasing the fees or rates the residential ratepayers will pay.
063	Rep. Witt	Explains that direct access starts October 1, 2001. The electric utilities then have to start collecting a fee for low-income energy assistance (a maximum of \$10 million based on the SB 1149-A14 amendments just adopted). The date of October 1, 2001, implies that residential and commercial customers are going to pay dollars into the fund that will be used for low-income energy assistance. This amendment cuts it back to \$5 million for the first two-year interim period but it collects the money through the same mechanism. Adds that this just moves it to January 1, 2000, up to a maximum of \$5 million to help with low-income energy assistance. When direct access begins as provided for in the bill, October 1, 2001, the figure goes to a maximum of \$10 million. This will provide some temporary assistance over that two-year period at a smaller dollar amount.
082	Rep. Witt	Explains he has been in Washington County when these funds were distributed through the community action agency. This provides additional dollars to help.
096	Rep. Rosenbaum	Asks why the fee is only on residential customers when the original bill was on all customers.
105	Ron Eachus	Chair, Public Utility Commission (PUC). Comments that the amendment talks about an electric company (the investor owned utilities (IOUs) collecting. The amendment says the statewide total amount collected shall equal \$5 million, but the PUC determines each electric company's proportionate share. States he is not clear whether the \$5 million is statewide for electric companies or statewide amount for everybody, and whether or not the proportionate share is based on an assumption that the statewide total comes from only electric companies or whether it would be a proportionate share. Questions whether the \$5 million would be 100 percent from the IOUs or whether it would be their proportionate share of 75 percent.
128	Tom Schraw	Coordinator, Oregon Energy Partnership. Comments they reached an agreement with the public utilities. Numbers would apply to the IOUs.

142	Rep. Montgomery	Comments this is just a tax on electric bills.
141	Eachus	Asks if the intent is that the fee be collected only on residential retail consumers, or whether the intent is to be consistent with the provision of the bill that would apply after direct access.
168	Joan Cody	Energy Program Director, Mid Willamette Valley Community Action Agency, Salem, and Chair, Oregon Energy Coordinators Association. Comments that in 1985 Oregon spent approximately \$17.7 million and helped 87,994 Oregonians pay their energy bills. Last year, due to cuts in federal funding, federal low-income energy assistance funds assisted approximately 40,000 Oregonians with about \$8 million. The agency gets calls daily from people who are in danger of having their power shut off.
182	Bobby McGill	Metro Family Services Director, Salvation Army, Portland. Reviews statistics of people served over the last 10 years. Their organization has served 100,000 plus individuals with over \$4 million in private moneys. Adds that the moneys coming in 2001 will take care of most of the need in Oregon, but not in the winter of 2000-2001 unless there is a bridge to provide the money to help them.
297	Rep. Montgomery	Asks what happens if the people have natural gas.
208	Schraw	Responds that the moneys would be targeted for electric customers. Electric utilities requested that if electric ratepayers are paying the charge, the charge should go back to ratepayers of the same utility. They believe, with the federal program, the additional funding will be sufficient to help customers using natural gas, wood, oil and other users. Believes 60-70 percent of low-income people who qualify for this program use electricity as their primary heating source.
220	Rep. Krummel	Asks how much of the unmet need will be covered by this.
222	Schraw	Explains relationship of unpaid bills and cost.
241	Krummel	Asks how much of the unmet need will be met with this.
260	Schraw	Explains that about 20 percent of people who are eligible get funding. With the additional \$10 million, they estimate it will help about 40 percent of people who are eligible for the program. Does not know how it will address unmet need until they implement the program.
285	Eachus	Comments he is still unclear as to why the \$5 million is applied only to residential customers.
303	Rep. Witt	Responds that SB 1149-A does not make a distinction between "residential" and "customers", which would not include residential customers. Suggest the committee might want to strike "residential" from line 4 of the ñ23 amendments.

315	Rep. Witt	Asks if anyone would like to comment on the deletion of "residential" from the ñA23 amendments..
332	Rep. Montgomery	Comments he objects, but objects to the whole thing. Adds that a tax is a tax. Questions the meaning of a statement by Mr. Schraw that a rate increase will save the users moneyí.
324	Rep. Witt	Comments the statement was referring to people who default on payment and assistance helps minimize defaults.
334	Schraw	Comments on study done in Clark County.
345	Rep. Montgomery	Comments there are people in his district that have trouble paying their own bills and now they will be paying the bills of other people.
<b>350</b>	<b>Rep. Witt</b>	<b>MOTION: Moves to AMEND SB 1149-A23 amendments in line 4, after "its," delete "residential".</b>
364	Rep. Montgomery	Asks if conceptual amendments are allowed.
368	Chair Hill	Asks if Rep. Montgomery supports the deletion of "residential".
373	Rep. Montgomery	Responds negatively.
378	Rep. Rasmussen	Suggests the committee needs to suspend the rules.
	<b>Rep. Witt</b>	<b>By implied consent, withdraws his motion.</b>
<b>380</b>	<b>Rep. King</b>	<b>MOTION: Moves to SUSPEND the rules for the purpose of conceptually amending the SB 1149-A23 amendments.</b>
		<b>VOTE: 7-1-1</b> <b>AYE: 7 - Deckert, King, Krummel, Rasmussen, Rosenbaum, Witt, Hill</b> <b>NAY: 1 - Montgomery</b> <b>EXCUSED: 1 - Simmons</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>



