

**HOUSE COMMITTEE ON COMMERCE**

May 03, 1999 Hearing Room 350

3:00 p.m. Tapes 47 - 50

**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: HB 2804 ñ Public Hearing and Work Session**

**SB 142-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 47, A		
		NOTE: Rep. Krummel is acting as Chair for this meeting.
004	Chair Krummel	Calls meeting to order at 3:07 p.m. and opens a work session on HB 2804.

**HB 2804 n WORK SESSION**

011	Rep. Hill	<b>MOTION: Moves to ADOPT HB 2804-1 amendments dated 04/15/99 (EXHIBIT A).</b>
		<b>VOTE: 6-0-3</b> <b>EXCUSED: 3 - Rasmussen, Rosenbaum, Simmons</b>
	Chair Krummel	<b>Hearing no objection, declares the motion CARRIED.</b>
037	Rep. Hill	<b>MOTION: Moves HB 2804 to the floor with a DO PASS AS AMENDED recommendation.</b>
047		<b>VOTE: 8-0-1</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Rep. Simmons</b>
	Chair Krummel	<b>The motion CARRIES.</b> <b>REP. HILL will lead discussion on the floor.</b>
056	Chair Krummel	Closes the work session on HB 2804 and opens the public hearing on SB 142-A.
<b><u>SB 142-A n PUBLIC HEARING</u></b>		
060	Jason Cody	Explains the provisions of SB 142-A.
081	Sen. David Nelson	District 29. Submits outline of comments and a map indicating the known fiber-optic networks in Oregon ( <b>EXHIBIT B</b> ). Explains that some companies consider information about their lines proprietary information and do not let the information out. The dots on the map represent the "points of presence".
107	Sen. Nelson	Explains the Senate committee received testimony from all parts of the state except the Burns area because as a result of the 1995 session, through the lottery and archive program, they developed a site and are developing some storage. Adds they are also developing some industry.

115	Sen. Nelson	Comments on items listed in outline of comments ( <b>EXHIBIT B, page 1</b> ).
140	Sen. Nelson	Continues presentation. Comments on public policy issues ( <b>EXHIBIT B, page 1</b> ). Adds that the cost should be looked at by this committee. The Senate talked about a minimum of \$120 million and a maximum of over \$200 million.
		Comments that the rural part of the state starts about 20 miles east and west of Interstate 5. Almost all parts of Oregon are looking for greater access. Comments that Oregon State University and University of Oregon belong to a consortium called Southern Willamette River Consortium and need greater access.
161	Sen. Nelson	Explains that SB 142 was started by Terry Edvalson from LaGrande because the area needs a point of presence. Adds that those who opposed SB 142 were the consumer groups because SB 142 had a provision concerning the rate case with U. S. West. The greatest demand is by education interests. The Department of Administrative Service (DAS) and the Public Utility Commission (PUC) are opposed to SB 142-A in some way. Adds that the four regulated companies, GTE, Sprint, U.S. West and Universal Telephone were on one side and ATT, MCI, and cable and wireless were on the other side. We need to develop some infrastructure. This is a method that would raise several hundred million dollars. DAS has come up with a proposal. The need is out there because the communities want the services.
213	Rep. Witt	Asks if this bill continues and adds to the subsidy by urban for rural areas.
217	Sen. Nelson	Responds that in the sense it maintains low rates for residential users and for users in the rural areas, it does.
221	Rep. Witt	Comments that by removing some of the rate regulations on some services, it will free up the telecommunication carriers to raise some of the rates if they choose to in return for the investment in rural Oregon. Asks if urban Oregon will be paying for rural Oregon.
228	Rep. Nelson	Responds there is a cap on residential rates in SB 142-A. Agrees there is a potential for other services. Adds that 15 years ago probably all 50 states had rate of return regulation and now only 14 states do. Adds this is a different form of regulation.
245	Rep. Deckert	Asks what the rationale was for including the rate case.
247	Sen. Nelson	Responds it was an incentive for U. S. West to get involved and pony up some money. Adds that Mr. Edvalson will be able to give the committee more information. Explains that Mr. Edvalson checked with several groups to find money and U. S. West is the one that stepped forward.
250	Rep. Witt	Asks how this bill benefits his constituents in Multnomah and Washington County.

