

HOUSE COMMITTEE ON COMMERCE

May 05, 1999 Hearing Room 350

3:00 p.m. Tapes 51 - 52

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 2806 ñ Work Session

SB 1149-A ñ Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 51, A		
0031	Chair Hill	Calls meeting to order at 3:13 p.m. and opens the work session on HB 2806.
<u>HB 2806 ñ WORK SESSION</u>		

007	Jason Cody	Reviews HB 2806 and the ñ5 amendments (EXHIBIT A).
008	Rep. Deckert	MOTION: Moves to ADOPT HB 2806-5 amendments dated 04/22/99.
008	Rep. Montgomery	Asks if the ñ5 amendments eliminate Corvallis from the provisions. Comments that as a courtesy he will support it.
015	Rep. Krummel	Comments he does not support the bill but will give the bill a courtesy vote out of committee so the debate can be had on the floor on whether this is good public policy.
021		VOTE: 5-4-0 AYE: 5 - Deckert, Krummel, Montgomery, Simmons, Hill NAY: 4 - King, Rasmussen, Rosenbaum, Witt
	Chair Hill	The motion CARRIES.
026	Rep. Deckert	MOTION: Moves HB 2806 to the floor with a DO PASS AS AMENDED recommendation.
034	Rep. Rasmussen	Comments on courtesy votes and questions where the courtesy is to individual city leadership and voters in communities that wish to make the decisions for themselves in their own local communities.
037	Rep. Rosenbaum	Comments she is also opposed to the bill. Feels committee should hear testimony about what would cause the state of Oregon to preempt local jurisdictions. Adds there was no testimony in the initial hearing that indicated why it would be difficult to implement local ordinances. Thinks there are compelling arguments for people who work in the establishments. Thinks the legislature should not be wading in this issue.
059		VOTE: 5-4-0 AYE: 5 - Deckert, Krummel, Montgomery, Simmons, Hill NAY: 4 - King, Rasmussen, Rosenbaum, Witt
	Chair Hill	The motion CARRIES.

		REP. DECKERT will lead discussion on the floor.
064	Rep. Rosenbaum	Serves notice of a possible minority report.
066	Rep. Rasmussen	Joins Rep. Rosenbaum in notice of possible minority report.
066	Chair Hill	Closes the work session on HB 2806.
		NOTE: REP. WITT IS ACTING CHAIR FOR THE REMAINDER OF THE MEETING.
<u>SB 1149-A n PUBLIC HEARING</u>		
076	Chair Witt	Opens the public hearing on SB 1149-A. Explains procedures for hearings on the bill.
090	Rep. Montgomery	Asks if the intent is to go through the bill section by section.
092	Chair Witt	Responds it is his hope the bill will survive largely in tact with some judicious and responsible and reasonable amendments. Intent is to get a good understanding of the bill today as it was voted on in the Senate.
101	Cody	Gives overview of SB 1149-A.
122	Gary Conkling	Oregon Energy Coalition (commercial and industrial end users). Introduces Jason Eisdorfer, Chair, Citizens Utility Board (CUB). Presents PowerPoint overview of SB 1149-A (EXHIBIT B, pages 1-2).
158	Jason Eisdorfer	Citizenís Utility Board. Presents "Background" on rates (EXHIBIT B, page 2, second screen, SB 1149 Supporters, page 3)
201	Rep. Krummel	Asks who is opposed to SB 1149-A.
202	Eisdorfer	Responds he cannot speak for the opponents.
199	Chair Witt	Advises there will be groups coming forth in the next 7-10 days that will be proposing changes to the bill. The intent is to look at the bill the way it passed the Senate and everyone has been assured they will have an opportunity to bring forth their specific concerns.
221	Eisdorfer	Comments on issues outlined in " A Customer Coalition " (EXHIBIT B, page