395	Rep. Witt	<b>MOTION: Moves to AMEND SB 1149-A23 amendments in line 4, after "its," delete "residential".</b>
405	Rep. Montgomery	Comments that in addition to imposing a tax on residential customers, this will impose a tax on the business people.
409	Rep. Witt	Explains that what the A23 amendments are doing is nothing different than what is in the bill. It is just being done earlier to provide some assistance.
417	Rep. Krummel	Comments he will support this but is not comfortable with the "unmet need". Questions how much of the population growth has caused the unmet need to go up and whether this will provide enough money.
445	Rep. Rasmussen	Comments it is not enough.
		<b>VOTE: 7-1-1</b> <b>AYE: 7 - Deckert, King, Krummel, Rasmussen, Rosenbaum, Witt, Hill</b> <b>NAY: 1 - Montgomery</b> <b>EXCUSED: 1 - Simmons</b>
	Chair Hill	<b>The motion CARRIES.</b>
459	Rep. Witt	<b>MOTION: Moves to ADOPT SB 1149A-23 amendments as amended and dated 05/19/99.</b>
467	Rep. Montgomery	Comments he is sorry that this is being turned into a tax-and-spend bill.
485		<b>VOTE: 7-1-1</b> <b>AYE: 7 - Deckert, King, Krummel, Rasmussen, Rosenbaum, Witt, Hill</b> <b>NAY: 1 - Montgomery</b> <b>EXCUSED: 1 - Simmons</b>
	Chair Hill	<b>The motion CARRIES.</b>

**TAPE 64, B**

050	Ann Fisher	Building Owners and Managers Association (BOMA). Comments they have sponsored the SB 1149-A15 amendments ( <b>EXHIBIT F</b> ), and at this time they do not have new language, is disinclined to take them off the table but could conceptually amend them to delete the energy efficiency self-direction aspect. Suggests it may be better to postpone consideration until they have better language.
059	Rep. Montgomery	Asks how the ñA15 amendments would need to be changed.
061	Fisher	Responds that it is her understanding there is concern over the self-direction on energy efficiency. BOMA is willing to withdraw that portion of the amendment on the basis that the primary interest is to find a way to deal with what happens after commercial customers are put out into the market. At this stage there is some debate. Some have said they support the language as is but others would like to have additional dialogue.
072	Chair Hill	Asks if anyone has requested new language.
073	Fisher	Responds there is nothing in the works in Legislative Counsel. Thinks the intent is to have further discussions with the PUC and then present something to Legislative Counsel. BOMA's clear direction is to keep the spirit of the ñA15 amendments.
080	Chair Hill	Asks if there is an understanding on the ñA15 amendments..
082	Eachus	Comments he is not sure they do have an understanding and thinks it is because of some confusion as to exactly which situation is trying to be addressed. Will comment on his conceptual view of what may be the issue they are trying to work through in an attempt to identify what the real issue is.
		There is contemplated in what the PUC did in the PGE UE 102 restructuring order and in how SB 1149-A is written a concept of a "cost of service rate". That is a rate based upon existing resources, existing cost of service that would be a similar basis for determining existing rates. That cost of service rate is made available to certain customers. In this bill it is made available to the residential customers and the PUC is given the ability to make it available to other customers if the PUC believes it is necessary to do so. In the UE 102 proceedings, the PUC decided they would make cost of service available to all customers. However, in the UE 102 proceedings, the PUC said if you are non-residential and you choose direct access, you do not get to come back to the cost of service.
		Another concept is called the "default rate". That is different than "cost of service". The PUC contemplates the default responsibility may be bid out if the utility does not want to do it. The default responsibility is not based on the cost of service basis. The default rate's purpose is for a customer for whom the competitive market has failed, either the energy service provider went out of business or there is nobody to provide service, to receive the default rate. The