260	Sen. Nelson	Explains that the bill creates a statewide infrastructure. Comments that there are no geographic borders in telecommunications.
279	Chris Crean	Deputy Legislative Counsel. Reviews the provisions contained in SB 142-A:
		<ul style="list-style-type: none"> <li>• Section 1 adds the remainder of the new provisions to chapter 759; 759 are under the administrative and enforcement authority of the PUC.</li> </ul>
		<ul style="list-style-type: none"> <li>• Section 2 is definitions. Basic Service is defined as "local exchange and extended area service". Retail telecommunications service" is straight forward and the bill states that it does not include services provided by one carrier to another carrier.</li> </ul>
303	Rep. Hill	Asks what the effect is of putting "local exchange" and "extended area" services together.
	Crean	Responds that "basic telephone service" is referred to throughout the bill. In Section 4 the price is capped for basic telephone service. In Section 7 the Universal Service Fund (USF), a subsidy source for basic telecommunication services, is established and identifies which services are subject to price caps and subsidy.
317	Rep. Hill	Clarifies that part of basic telephone service is subsidized under the Universal Service Fund.
331	Crean	Responds that Rep. Hill is correct.
334	Crean	Reviews language in Section 3 (page 1, lines 16-23).
344	Crean	Reviews language in Section 3(2). Explains that if a carrier elects on the effective date of this bill to be subject to regulation under this bill, they would use 1998 as the base year and carry an amount equal to five percent of the carrier's gross regulated intrastate revenue in the Telecommunications Infrastructure Account. Adds that lines 8 and 9 have a requirement that the electing carrier deposit an equal amount in the three following years; it is a four year requirement.
365	Crean	Explains Section 3 (3). Comments it is his understanding of the bill that it is to include infrastructure that might not otherwise be economically feasible but is good public policy.
393	Crean	Explains that Section 3(4) is a requirement that 10 percent of the moneys in the Telecommunications Infrastructure Account be transferred over to a Connecting Oregon Communities Fund. Adds that the fund is established in Section 8 and would be under the sole authority of the Connecting Oregon Communities Board. Expenditures in that fund would not be subject to a telecommunications carrier's approval.

402	Crean	Explains that Section 3(5) is an explicit statement that nothing in the bill is intended to preempt, limit or otherwise infringe on the authority of a city to regulate its municipal rights of way.
409	Crean	Reviews Section 4. Beginning at line 5 (page 3), (2) establishes a cap on basic telephone service on the effective date of the act. Lines 9, 10 and 11 say other services will not be capped.
410	Chair Krummel	Asks if the ancillary services such as call waiting and call forwarding would be not capped and they can charge what the market will bare.
436	Crean	Responds that is his understanding. Other services would not be subject to any form of price regulation.
441	Crean	Explains Section 4 (4) is a price floor for other than basic service.
<b><u>TAPE 48, A</u></b>		
014	Rep. Hill	Ask if Section 4 would prohibit companies from pricing their products below costs, and if the PUC would have some ability to address predatory pricing practices so their competitors could not compete.
021	Crean	Responds that it is his understanding that this is to prohibit predatory pricing.
023	Crean	Reviews language in Section 4(5).
027	Chair Krummel	Asks if they can bundle or unbundle their services.
028	Crean	Responds that is correct, according to the language in this bill. In line 34 (page 3), (8) restates noting in the bill is intended to limit a city's authority to limit its rights of way.
031	Crean	Section 5 states that nothing in this bill is intended to regulate wholesale transactions subject to regulation under the federal act.
037	Crean	Reviews Section 6, page 3, line 41, and (2). Explains that nothing in this act is intended to amend an order of the court in a case in (2) except as provided in (b) and (c).
068	Rep. Hill	Asks if this is the section that deals with the U. S. West lawsuit.
	Crean	Responds that is correct. Section 6 tries to deal with the U. S. West rate case.