		4).
028	Conkling	Reviews issues in "Pro-Competition" (EXHIBIT B, page 4).
244	Concealing	Reviews "Main Features of SB 1149" (EXHIBIT B, page 5).
272	Eisdorfer	Comments this is one of the best bills in the country for consumers. Important is a provision that would delay or suspend direct access for all customers if direct access were to jeopardize access to Bonneville Power (BPA) for the residential customer class. Reviews "Important Safeguards" (EXHIBIT B, page 5).
290	Concealing	Adds that another safeguard relates to cities being able to convert their franchise fees to a different methodology so they are held harmless through the process of direct access.
307	Concealing	Reviews issues under "Direct Access" "How it will Work", "Innovative Services", "How it will Work" and "The Benefits" (EXHIBIT B, pages 6-8).
364	Eisdorfer	Comments on "Portfolio Access" and "How It Will Work" (EXHIBIT B, page 9).
412	Chair Hill	On the issue of residential choice, PGE in this last interim did a pilot project where residential customers were given a choice. Depending on who you talk to, they thought it was great success. Asks if one is to assume, with it going to this portfolio mode, that it was not successful. Asks if that is what the commission learned out of it?
428	Eisdorfer	Responds he cannot say what the PUC learned. He was on the task force that oversaw the results of the PGE pilot. He didn't believe the results they were seeing price wise were realistic. Thinks there were some artificial elements to the pilot, which, in his opinion, increased the amount of customers who went for those options that were artificially produced. Adds that PacifiCorp has also done a portfolio pilot in this state. Believes PacifiCorp is happy with the results. They offered a cost of service rate, an environmentally friendly rate and a market rate. People seem to like to be able to move around.
TAPE 52, A		
015	Conkling	Comments he thinks the distinction between the PGE and PacifiCorp pilots is that the PGE pilot was a pilot to have direct access for residential customers. They could choose any of the people who came to provide. Thinks the difference is where PacifiCorp offered the choices within its own envelope.
024	Eisdorfer	Adds that PacifiCorp pilot mailed out ballots with the three options and they compared the prices. It was easy to choose.
035	Eisdorfer	Explains the "Benefits" of the methodology and "Public Benefits

		Charge" (EXHIBIT B, page 10).
058	Rep. Witt	Asks if the 3 percent charge makes explicit what has been implicit in rates here to date.
063	Eisdorfer	Responds that is exactly what they are saying. This finds the right level and people will know what they are paying and what they are getting out of the system.
069	Rep. King	Asks why lower costs or potentially lower cost technologies would not be listed as a potential public method. Comments it could be those kinds of technologies might require a temporary subsidy in order to reach critical mass. Asks why the lower costs would be left off the list of investment options.
075	Eisdorfer	Responds the public purposes listed may cost more up front, but in the long term is a least cost resource. Believes some of the low cost technologies Rep. King may be talking about, as they come into the market, will not have a problem finding purchasers.
082	Rep. King	Comments lower costs might require 10 years to reach critical mass before it could be competitive and survive in a competitive market.
091	Eisdorfer	Responds he thinks the issue is whether or not the technology finds a barrier to the market. Adds every technology needs a lead in time for investment. If ultimately the product will be favored because it is low cost, there really isn't much of a market barrier.
101	Rep. King	Comments he thinks he disagrees.
099	Eisdorfer	Reviews "How it will Work" (EXHIBIT B, page 11), "The Benefits" (EXHIBIT B, page 12) and "Low-Income Heating Assistance" (EXHIBIT B, page 12).
137	Rep. Rosenbaum	Referring to "How It Will Work" (EXHIBIT B, page 11), asks what the "80% spent in service territory where utility collects fees" means and where does the other 20 percent get directed.
136	Eisdorfer	Explains the public purpose charges and that the 20 percent goes to the area where the need is the greatest.
145	Rep. Rosenbaum	Asks if the money must be spent in the state.
146	Eisdorfer	Responds affirmatively.
156	Conkling	Reviews "Market Structure", "How It Will Work" (EXHIBIT B, pages 13),