		default rate is more than likely to reflect short-term market costs of going out immediately into the market and acquiring the additional power to serve the customer who seeks the default rate.
118	Eachus	What the PUC has tried to avoid is the situation in which, in determining the cost of service rate, customers can keep going back and forth because it is very difficult for any utility or cost of service provider to try to determine how much cost to incur to serve a load that is going to fluctuate that frequently. The PUC has always contemplated that if they did establish a cost of service rate for customers who had direct access, there would be some limit on their ability to come back. The limit in 102 was once you left you did not come back; you were out into the market or end up going to the default rate.
		A cost of service rate for residential customers is established in SB 1149-A. Section 4 provides that the PUC may make a cost of service rate available to other customers. On page 12 "default service" is provided for.
136		What has been unclear in the BOMA amendments and in the discussion is whether or not what BOMA is looking for is the ability to go to a default rate or whether they are really after the cost of service rate. If it is the cost of service rate, it means the committee is left with some decisions of changing the basis direction that was established in SB 1149-A or 102. SB 1149-A does not establish a requirement for cost of service rate for all customers or for commercial customers. If they are asking to go back and forth to the cost of service rate, then the committee needs to decide whether or not to require a cost of service rate and whether or not the PUC will still have the ability (which their amendments seem to recognize) to put some limitations on how and when someone could do that.
151	Eachus	The concerns are that it has the potential of raising the cost of service rate for customers and it may have some inhibiting effect on the market and the energy service providersí desire to start serving customers if they know the customers can leave the market and go back to cost of service.
157	Eachus	They are trying to clarify whether the issue is really default service or whether it is cost of service.
160	Chair Hill	Comments that under the present bill they could come out of market to a default rate. Asks if there is a greater stability in the price in the default rate.
168	Eachus	Responds the default rate may not be a stable rate. It is likely to reflect immediate short-term market costs of acquiring it. It may be that if you put it out for competitive bid the bidder would do an estimate of what over a period of time the market is likely to look like and they might actually bid a firm rate for the default rate, but it is more likely to reflect the market than the cost of service rate which is going to reflect the cost of service.
176	Chair Hill	Asks if this is creating a potential where, if a building owner makes a choice to get out of cost of service, we are making a decision that ultimately may be a deterrent to someone to sell the property. Asks what the difference would be between cost of service and market.

190	Eachus	Comments he thinks what is envisioned here is a competitive market and the enterprise that has direct access would have multiple providers to choose from. The whole concept here is that the market takes care of that. The cost of service is designed to provide a basis for those that, particularly residential customers, are least likely to have a market.
205	Eachus	The bill made a decision that left it up to the PUC to decide that if the PUC felt there was some risk that customers were not going to have access to a competitive market, or maybe in the early stages it was not know how quickly a market would develop, to provide a cost of service. The issue is whether or not it is going to be required and how often someone can go back and forth.
213	Fisher	Comments that in listening to Mr. Eachus perhaps BOMA needs to redefine their terms. The words "cost of service" versus "market" appear to be the stumbling block. Thinks that BOMA is envisioning how to address what happens if the market is not as vibrant as people who believe in deregulation think it will be. There are fail-safes in the bill for the residential class. Some of the commercial customers are no bigger or easily aggregated than those residential customers. The concern is that if the market does not work well or people do not want the added cost of being in the market and dealing with providers, they can come back to something. Perhaps that could be called a "regulated" rate. Part of the concern is the commission can make these decisions but is not required to make these decisions. BOMA wants assurance there will be something out there that is more than just an emergency situation. Commercial, and presumably industrial customers, could come back to a "regulated" rate if they don't like living in the market. Thinks the amendments with the conceptual modification on the energy efficiency self direction would do that because it says the commission shall develop this other bucket and the commission will do rule making to figure out how to address the issues Commissioner Eachus raises the questions of whether or not there will be an effect on the price, whether it will be according to the market. Wonders if the words "cost of service" are the stumbling block and whether changing the words from "cost of service" to "regulated rate", and keep the rule making in it, would address the concerns that have been articulated.
262	Tom Gallagher	PG &E Energy Services. Comments that Section 4 makes sense the way it is written. The situation BOMA raises has not taken place in any other state in the process of deregulation. The bill sets up a market for those who are large and smart enough to do the buying on their own. Section 4 allows all parties to go to the PUC to work through a situation where people can go back to cost of service or go to the default rate. Adds that those who are working to develop the market don't want a subsidized cost of service rate that is by definition below the market; the market would not develop. States that the default rate is the most expensive. It does not make sense, but that is what BOMA seems to want.
319	Fisher	Comments that PGE is a good player in the market. There are other big players in the market. The question becomes how does one know the market will be beneficial. The bill says the commission "may" but there is no assurance they "will". BOMA is saying let's make it open that there is going to be a "regulated" option for those customers who want to go out in the market while waiting to see how the market might work for them. Adds that the PUC has the ability to do rulemaking and those kinds of issues can be put forth.
353	Rep. Deckert	Asks for an example of a bad experience with a provider by a BOMA member in California.