066	Rep. Hill	Asks if it is Mr. Creanis understanding the other carriers under regulation do not have proceedings in court.
069	Crean	Responds none of the others would be subject to this section.
071	Crean	Reviews page 4, line 5, (b). Explains that on the day a carrier elects to be subject to regulation under Section 4, it accrues no further liability for refunding amounts to the retail customers. Adds that in Section 4 basic service is capped at its existing rate. If the court should determine a different rate should have been charged by U. S. West while the deliberations are on going, and enters that amount in the court order, then that amount becomes the cap for basic service. For all other electing carriers under Section 4, whatever the basic service rate is on the date they elect to be subject to regulation under that section, that rate becomes the cap for basic service. Any rate for basic service contained in the court order would become the cap for basic service for U. S. West.
090	Crean	Explains that Section 7 establishes the USF. On lines 12-21, (1) defines "eligible telecommunications carrier" as one who offers basic telephone service, advertises the availability of service and has been designated by the PUC as eligible to receive support from USF.
100	Crean	In Section 7(2) the PUC is to establish the need and extent of the subsidy necessary. Subsection (3) establishes a surcharge to fund the USF and that surcharge would be imposed on the sale of all retail telecommunications sold in Oregon. The surcharge would be in addition to the price the telecommunications provider might otherwise charge for the services. It is intended to affect the way the price would float according to market. It is supposed to be in addition to the price the carrier would otherwise charge for the services (page 4, line 37).
118	Crean	Explains that it is intended in lines 44 and 45, page 4 and continued on page 5, that the basic rate plus a subsidy from the USF is intended to cover the cost of providing basic service. Adds it is his understanding the PUC would establish a maximum price that may be charged for basic service; that price may well be below what it costs a provider to provide the service. The difference would be made up by subsidies from the USF
124	Rep. Hill	Asks if this section of the bill provides that the PUC will provide information to every Oregonian on what the cost is for basic telephone service and ancillary services.
149	Crean	Responds that the PUC, under authority in this bill, would be establishing the price paid by retail customers for basic service. Adds it is not different from the existing regulatory scheme.
153	Crean	Reviews Section 7(4). Explains that the PUC is required under this bill to contract with an independent third party to administer the fund. Reviews (5). Comments it is his understanding (5) is intended to allow an exemption for wireless service.
163	Crean	Reviews Section 8.

173	Rep. Montgomery	Asks what the definition is of "eastern Oregon."
192	Crean	Comments that some counties could fall in eastern or central or central and southern Oregon. Adds that there is not a definition of eastern Oregon for purposes of chapter 759. Generally it is up to the agency to define ambiguous terms. In this case it would be up to the governor to decide.
224	Crean	Notes that (4) prohibits employees of PUC and of state and local governments who are responsible for purchasing telecommunications services from being members of the board.
238	Crean	Reviews Section 10, page 6. Explains that the Connecting Oregon Communities Board is intended to receive 10 percent of the five percent a telecommunications carrier is required to deposit under Section 3. Reviews board responsibilities for the USF established in Section 3.
275	Rep. King	Asks who would own the assets paid for by the grants from the Connecting Oregon Communities Fund.
279	Crean	Responds he does believe the question has been answered. Adds that if the assets are being purchased with state funds, presumably they would belong to the state. However, the state makes many grants to private organizations. Adds it would probably be a condition of the grant.
290	Chair Krummel	Asks if the grant recipient could be a bidder.
310	Crean	Responds there is nothing in the bill to address who would be an eligible bidder.
323	Rep. Witt	Asks if the words "competitive bidding process" in Section 10 have any specific meaning.
329	Crean	Responds there is not a definition in chapter 759 or 756 that would apply. There is no procedure in this bill for competitive bidding and it does not refer to any other definitions. It would fall back on statutory construction.
338	Rep. Witt	Comments competitive bidding process should have a legal definition. Adds that the state has a bidding process in chapter 279 and it is something the committee needs to consider.
346	Crean	Reviews Section 11.
349	Crean	Reviews Section 12.
354	Crean	Explains that Section 13 is the alternative form of regulation statute and provides that if the PUC in the future is to consider authorizing alternative form of