		"How It Will Work" and "The Benefits" (EXHIBIT B, page 14).
194	Eisdorfer	Comments that the detail of implementation will be very complicated and technical. The bill does not try to answer every question. Reviews "PUC Authority" and "How It Will Work" (EXHIBIT B, page 15).
228	Rep. Deckert	Asks what the rationale was for moving decision making away from the legislature and allowing the PUC to do it.
29	Eisdorfer	Responds that at some point the technical issues must be moved out of the legislature.
254	Eisdorfer	Reviews "How It Will Work" and "The Benefits" (EXHIBIT B, page 16).
265	Conkling	Comments on "Consumer Protection " and "How It Will Work" (EXHIBIT B, page 17), and "The Benefits" (EXHIBIT B, page 18).
314	Conkling	Comments on "COU Local Control" (EXHIBIT B, page 18) and "How It Will Work" and "The Benefits" (EXHIBIT B, page 19).
361	Rep. Hill	Comments that as he understands SB 1149-A, companies that may be diverse around the state compete in a single market place, because of a decision of this legislature, would have imposed on them a three- percent public purpose charge. A competitor who may be served by a COU would not have that same burden. In certain circumstances this could influence the ability and the competitiveness of companies.
375	Conkling	Responds that today the current system of territories does not provide for absolute equity either in rates or in other areas. Under SB 1149-A, if a commercial or industrial customer has access to the market, they would be subject to the three percent public benefits charge. There will not be absolutely direct access in all parts of the state. To the extent people have the same access to a competitive market, they will be subject to the three percent public benefits charge.
395	Chair Witt	Asks if it is not also true that those charges have been implicit in the rates heretofore for the great majority of businesses that will be subject to the three percent charge.
400	Conkling	Responds that is correct. Today embedded in rates are moneys that are to go for these purposes but perhaps have not always been spent to the level the rates that have been embedded. This bill makes a policy decision on the collection and expenditure of those moneys more explicit for the purposes for which they have been intended.
412	Chair Witt	Asks if it is also true that industrial customers who enter into a free market relative to the generation of power have the hope or expectation that competition provides some price benefit. If a company is in a territory where direct access is

		available, it may give them some competitive advantages over businesses that are in a territory where direct access is not available.
423	Conkling	Responds that in today's environment Rep. Witt's comments are true. The reality is they anticipate having a competitive market for the purchase of the commodity of energy and thinks that will have price benefits as well as service benefits. Thinks that ultimately it will benefit more broadly the economy to do it, not necessarily on a case by case basis, but essentially on a customer class basis, or in this case, a group of businesses throughout the state.
445	Conkling	Reviews "The Benefits" (EXHIBIT B, page 19).
TAPE 51, B		
025	Eisdorfer	Comments that if anyone says this is without risk, they are not telling the truth. Adds there are also risks in doing nothing. Thinks SB 1149-A is tailored well for Oregon and Oregonians. Reviews "Safeguards" (EXHIBIT B, page 20).
040	Rep. Hill	Asks if the PUC has the authority to require a utility to purchase power from Bonneville Power (BPA) today.
041	Eisdorfer	Responds that it is not clear. Best guess is that the PUC could lean on the utilities and could provide some disincentives.
046	Rep. Hill	Comments the answer is no. Explains the PUC can negotiate with the utilities; they do not have the authority to require it.
050	Eisdorfer	Continues presentation on "Safeguards" (EXHIBIT B, page 20).
060	Eachus	Chair, Public Utility Commissioner. Comments he does not have prepared testimony and is here to answer questions. Comments that he participated in the construction of the bill and that:
		<ul style="list-style-type: none"> • The bill is workable.
		<ul style="list-style-type: none"> • Contains timelines that can work.
		<ul style="list-style-type: none"> • Provides safeguards to assure residential ratepayers are not harmed and low-cost resources for Oregon would not be lost.
		<ul style="list-style-type: none"> • It provides sufficient authority to for rules for consumer and market protection.
137	Eachus	Comments the PUC is not sure they have the authority to require utilities to