359	Fisher	Responds this is recognized nationally as an issue and they are working on a federal level to make sure this is covered. Explains that what they are seeing is that an aggregate of buildings works fine at the beginning, but if one or more owners change, the problem occurs when the new owner does not want to participate.
385	Rep. Deckert	Asks that Ms. Fisher give an example.
389	Fisher	Gives example of buildings with only one provider.
416	Rep. King	Comments that interpretation of Section 4 was a concern because it seems once you are in a rate it is permanent. We do need a way to make changes subsequently. According to Mr. Gallagher Section 4 on page 7 sets up a circumstance where people are making their choices on what kind of contract they want to have and how they buy their rate. If they subsequently want to go someplace else, they can. Adds it seems there are different opinions and suggests Mr. Eachus give an interpretation.
<b>TAPE 65, B</b>		
015	Chair Hill	Comments that in terms of testimony, the question is what is the driving factor that defines electric consumer. Questions whether the consumer or the building becomes the controlling element.
029	Eachus	Responds it is the customer. Explains that in the case of residential customer, there is no problem because the customer is on cost of service rate, not in direct access. In the case of the bill, the PUC would be providing a cost of service rate option for the small commercial customer, however, the PUC ends up defining it in rule. For those customers, they have the option of cost of service or the portfolio option. It is pretty much as it is now.
036	Eachus	Adds that the concept of SB 1149-A is to move to a competitive market, a direct access market, for the non-small commercial customers and the industrial customers. If there is a situation in which they are offered cost of service in a manner in which it is very easy for them to continue to switch back and forth, it not only increases the cost of service rate, it inhibits the kind of market this tries to encourage.
045	Eachus	<p>Adds that SB 1149-A contemplates that if the PUC found there were situations in which customers of any particular class did not have a cost of service rate, a cost of service rate was needed up front as a transition mechanism, or if the PUC finds problems exists, the PUC could address the issue. The balance is between trying to create and allow a competitive market and whether or not customers have the options they need.</p> <p>In the case where there may be a commercial customer who signs a contract for energy service from a competitive provider and the customer decides he wants a new provider, he can choose a new provider, assuming there is another provider out there. Or, if there is no provider, the customer can go to the default rate, which will probably reflect closer to the market than the cost of service rate. But no customer will be without service.</p>

		<p>The question what requires a cost of service option be made available to other than the residential and small commercial customers. Asks how often the expectation for switching is. UE 102 took the approach in which the PUC said they would make cost of service available to everybody, but once they leave it they cannot come back. Section 4, page 8, line 9, says the PUC regulates the cost of service rate option. In (b), it says the PUC can "prohibit or otherwise limit the use of cost of service rate by retail electric customers who have been served through direct access and may limit switching...". Adds that they felt the bill addressed this. It allows the possibility of cost of service rate for other than residential and small commercial customers and it gives the PUC the authority to impose the limits it thinks necessary and it does provide the default rate.</p>
081	Eachus	<p>Thinks the questions being raised by BOMA is whether you want to have a required cost of service rate for all commercial customers. Believes that people who were involved in this bill did it this way because they did not want to create a situation that would inhibit the market that it is to create by always having a cost of service rate out there. Explains it could be done if the PUC still had the ability to prohibit or otherwise limit the switches. The PUC could still try to take the approach reflected in 102. It might not satisfy BOMA. Believes it is a mistake for both purposes--cost of service and the market-- to provide something in which, even with penalties, you can make frequent changes. Thinks this would inhibit the desire of the energy service providers to come out and participate in the direct access market that this attempts to create.</p>
092	Rep. Witt	<p>Asks if it would be feasible if the bill said the PUC "shall" develop a cost of service rate for commercial customers who choose to leave direct access, but shall include administrative and market cost.</p>
098	Eachus	<p>Responds he won't say it is not feasible. Thinks they anticipated that it was the default rate. That was the rate that customers, if their existing provider left them or they didn't want any of the market, they would have the default rate to get a continuous supply of energy until they could go to the market. Rep. Witt is suggesting we might have a third rate for those who had direct access and wanted to come back. Is not sure it would satisfy BOMA because that rate is going to be higher than the cost of service rate.</p>
111	Fisher	<p>Comments the expectation is there would be a third option that would provide rate assurance that would incorporate the cost attendant to habit. If 100,000 customers use it, it might have a different cost basis than if 100 customers use it. The purpose of the language on rule making was to give the commission some flexibility to deal with the situation, but customers would know from the beginning they would have something available that will assure the that businesses BOMA represents have an option.</p>
133	Fisher	<p>Comments she finds the comment that this might chill the development of a market an interesting one. States she negotiates power contracts and finds that if the load is large enough there are energy supplies willing to provide it. Adds there are circumstances, either by size or location, where they are not interested in providing energy and the options for the customer are very narrow. BOMA wants to make sure there is a way to address concerns that may arise without constraining the rest of the bill.</p>
151	Rep. King	<p>Comments that one of his original concerns was the ability to make a change.</p>