		regulation for a telecommunications carrier, they have to find that the price flexibility will "enhance development of advanced telecommunications in rural areas". Notes that the same requirement is contained in Section 14.
367	Crean	Explains that Section 15 amends ORS 261.305 authorizing people's utility districts to provide information technology, telecommunications infrastructure and telecommunications services in order to promote economic development.
372	Terry Edvalson	LaGrande resident representing the Rural Oregon Telecommunications Consortium. Introduces Cathy Britton.
398	Rep. Montgomery	Asks where rural Oregon starts and stops.
400	Edvalson	Responds you know you are in rural Oregon if you think you are. Explains that the Rural Oregon Telecommunications Consortium was formed when those in eastern Oregon became concerned. They consider eastern Oregon that area east of the John Day River as it enters the Columbia, generally, the 10 eastern most counties.
418	Edvalson	Gives history of the consortium and makeup of membership. Introduces Barbara Peschiera from St. Helens.
450	Edvalson	States they will add to the testimony by Senator Nelson and offer a number of amendments briefly today and submit them to the Chair as quickly as possible.
<b>TAPE 47, B</b>		
022	Edvalson	Explains that their goal was to bring attention to the issue of the need for equity to access. Comments on previous efforts. Second goal was to consider alternatives and third to obtain financing to build up the backbone networks. Comments on efforts by the consortium:
044		<ul style="list-style-type: none"> <li>• They were told by leadership there would be no general fund moneys.</li> </ul>
		<ul style="list-style-type: none"> <li>• Only option was to approach the companies; as a result they have brought to the legislature SB 142, SB 143 and HB 3283.</li> </ul>
		<ul style="list-style-type: none"> <li>• Strategy and focus has been to involve everyone who wanted to put their proposals in writing.</li> </ul>
		<ul style="list-style-type: none"> <li>• Another strategy was to promote solutions recognizing there are no absolutes.</li> </ul>
		<ul style="list-style-type: none"> <li>• Principles adopted were that carriers would be allowed a reasonable profit and the consumers would be protected.</li> </ul>



		<ul style="list-style-type: none"> <li>• They were told by the utilities the consortium needed to show how to close the gap between the revenues that can be generated and the cost of providing services.</li> </ul>
		<ul style="list-style-type: none"> <li>• U. S. West and Sprint United said price cap regulation and to complete the universal service docket.</li> </ul>
		<ul style="list-style-type: none"> <li>• The consortium will suggest an amendment that the price cap regulation be on all currently regulated services, not just basic services.</li> </ul>
		<ul style="list-style-type: none"> <li>• Completing the universal service fund docket is critical to closing the gap.</li> </ul>
		<ul style="list-style-type: none"> <li>• The second criterion was to provide sufficient capital investment so the connecting systems could be improved.</li> </ul>
		<ul style="list-style-type: none"> <li>• A principle was to provide resources to help create demand.</li> </ul>
		<ul style="list-style-type: none"> <li>• Another principle was to support new means of collaborative planning between incumbent carriers and their customers.</li> </ul>
		<ul style="list-style-type: none"> <li>• And to create a climate where competition is encouraged.</li> </ul>
094	Edvalson	Adds that the coalition in opposition has characterized the bill as the U. S. West bill; it is not. Believes the opposition wants to maintain the status quo for a variety of reasons. The consortium believes it is necessary to have a paradigm shift at this time.
115	Edvalson	SB 142-A raises the financial penalty for poor service from \$10,000 to \$50,000. Believes penalties should be extended to all carriers. Comments their coalition has identified three varieties of calls encouraging no votes on SB 142-A providing misleading information in deep New England and Southern accents. Adds another set of callers is identifying themselves as legislators' staffs.
142	Edvalson	Rural Oregonians are counting on the legislature for a solution.
144	Rep. Hill	Asks how the consortium answers the criticism that it is a duplicate of U. S. West.
147	Edvalson	Explains the meeting process and conference hosted by the consortium to talk about the package to be brought to the legislature. U. S. West participated in all the meetings; other carriers participated to a greater or lesser extent in the meetings and the workshop. Adds that none of the opponents to the bill participated.
156	Rep. Witt	Asks if there is any expectation that the price of basic telephone or other services