		purchase, but does have the authority to hold them accountable for not purchasing. Adds that it makes the process more difficult if the PUC has to go back and make adjustments and assumptions about what would have happened had the utility bought what the PUC thought they should have bought.
146	Rep. Hill	Asks why the PUC is not sure they have the authority.
146	Eachus	Responds he thinks there may be statutes they could use that would have the effect of requiring them to purchase, but thinks the PUC would be hesitant to do that. If the PUC thinks the utility should have purchased more BPA power than they did and the rate payers would have benefited from that, the PUC can adjust the rates so the ratepayers do not take that risk, but it is after-the-fact adjustments based upon some assumptions one has to make.
165	Rep. Hill	Comments this bill is wholesale expansion of authority to the PUC. Asks how they might have tomorrow, absent a bill passing, the authority to require purchases by utilities from BPA.
166	Eachus	Responds that if the PUC does not have it today, they won't have it in the future unless the legislature gives it to them.
173	Rep. Hill	Comments his concern is mistrust of the PUC.
178		Discussion is held between Rep. Hill and Mr. Eachus on the PUC decision in UE 102.
226	Rep. King	Asks what would happen to SB 1149 regulations if BPA goes to market rates.
240	Eachus	Responds he doesn't think there would be much benefit to BPA power because it would be the same as the market which anyone else has access to. There probably would not be a need to hold up direct access on the basis of not getting access to their low cost power. It might have the effect of making it easier for others to compete in the market. The assumption is that by saying it is low cost means it is being offered at cost, not market. Adds that it might have another affect of making it easier for people to compete for the residential market because they would not be competing against the low cost power. But in UE 102 the PUC made sure all customers, regardless of energy service suppliers, had access to BPA power. Thinks BPA going to market rates would eliminate some of the concerns but it would result in higher rates.
264	Rep. King	Asks if the 10 years for the three percent for public purpose is there because it seemed to be a fair trade off, or is it how long we anticipate it will take to get equilibrium in the market.
27	Eachus	Comments he would lean toward the latter, but it is a tradeoff. There is a tradeoff between paying the three percent and getting access to the market and the hope that the market will actually generate some price benefits that would overcome any short term increases that may come from the three percent. Thinks one needs to look at the purposes for which this is designed. Thinks the 10 years does

		provide a reasonable sunset that is long enough to enable the money to work, that enables perhaps a more competitive market to develop for those programs. Thinks the purpose of the three percent is to give some stability to the financing of these programs to make sure they are not going to be lost.
300	Eachus	Adds that these are things that have long-term benefits but have short term impact on prices. They wanted to make sure in a competitive market, often focused mostly on short term price, that the long term benefits were not lost. Within that context, thinks the 10 years provides an assurance of funding, provides some stability and at the same time provides an opportunity for a more competitive market to develop and one can decide that the market will deliver and the public purpose is not needed.
318	Rep. Deckert	Asks Mr. Eachus to explain how customers will be protected from rate shock.
324	Eachus	Responds he does not think one can assume there will be rate shock. Believes bill is designed to avoid that. The bill allows the PUC to make sure there are no unwarranted cost shifts. The purpose of the cost of service offering is to make sure that rates are basically similar to what they are now.
337	Rep. Deckert	Asks if the rates for the residential customer go up if the rates for industrial customers go down.
341	Eachus	Responds it is true that in some cases industrial customer are paying more than 100 percent of the cost they impose on the system and residential customers are paying less. The PUC has recognized that for some time and their current policy is to try to reduce that. They reduce it when there is a rate increase. More of the percentage of increase goes to residential customers than industrial. When there is a decrease, more of the decrease goes to industrial than to residential. The PUC current policy is to equalize, over time, the two without creating rate shock. This bill, as far as he knows, does not change the PUC's ability to do that.
368	Rep. Deckert	Comments he questions whether five years from now any rate increases that a person might feel would be inherent in the current system.
375	Eachus	Responds he believes that is the intent of the bill and that is the authority. Adds that the market will raise rates. PacifiCorp has resources to serve its existing load. That is what the cost of service is designed to do. PGE is primarily already out in the market so the rates of PGE are probably going to be more affected by market fluctuations.
399	Chair Witt	Asks if it is possible that if more competition is created at the generating side there could be some long term impact that will flow over to residential rates, and that will create more market pressure and more market force to actually lower rates.
404	Eachus	Responds that is a possibility. It could happen in several ways. To the extent there are benefits to more competition in the wholesale market, those could get to residential customers. It could also happen through the portfolio because it is possible that part of the portfolio options would not only be market-based power