		<p>Concurs with Commissioner Eachus that at-will changing would raise the cost to the provider, which would increase the cost to everyone. Asks for clarification that the mechanism for allowing subsequent change would be the duration of whatever contract a person picked from the portfolio option offered by the provider.</p>
168	Eachus	<p>Comments he thinks the discussion may be about different kinds of changes. One change is from one provider to another. Believes the change being talked about here is going from an open market to another type of offering. Adds the PUC had thought the bill addresses the issue of being able to address that. It is built into the bill in that the PUC has the ability to do a cost of service rate for other than residential and small commercial customers if the PUC thinks it is necessary. The default provider would be there for anyone who wanted to get out of the market because the supplier went out of business. The PUC would bid that out.</p>
196	Rep. Hill	<p>Asks if the PUC would bid it out.</p>
196	Eachus	<p>Clarifies that the PUC would have the utility bid it out.</p>
201	Gallagher	<p>Comments there should be three choices: those who go to market; those who get protected as outlined in Mr. Eachus' statement; and if there is a third option where the customer is moving back and forth between the market and the utility, there will not be a market development. It is not just BOMA members. It is all commercial customers.</p>
210	Chair Hill	<p>Comments if they are so afraid that everyone will go into the default rate and destroy the market, it is saying the market is not there in the first place. Adds that he assumes the market will develop because it is a good thing and the witness is arguing for a safety net to give some rate stability over time. That is suggesting it will be disruptive to development of the market.</p>
227	Gallagher	<p>Responds he believes there should be a default rate that people can go back to.</p>
230	Chair Hill	<p>Asks if it should be stable.</p>
230	Gallagher	<p>Responds it should be as stable as you can make it depending upon how many customers are in it and what the terms of the contract are. Suggests there will be a market if there is a default rate.</p>
239	Gallagher	<p>Asks why the market would not develop. Comments on development of markets in other states.</p>
255	Chair Hill	<p>Announces that the committee will recess until 4:00 p.m. and will then review the SB 1149-A2 amendments and take testimony on the A2 and A6 amendments.</p>
264	Rep. Montgomery	<p>Comments this is a bill that will tax businesses and everyone else through the state. Asks if this bill goes to Ways and Means.</p>

270	Chair Hill	Comments the committee has increased the bill by \$5 million of the \$48 plus million anticipated in the original bill. The bill does not have a subsequent referral to Ways and Means.
280	Rep. Witt	Comments he informed BOMA they would have a chance to come back with new language.
281	Chair Hill	Comments that he suggests that everyone start talking and listening to each other. Adds that BOMA may only need definitions.
271	Chair Hill	Recesses meeting at 3:29 until 4:00 p.m.
271	Chair Hill	Reconvenes meeting at 4:09 p.m. and reminds members the committee was in a work session on SB 1149-A.
294	Rep. Hill	<b>MOTION: Moves to SUSPEND the rules for the purpose of allowing Rep. King to vote on adoption of SB 1149-A18 amendments.</b>
298		<b>VOTE: 7-0-2</b> <b>EXCUSED: 2 - Reps. Deckert, Krummel</b>
	Chair Hill	<b>Hearing no objection, declares the motion CARRIED.</b>
298		<b>REP. KING VOTES AYE.</b>
303	Chair Hill	Requests that Jason Eisdorfer, Citizens Utility Board, comment on the SB 1149-A15 amendments proposed by BOMA ( <b>EXHIBIT F</b> ).
305	Jason Eisdorfer	Citizens Utility Board (CUB). Comments that Commissioner Eachus made two points in his comments. One was on the cost of service rate and the other was the ability for large customers to switch back and forth. One, that it might inhibit development of the market and second, it might make the cost of service rate more expensive. Agrees that if a utility is supposed to reserve contracts or assets to maintain a cost of service rate for large customers going back and forth, the rate would be a more expensive rate. Personally, would like to separate the large commercial cost of service rate. Does not want the cost of service rate for residential customers to be the place of last resort where various costs will be dumped.
333	Eisdorfer	Adds that if all the cost of the large commercial cost of service rate goes into the rate, there is a possibility it will strand the utility with those costs. If the rules are not set up right, it will create a cost of service rate with costs of the utility that no



		one is there to pay for.
340	Chair Hill	Asks Gary Conkling to explain the SB 1149-A22 amendments <b>(EXHIBIT G)</b> .
344	Rep. Montgomery	Asks that Mr. Conkling explain who the members of the coalition are.
346	Eisdorfer	The other issue is commercial self-direction. Understands Ann Fisher will take that element out of their proposal in revised amendments.
350	Gary Conkling	Representing industrial customers of northwest utilities. Informs the committee that industrial, commercial, renewable energy, low income weatherization and heating issue interests, including PGE and COUs, worked with a mix of individual groups and that their interests are included in the amendments (including issues relating to Idaho Power and International Brotherhood of Electrical Workers (IBEW) <b>(EXHIBIT G)</b> . Adds that they have attempted to coordinate efforts with OPUC.
		Advises that even among people who are supporters there are significant competing interests. There are, from interest that starts with customers, a basic set of issues to provide a competitive market for those who can most quickly benefit and can take advantage of the market conditions. At the same time, it provides protection for residential customers with a set of options where they can move to a competitive market place that might exist for them.
<b>TAPE 66, A</b>		
020	Conkling	The group supported SB 1149-A as it came out of the Senate with the understanding of the need for some amendments. The ñA22 amendments are different than the ñA13 amendments of last week. Advises that the negotiations are now complete and the ñA22 amendments and the hand engrossed supplement <b>(EXHIBIT H)</b> are the last of the commitments and represent the coalition's consensus amendments. Explains that if the group could reach consensus, the issue is in the amendments and if a consensus could not be reached, the issue is not in the amendments.
038	Conkling	Reviews the SB 1149-A22 amendments:
		<ul style="list-style-type: none"> <li>• Page 2, lines 19 and 20 reference what will be included in stranded cost determination proposed by IBEW.</li> </ul>
		<ul style="list-style-type: none"> <li>• Language on page 2, lines 27 through 30 relates to making sure that if Idaho Power moves into a competitive environment, they are not exempted from the competitive rules.</li> </ul>
		<ul style="list-style-type: none"> <li>• Page 4, line 3 is language dealing with low income heating assistance issues to make sure the moneys are appropriately placed and identified.</li> </ul>