		will decline.
	Edvalson	Responds he believes prices will decline with competition.
171	Rep. Witt	Asks what benefits they might see for the significant investments in the rural infrastructure.
183	Edvalson	Explains that he believes it will provide them more flexibility in a growing competitive market place that will allow them to be more responsive.
186	Rep. Deckert	Asks how they explain to citizens they will forego the refund because of the rural interest, depending on the court ruling.
203	Edvalson	Responds they will not forego any refund. The Senate made the public policy decision to leave the rate case in the bill.
199	Rep. Deckert	Asks how they would explain the language relating to the rate case..
209	Edvalson	Responds that they told the companies they would take whatever issues they wanted to the table and point out the public policy decisions. U. S. West said they wanted it in there. The consortium also bought onto the principle that until the court makes the decision there is no money. U. S. West won at the Circuit Court level and was sued by the PUC. Essentially there is no money until the court decides.
239	Rep. King	Asks if residential rates will decrease.
240	Edvalson	Responds he doubts that residential rates will decrease. They will be protected to the extent they will be price capped. The PUC will have to deal with the USF and rates from that perspective could be adjusted, but not because of this bill. Adds that residential rates are subsidized and doubts they will go down without competition.
276	Rep. Hill	Explains that basic telephone service today is below cost. SB 142-A adds extended area service to the definition of local area. .Adds that with universal service, the PUC will determine how fast the rates go up or down depending on how they want to subsidize basis telephone service. It is also being driven by 1996 federal legislation.
304	Rep. Simmons	Comments on the process of the formation of the organization and that he believes it is bad to not participate until the bill gets to the legislature when participants did not participate when the offer was made.
325	Rep. Hill	Asks who the telecommunication carriers are in rural Oregon that could provide enhanced service.

332	Edvalson	Comments that the regulated carriers in rural areas are U. S. West, Century Tel, Sprint United and GTE. The unregulated carriers who are not there are, in terms of having last-mile services, MCI WorldCom, AT&T, and Electric Lightwave. Adds that there are five fiber optic lines bypassing LaGrande and after five years they did get a connection. Comments on economic development activities since the connection.
383	Barbara Peschiera	Executive Director, Columbia Foundation. Submits and paraphrases a prepared statement in support of SB 142-A ( <b>EXHIBIT C</b> ).
<b>TAPE 48, B</b>		
003	Peschiera	Continues presentation of prepared statement ( <b>EXHIBIT C, page 1</b> ).
030	Peschiera	Continues presentation of prepared statement ( <b>EXHIBIT C, page 2</b> ).
054	Cathy Britton	Manager, RodeoNet. Explains services they have provided since 1991. Testifies in support of SB 142-A:
		<ul style="list-style-type: none"> <li>• Believes providing any service to rural areas is expensive.</li> </ul>
		<ul style="list-style-type: none"> <li>• After last session, the same kinds of incentives were used to attract medical care, educators, etc. to rural areas.</li> </ul>
		<ul style="list-style-type: none"> <li>• Suggestion from Texas was whether consideration was given to trading rate of return regulations for price cap regulation; it is working in Texas and has worked for other states.</li> </ul>
106		<ul style="list-style-type: none"> <li>• SB 142-A provides a chance to change the approach to telecommunication infrastructure.</li> </ul>
		<ul style="list-style-type: none"> <li>• The only way to get rural Oregon back on its feet is to find a solution to the telecommunications problem.</li> </ul>
126	Rep. Hill	Asks if the trade of the rate of return regulations for price cap regulation was suggested by U. S. West.
128	Britton	Responds no. Explains her work with Texas organizations.
135	Rep. King	Comments we are looking to the Portland market to help the remainder of the state, but he has never heard anybody from Portland say they will have to pay higher prices to help rural Oregon.
150	Britton	Comments on activities of Oregon Health Sciences University and suggests