		<p>offered by the utility in a green power offering, but it could be market based or competitive based rates offered by an energy service provider itself. The only difference is you are not picking and choosing an energy service provider on a daily basis, but may have a choice once or twice a year, but there is nothing that should preclude an energy service provider from being part of a portfolio offering. The PUC contemplated that in UE 102 and thinks they would contemplate including that in their rules as a possibility.</p>
TAPE 52, B		
014	Chair Witt	Comments there has been some concern that potentially SB 1149-A grants too much authority to the PUC. Asks if Mr. Eachus feels there is an excessively broad grant of authority.
016	Eachus	Responds, generally no. Comments the only thing that is different from what we would do now or expect or hope to do is the low income assistance. Most of what is in the bill is what they would expect to be in there. It is consistent with what the PUC currently does. It is more than what they do in some ways, but because of the nature of restructuring it is necessary to do that. There are things in there which the legislature could easily decide, but thinks there is expectation it is difficult for the legislature to reach a consensus and make a decision that could hold a bill together.
037	Chair Witt	Asks if the direction in SB 1149-A is sufficient for the PUC to fulfill its obligations.
041	Eachus	Responds that he believes it is.
062	Diane Cowan	Executive Director, Oregon People's Utility District Association. States she is here today representing the consumer owned utilities (COUs) in Oregon. Submits a prepared statement and map showing the 34 COUs in Oregon (EXHIBIT C). Reads statement.
108	Cowan	Continues presentation (EXHIBIT C, page 3).
150	Cowan	Continues presentation (EXHIBIT C, page 4).
190	Rep. King	Asks if it is possible for a large user to not participate.
	Cowan	Responds that if a COU had not offered direct access to that class of customer, they would not pay the three percent.
213	Rep. King	Asked if a large user would be participating in the public purpose if it shopped around and decided to purchase power from a COU.
223	Cowan	Responds it would depend on the scenario that was available at the time.

230	Rep. King	Asks if the only way a large customer would not participate in public purpose if they buy power through their local COU.
233	Cowan	Responds that is correct, if it is not direct access.
240	Chair Witt	Comments that a high percentage of this three percent is already computed in the rates presently.
261	Cowan	Continues presentation (EXHIBIT C, page 5).
294	Chair Witt	Summarizes that the COUs will have some minor technical amendments but are satisfied with the major portions of the bill.
300	Cowan	Responds affirmatively.
290	Chair Witt	Announces that SB 1149-A will be back up on Monday for public testimony. Suggests people let committee staff know who wants to testify and what they wish to testify about. Comments it is his hope to go into work session the week of May 17.
313	Rep. Montgomery	Suggests the committee review proposed amendments during the hearing process.
321	Chair Witt	Adjourns meeting at 4:55 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2806, HB 2806-5 amendments, Rep. Deckert, 1 p

B ñ SB 1149, copies of PowerPoint presentation, Gary Conkling and Jason Eisdorfer, 20 pp

C ñ SB 1149, prepared statement and map, Diane Cowan, 6 pp