		<ul style="list-style-type: none"> <li>Page 4, in line 23 issues were raised and therefore they have put in language to make sure it is clear that rate shock is to be dealt with and mitigated. The commission would do that anyway.</li> </ul>
066		<ul style="list-style-type: none"> <li>On Page 8 and extending to page 9 is language that PGE recommended and applies also to PacifiCorp. For the utilities as they proceed toward implementing direct access they may incur economic and uneconomic costs and if this act and the direct access provisions are aborted, these provisions guarantee they can recover those prices so their customers will not be stuck with those costs.</li> </ul>
080		<ul style="list-style-type: none"> <li>The addendum (<b>EXHIBIT H</b>) is an important part for the assurances of both customers and utilities.</li> </ul>
102	Rep. Montgomery	Asks if the coalition supports the SB 1149-A23 amendments adopted earlier.
103	Conkling	Responds there are provisions relating to low income heating assistance in SB 1149-A that are associated with the date of direct access. The coalition believes dealing with the issue in that context is appropriate. Explains that the issue arose in their coalition about starting low-income heating assistance earlier and by the same means as in SB 1149-Ar. While many individuals support assistance, there was not a consensus and it is not in the A22 amendments.
122	Rep. Montgomery	Asks if Mr. Conkling's response is a yes or no.
122	Conkling	Responds they have agreed to low-income heating assistance as included in SB 1149-A starting at the date of direct access.
125	Rep. Montgomery	Concludes that the coalition endorses the SB 1149-A23 amendments.
129	Rep. Hill	Comments he believes Mr. Conkling is not opposing the SB 1149-A23 amendments.
132	Conkling	Reiterates that the reason the coalition did not propose the language is that they did not have agreement.
134	Rep. Deckert	Asks if the one sheet document ( <b>EXHIBIT H</b> ) is proposed changes to the A22 amendments.
134	Conkling	Responds affirmatively and explains the changes are being worked on in Legislative Counsel.
155	Eachus	Comments that some things included in the language submitted to Legislative Counsel with other consensus amendments on May 10 were left out of the A13 amendments. Explains that the commission has talked to Legislative Counsel. Submits and reviews the three technical amendments ( <b>EXHIBIT I</b> ). Adds that the PUC assumes Mr. Crean will make the changes if the A22 amendments are

		adopted or if the existing sections are adopted.
209	Chair Hill	Asks who gave them permission to have the amendments drafted.
215	Conkling	Explains that the original consensus amendments contained language relating to this subject. This language replaces earlier language.
235	Rep. Witt	Asks if the issues will be addressed in the consensus amendments.
238	Conkling	Explains the issues in Commissioner Eachus' testimony were submitted originally to Legislative Counsel.
244	Rep. King	Asks how "entity" differs from "person".
255	Eachus	Explains that in the statutes "person" does not include all entities.
299	Kathryn McDowell	Counsel, PacifiCorp. Comments that PacifiCorp has several issues with the amendments. One concern is that there is unfairness in the way COUs are treated versus IOUs. PacifiCorp sees the A22 amendments not leveling the playing field but going the other way. Reviews section containing the issues. The definition has been expanded to a municipal utility as an entity that is either organized under, or owned or operated by or on behalf of a city. Explains that language permits a municipal to bring in a private contractor and compete with a utility. It expands the power of a municipal utility beyond that currently in the statutes.
350	Chair Hill	Asks if there is any municipality that does not directly operate its utility.
355	McDowell	Comments that as she understands it, it is an expansion of the definition in current law.
360	McDowell	States that PacifiCorp's second concern is on page 6, line 16 of the A22 amendments relating to reciprocity in the bill. The provision attempted to create some level of equity between COUs and IOUs when the COU sought to compete in the IOU's service territory. Believes this weakens the reciprocity provision that came from the Senate. PacifiCorp opposes the amendment.
383	McDowell	States their third objection is on page 7, lines 4 and 12. Explains there are two provisions that amend Section 27 of the bill, the public purpose charge for COUs. A provision in the A16 amendments ( <b>EXHIBIT E</b> ) makes the public purpose charge for public utilities the same as the public purpose charge for private utilities. This makes the public purpose charge for public utilities even less of a charge than the charge currently is. Instead of evening the playing field, as suggested by the PacifiCorp amendment, these amendments make the public purpose charge for COUs less than it is currently. PacifiCorp objects to those amendments.