		benefits go both ways.
176	Don Mazziotti	Department of Administrative Services (DAS). Comments he is testifying on behalf of Governor Kitzhaber, not on behalf DAS.
17	Joan Smith	Commissioner, Public Utility Commission (PUC). States she is appearing on behalf of the PUC. Submits a prepared statement ( <b>EXHIBIT D</b> ). Comments the PUC is opposed to SB 142-A, but personally believes there is an opportunity to find common ground. Comments there are four major issues in the bill: establishment of a board for looking over investment in rural Oregon and a fund for the board to oversee; universal service; the price cap regulation; and the rate cap. Comments that as long as the rate case is in the bill, the PUC will oppose the bill ( <b>EXHIBIT D, page 1</b> ).
208	Rep. Hill	Asks if the opinions from the attorney general's office are attached.
209	Smith	Responds they are not but can get them for the committee. Adds that Legislative Counsel had another opinion, but after consulting with the attorney general, chose not to forward that opinion.
215	Smith	Comments the PUC does not believe the case should be interfered with in a legislative process.
218	Rep. Hill	Comments it is in the authority of the legislature to act.
232	Smith	Comments on price caps ( <b>EXHIBIT D, page 2</b> ). Calls members' attention to the competition survey responses ( <b>EXHIBIT D, pages 5-14</b> ).
263	Smith	Comments their greatest concern is around the Universal Service Fund in Section 7 of SB 142-A ( <b>EXHIBIT D, pages 2-3</b> ). Refers to the spreadsheet on the federal surcharge ( <b>EXHIBIT D, page 15</b> )
304	Rep. King	Asks what would be "viable competition" (Section 1, 2 <sup>nd</sup> bullet in statement ( <b>EXHIBIT D, page 1</b> ).
311	Smith	Responds the question of how they define "competition" in the industry is a marketplace that is irretrievably open. One entity cannot cut the other out. Comments that Oregon may have a marketplace of two providers or maybe 18. Adds that the PUC decided that to define competition by market share probably is not a good approach. After divestiture, AT&T went from more than 95 percent of the market down to less than 50 percent but the pie got bigger and more competitive.
335	Rep. King	Asks how there can be competition at basic rate without deregulation.
336	Smith	Reviews efforts since the 1980s and adds that it is very slow. PUC suggests in

		the price cap review there be some periodic review of the basic rates.
361	Rep. Deckert	Asks what would be wrong with not having periodic review.
363	Smith	Responds that the purpose of periodic review would be to reset the basic rates if necessary. It just looks at the cost and relates that to the rate.
374	Rep. Deckert	Asks how the PUC sees getting away from punishing behavior and providing incentives.
373	Smith	Responds it is her hope the PUC provides incentives. Adds that punitive measures are not particularly effective.
399	Smith	Comments on universal service ( <b>EXHIBIT D, pages 3 and 15</b> ).
435	Smith	Comments the PUC is appreciative of the fact that the \$10,000 was raised to \$50,000. The \$10,000 penalty has been in effect since 1911. However, the PUC wishes the stronger language of SB 292 would be part of SB 142-A. That would allow the PUC to levy fines directly rather than having to go to court, and to use the money to benefit affected customers instead of sending the money to the State General Fund.
451	Smith	Comments the PUC opposes SB 142-A because at this point they believe it would do more harm than good. The PUC supports amendments proposed by the governor.
<b>Tape 49, A</b>		
026	Don Mazziotti	State's Chief Information Officer and Governor Kitzhaber's Telecommunication Policy Advisor. Comments he is here to explain the position of Governor Kitzhaber. Submits a prepared statement ( <b>EXHIBIT E</b> ) and the SB 142-A8 amendments ( <b>EXHIBIT F</b> ).
040	Mazziotti	Comments they share Sen. Nelson's concerns but not the goals to address those concerns. While much of the testimony will bear on matters affecting primarily U. S. West, they do not see U. S. West, necessarily, as the focus of SB 142-A nor is U. S. West the focus of the legislative alternative. Adds that they regard U. S. West as a critical provider of services in Oregon.
053	Rep. Hill	Asks what legislators are supposed to think when Mr. Eachus holds press conferences and gives interviews and suggests the PUC is contemplating revoking U. S. West's license to operate as a telephone company in this state.
062	Mazziotti	Responds he makes no comment about the quality of service issues, does not represent the PUC or their proceedings in this matter, and is only expressing the Governor's position.