410	Rep. King	Comments he does not understand the testimony on the amendment relating to the public purpose charge in the ñA22 amendments.
425	McDowell	States that the amendment to page 7, lines 4 and 12, amends Section 27 of the bill, the public purpose charge for COUs.
439	Rep. King	Asks for explanation of how the amendments do that.
440	McDowell	Explains that the amendment beginning on page 4, line 15, defines revenues as not including any of the costs or credits that are potentially available to the public utility in other sections of the provision. It is not so much that PacifiCorp opposes that provision on its substantive merits, it is that is a difference from the charge currently being imposed on IOUs and one that makes the charge ultimately less for COU customers than for IOU customers. The concern PacifiCorp has is why two customer classes are going to be paying different fees when this bill is passed. PacifiCorp does not believe that is good public policy.
<b>TAPE 67, A</b>		
024	Chair Hill	Asks what the practical effect will be of the amendment on page 6, line 16 of the ñA22 amendments..
031	McDowell	Responds it is to make it easier for COUs to compete in IOU service territories without offering the same privileges to IOUs or others that want to compete in COU service territory.
043	McDowell	Adds that PacifiCorp has a concern with respect to the subsidy issue. PacifiCorp appreciates the fact that the coalition put some language in the bill to try to address the issue. While representatives of the coalition indicate they have made this clear that there will not be rate shock, PacifiCorp does not believe this gets there. PacifiCorp believes the amendment they have submitted in the ñA16 get to a resolution of the issue. PacifiCorp believes the committee ought to say that either the subsidy goes away before direct access (and that is why PacifiCorp proposes to push back the direct access date by 15 months to make that possible) or the bill should specifically say that the subsidy can be continued on in the distribution rates to the direct access customers.
071	McDowell	Adds that PacifiCorp thinks their amendment that says the subsidy shall be removed prior to direct access, and gives the PUC an additional 15 months to do it, is a preferable option to the more general language about the issue.
074	Rep. Deckert	Asks what PacifiCorp would suggest to deal with the subsidy if the date is not pushed back.
078	McDowell	Responds PacifiCorp proposed pushing off the date and making it expressed that subsidy should be eliminated. Another way to do it would be to say subsidies may be continued in the distribution rates of direct access customers. Otherwise the direct access customers will say they should be paying a distribution rate that reflects the cost of distribution services, not subsidy left over from previous rate

		making days. Adds that PacifiCorp is concerned because they have been there before in other states and thinks they will go there in Oregon because of the 10 percent disparity between costs of service rates and actual costs.
094	Rep. Deckert	Asks McDowell to respond to Mr. Eachus' answer to that same question.
094	McDowell	Responds that her understanding is that what the commission has said on the issue is that they think if there is an issue, they can address it through their general powers. Would assume that is a statement they think they could perpetrate it in distribution rates without expressed language to that effect.
122	Steven Weiss	Fair and Clean Energy Coalition. Comments there is an inequity in the amendment on how the COUs calculate their three percent compared to the IOUs. Suggest there is a drafting mistake on page 7, in line 5 of the ñA22 amendments ( <b>EXHIBIT G</b> ). After "utility", there should be a phrase "or electricity service supplier".
153	Rep. King	Suggest "energy service supplier" needs to be defined in SB 1149-A.
170	Tom O'Connor	Comments there are no municipal utilities that have contracted out the operation of the municipal electric utility function.
188	Rep. Hill	Asks if the municipalities have that ability today.
188	O'Connor	Responds he believes they have the authority to do it today under the contracting statutes.
191	Rep. Hill	Asks that Mr. O'Connor provide the committee with the reference for their authority.
192	O'Connor	Responds affirmatively.
195	Rep. Deckert	Asks what the rationale is for the difference in the treatment of COUs and IOUs.
196	O'Connor	Responds there was recognition that the consumer owned utilities were looking for the flexibility to collect the three percent, to determine the programs and to spend the money locally. SB 1149-A reflects that approach. It is designed to ensure that no class would pay unless they receive benefits.
228	Rep. Deckert	Asks about the possibility of annexation.
	O'Connor	Responds he believes PacifiCorp has raised some concerns about annexations. Explains that since the 1880s when municipal utilities were first formed, the people had the right to either form a municipal utility or join to or be a part of a municipal electric utility. Adds that it is the healthy competition that has

		benefited the state as a whole. The only choice the customer of an IOU has is to form a new utility or join another. SB 1149-A offers an option to choose their electric service provider. Does not feel the PacifiCorp approach with annexations is necessary.
266	Rep. Deckert	Asks if competition would be fair in 2002 or 2003 under SB 1149-A.
271	O'Connor	Responds there has never been a level playing field in the industry since the beginning of time. Adds that IOUs and COUs have different strengths and resources that the other may not have.
274	Chair Hill	Comments that as he read this bill, there is no opportunity for people to opt out if the COUs are not providing good service. Asks why it is good for one and not the other.
296	O'Connor	Responds that currently with any publicly owned utility, and it continues under this bill, the customers have the ability to throw the elected officials out. And they have the ability to put the budgets or ordinances up for recall, and they have the ability to dissolve it. Adds they were not looking for an opt-in or opt out. They are looking for local control so the community can design a system that works best for them.
337	Chair Hill	Comments that if a large industrial customer said they could do better in the market place, it would not get to make that choice under this plan.
343	O'Connor	Responds that is true. Explains the reason they are here today is they tried to design something so they can work with the industrial customers because they need to respond to some of the conditions in the international market.
363	Chair Hill	Comments the municipal utilities want the ability to pick off the big users and put them in the system and not have the risk of another utility getting their current customers. Concern is the residential customer is going to sit there without any choices and will be left holding the bag.
369	O'Connor	Responds that the reciprocity provision reflected in the ñA22 amendments says if a COU chooses to serve a non-residential outside its service territory, it would have to release or give open access to customers of that same size or larger in its own service territory.
400	Chair Hill	Asks what happens if a municipal utility picks off a large customer and does not have any customers that large or larger.
402	O'Connor	Responds it would not kick in.
412	Chair Hill	Asks whose language is in Section 45 of the ñA22 amendments.
406	Cindy Finlayson	Portland General Electric. Comments her colleagues will talk about the "death

		bill" clause and that she will talk about the clauses after that.
<b>TAPE 66, B</b>		
412	Jason Eisdorfer	Citizens Utility Board (CUB). Comments that one of the binding ties holding the coalition together is the linkage between direct access and public purposes. Each issue could be challenged in court. It may be that direct access and potentially stranded costs could be challenged. There are potential liabilities on the public purpose side. The coalition decided it probably was not a good idea to strand one issue by itself because they were linked as a coalition. The concept of paragraph (1) ( <b>EXHIBIT G, page 8</b> ) is the bill, as a whole, is a whole and if any single provision were challenged, the intent of the bill is pretty much thwarted. If any section were to be found unconstitutional or unlawful, it would affect the entire bill. The language was obtained from the Oregon Department of Justice manual.
044	Finlayson	Comments that the remainder of the bill addresses protection for the utility that has, in good faith, expended dollars to get to a certain point. And should this bill die at any point, they want to be able to recover the costs that they have prudently incurred.
052	Rep. Hill	Asks what risk is being put on ratepayers by the language "arrangements with third parties" ( <b>EXHIBIT G, page 9, line 9</b> ).
056	Finlayson	Responds they have no idea and that is why they need the protection. They have no idea how much this will cost and there will be third party transactions as the utilities work with energy service suppliers. If all the provisions of SB 1149-A go away and the utility has to return to the current status, they want to be able to go recover the costs they have incurred.
063	Chair Hill	Comments that the ratepayers risk the entire cost of opening up the market.
073	Rep. Deckert	Asks that Mr. Eisdorfer respond to Chair Hill's comment.
071	Eisdorfer	Responds that his assessment is that customers are going to pay for the transition.
078	Chair Hill	Asks if the residential rates will go up.
082	Eisdorfer	Responds that the intent is not to raise rates. There will be new costs and hopefully there will be costs that can be avoided. Adds that if there is a challenge to one portion of the bill, all the coalition members are going to be on the same side in court. Adds that he would argue before the PUC that as the system is being changed over that they be mindful of the challenge and do it on a timeframe that takes that challenge into account so if it looks like it will be a successful challenge, they not go very aggressively toward restructuring.
112	Rep. King	Comments it seems the amendment is silent upon whom it is collected and it looks like there could be exposure to costs. The costs could be on the broad

		spectrum.
121	Finlayson	Comments that the way the bill is written it is punted to the PUC. The PUC would make the determination.
129	Rep. Krummel	Comments he would think there would also be new efficiencies as well.
139	Eisdorfer	Responds he thinks that is a fair assessment. Believes that paragraph (1) means that everyone together is trying very hard to win any challenge in court.
154	Rep. Krummel	Asks if PacifiCorp has participated in the ñA22 amendments.
156	Eisdorfer	Responds they have had discussions with PacifiCorp over the last couple of weeks trying to address some of their issues. For a couple of years, they have not been able to reach consensus with the universe of interests. PacifiCorp is not in the coalition, but the coalition has been having discussions with them.
179	Rep. Montgomery	Asks how much his motherís electricity bill will go up if he votes yes on this bill.
188	Rep. Witt	Comments there is no assurance that Rep. Montgomeryís motherís electric bill will go up.
203	Rep. Rosenbaum	Requests that the PUC give a response to the testimony that this bill does not adequately protect residential ratepayers.
217	Chair Hill	Closes the work session on SB 1149-A and adjourns meeting at 5:25 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ SB 1034, prepared statement, Larry Harvey, 1 p**

**B ñ SB 1149, SB 1149-A18 amendments, Committee, 1 p**



**C ñ SB 1149, SB 1149-A14 amendments, Rep. Hill, 2 pp**

**D ñ SB 1149-SB 1149-A23 amendments, Rep. Witt, 1 p**

**E ñ SB 1149, SB 1149-A16 amendments, PacifiCorp, 7 pp**

**F ñ SB 1149, SB 1149-A15 amendments, Building Owners and Management Assoc., 2 pp**

**G ñ SB 1149, SB 1149-A22 amendments, Coalition, Gary Conkling, 9 pp**

**H ñ SB 1149, conceptual amendments, Coalition, Gary Conkling, 1 p**

**I ñ SB 1149, prepared statement and proposed amendments, Ron Eachus, 4 pp**