090	Mazziotti	States he would like to indicate the problems they have with SB 142-A, provide a list of what they consider serious flaws in the proposal and outline the governor's alternative to SB 142-A. Comments:
094		<ul style="list-style-type: none"> <li>• They believe it is not sound public policy to resolve a pending rate case legislatively.</li> </ul>
		<ul style="list-style-type: none"> <li>• They believe the USF results in a double subsidy to the providers electing under the provision. It would amount to as much as \$150 million of additional subsidy beyond that provided by the USF contemplated by the legislation.</li> </ul>
		<ul style="list-style-type: none"> <li>• They believe as it is structured in SB 142-A it will dramatically increase the monthly rates for Oregon ratepayers by as much as \$19 per month per ratepayer in urban areas and as much as \$14 per month in rural areas per ratepayer.</li> </ul>
		<ul style="list-style-type: none"> <li>• It contains no quality of service standard framework nor enforcement mechanism for that purpose.</li> </ul>
		<ul style="list-style-type: none"> <li>• There is no provision to return to rate of return regulation if the alternative form proposed under SB 142-A fails.</li> </ul>
		<ul style="list-style-type: none"> <li>• It contains no infrastructure planning requirement which we believe is essential to making sound decisions about the way in which infrastructure investments would be made.</li> </ul>
		<ul style="list-style-type: none"> <li>• It focuses on telecommunications technology to the exclusion of other technologies which are likely to be a key part of broad band infrastructure. It focuses on telecommunication providers that are incumbent as opposed to those that are emerging.</li> </ul>
		<ul style="list-style-type: none"> <li>• It ignores the effect of the enterprise network which is under development and employment now. Sen. Nelson noticed there has been no adverse testimony about problems in the Burns areas because the enterprise network has been deployed to the Burns area. The point of presence has been established; five points of presence have been established between Salem and Burns and will be deployed throughout the state as the state, over the next two years, deploys the broad band network.</li> </ul>
134	Rep. Hill	Asks why there is broad band network in Burns.
135	Mazziotti	Responds it was through masterful legislative judgment. It was determined there be an archive established for the purpose of archiving or storing sensitive computer data.
148	Mazziotti	Comments that, as has been raised by Commissioner Smith, the bill suffers questionable constitutionality and legal issues they believe must be corrected.

		Overall, their view is that the impact of SB 142-A, as written, would be to solidify the market position of some of the regulated providers and provide very little direct investment to solve the rural and remote Oregon problems that have been generally discussed.
156	Mazziotti	States that the governor has, in an effort to address these goals mentioned earlier, developed an alternative that has been distributed ( <b>EXHIBIT F</b> ). Adds they have not had an opportunity to review the alternative and review is necessary before they can say it represents the governor's position.
164	Mazziotti	Presents analysis in prepared statement ( <b>EXHIBIT E, pages 3-5</b> ) of the SB 142-A8 amendments ( <b>EXHIBIT F</b> ).
182	Rep. Hill	Asks what incentives there are for a provider to come in. Asks if the commission has the ability to set the price to costs.
194	Mazziotti	Responds that if the 20 percent return on equity allowed under the price cap exceeds the return on equity being earned by the incumbent providers at the present time, at least according to information from the PUC, they do not believe it would operate below cost. They believe 20 percent return on equity would be above costs and be a substantial incentive for the providers to want to select the regime.
205	Rep. Hill	Asks if Mr. Mazziotti is suggesting that the prices today are competitive. Asks if the rates are sufficient for anyone else to come in and compete and make a profit.
213	Mazziotti	Responds Rep. Hill is comparing apples and oranges. The apples in the case of regulated utilities are monopolies. The oranges are emerging companies who seek using a variety of technologies to compete in the market place.
221	Rep. Hill	Gives example that one can buy dial tone from U. S. West or GTE for \$12.00 and if a competitor who comes in says he has to charge \$20.00 to be competitive, the person will buy the dial tone for \$12.00.
225	Mazziotti	Responds that choice does not exist and it does not exist in the market place because the market is monopolistic in its structure. The competition which does exist is competition for a select set of services that are located in business markets, not residential markets.
233	Smith	Comments the basic rate of \$12.00 provides virtually no margin for any competitor. But there is virtually no other service offered today, especially in the business market, that is not priced significantly above costs because of the history of business supporting residential. Adds that as we unwind some of those inherent subsidies the competitors will find more of a market in the residential sector.
243	Rep. Hill	Asks when they will find more of a market.

244	Smith	Responds she has no foresight but would hope it would be within two to three years.
248	Rep. Hill	Comments his concern is that there is not a plan. The PUC does not have a plan to remove the implicit subsidies which are a barrier to entries by competitors. Everything is to protect the status quo and asks how he can trust it will be here in two to three years.
270	Smith	Comments she does not know where to begin. There is a federal requirement to remove subsidies from the rates and the PUC is well on the way to doing that. Adds that the PUC cannot dictate to competitors that they must come in and compete in this market. The state of Oregon, including the metropolitan area, does not have enough attractive economic leverage to attract the kind of competition that virtually exists in New York, Texas, Chicago and Los Angeles. Suggest that one only needs to look at the PUC's rules, orders and statutes and you will know as the federal court said recently in its opinion in a case called "Arbitration Nine" that this commission is dedicated and has laid out a track record of its commitment to competition. The PUC cannot guarantee competition.
309	Rep. Simmons	Asks when the PUC began working on the universal service issue.
319	Smith	Responds the PUC has worked on universal service since the 30s. Suggests Rep. Simmons is probably referring to a docket called 731. The docket was opened with a number of parties in 1995. Adds that she has been waiting since January to answer that question. Asks that the members address the participants in those dockets to see what kind of docket it is and was. The PUC has worked very hard trying to figure out what is fair, acceptable, and what the state can afford. The commission set up its own proxy models from which they must determine what they can afford. They defined basic service by consensus and worked together up until this very fall to see what they could do. Does not think it would be fair to the customers in the high cost areas and the low cost areas of Oregon to rush to judgment on such an important and basically terribly expensive undertaking if we don't get it right.
341	Chair Krummel	Asks Mazziotti and Smith to return on Friday to continue their testimony.
366	Rep. King	Comments he also would like to see a proposal. Comments that he requested the PUC to be in a hearing in Oakridge and they did that. Adds that the PUC did a good job of advocating for the public.
393	Mazziotti	Continues presentation of the explanation of the governor's proposal ( <b>EXHIBIT E, page 3</b> ).
<b>TAPE 50, A</b>		
006	Mazziotti	Continues presentation of statement ( <b>EXHIBIT E, page 4</b> ).
021	Rep. Hill	Asks if "telecommunication services" is defined elsewhere in chapter 759.



023	Mazziotti	Responds it is.
025	Rep. Hill	Asks how many people would be affected by the one percent.
026	Mazziotti	Responds that the population is growing as new entrants enter the market or decide to enter the telecommunications market, but they would anticipate, based on current providers in the market place, it would create around \$18 million per year as a fund which could also be treated as a pass-through. They think the number of active providers at this point is a dozen and would guess it will grow to substantially more over the next several years.
032	Rep. Hill	Asks if it means every internet service provider.
033	Mazziotti	Responds it means only those in the business of providing telephony.
034	Rep. Hill	Asks if telephony is defined as basic telephone service.
034	Mazziotti	Responds it is basic and advanced telephone services. Adds that they believe that internet providers and cable providers are likely to be providing a significant portion of services in the future.
040	Chair Krummel	Asks Mr. Mazziotti to return on Friday and advises other witnesses scheduled to appear to also return on Friday.
051	Mazziotti	Comments the proposal ( <b>EXHIBIT F</b> ) creates a fund much like SB 142-A but finances it in a much different way. They create a planning program and set requirements that plans must be developed before the funds are dispersed. The funds are in the hands of the public sector and create a mechanism by which the entities that are eligible to apply for such funding, local governments, hospitals, non-profit institutions, colleges and universities, can qualify for such funds. Adds there are many other features to the governor's alternative that he will describe on Friday.
060	Rep. Rasmussen	Suggest the committee take the time to review the process the PUC has been through and to review their decisions.
076	Chair Krummel	Asks if members are interested.
	Montgomery	Suggest members can request the PUC visit with them in their offices.
086	Chair Krummel	Adjourns meeting at 5:25 p.m.

Annetta Mullins, Jason Cody,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ HB 2804, HB 2804-1 amendments, Rep. Hill, 4 pp**

**B ñ SB 142, outline of comments and map, Sen. David Nelson, 2 pp**

**C ñ SB 142, prepared statement, Barbara Preschiera, 2 pp**

**D ñ SB 142, prepared statement, Joan Smith, 15 pp**

**E ñ SB 142, prepared statement, Don Mazziotti, 5 pp**

**F ñ SB 142, SB 142-A8 amendments, Don Mazziotti, 12 pp**