

HOUSE COMMITTEE ON COMMERCE
SUBCOMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT

February 24, 1999 Hearing Room 350

1:00 p.m. Tapes 13 - 14

MEMBERS PRESENT: Rep. Jerry Krummel, Chair

Rep. Ryan Deckert

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Diane Rosenbaum

STAFF PRESENT: Jason Cody, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

HB 2577 ñ Public Hearing and Work Session

HB 2669 ñ Public Hearing and 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 13, A		
004	Chair Krummel	Calls meeting to order at 1:10 p.m. and opens the public hearing on HB 2577.
<u>HB 2577 ñ PUBLIC HEARING</u>		
026	Jason Cody	Administrator. Explains reporting requirements by the Public Utility Commission (PUC) mandated by HB 2577.

034	Phil Nyegaard	Administrator, Telecommunications Division, PUC. Reports that the commissioners have not had a chance to discuss the bill and therefore have no position on it. Adds that the PUC will take a position but does not believe it will be controversial.
045	Rep. Deckert	Comments he would think the PUC already has the information available. Asks how much time would be required for PUC to complete the report. Asks if this report would require an additional full time staff person.
052	Nyegaard	Responds they would not need an additional position.
055	Rep. Rosenbaum	Asks if Mr. Nyegaard can describe what is going on in monitoring competition.
057	Nyegaard	Responds the PUC does spend a lot of time monitoring activities already. The PUC issues certificates to people who want to be in the telecommunications business and does make an effort to keep track of them. There is a lot of phone and written correspondence. In next few week they will be able to present survey results of certificate holders. Will have some information about competition, market share, etc. soon.
075	Schelly Jensen	GTE Northwest Incorporated. Submits and reads a prepared statement and explains the proposed amendment (EXHIBIT A).
096		TAPE IS INAUDIBLE. FROM 096 TO 139
111	Rep. Deckert	Suggest the subcommittee could adopt the conceptual amendment.
113	Cody	Advises that Legislative Council prefers that the amendments be in proper form prior to adoption by the committee.
134	Rep. Rosenbaum	Asks what the difference would be if the required report were done annually.
140	Jensen	Responds that because so many changes are happening in the industry, it makes sense to have it more frequent and as a practical matter it is easier to do it on an annual basis.
145	Chair Krummel	Closes public hearing on HB 2577 and opens the work session on HB 2577.
<u>HB 2577 n WORK SESSION</u>		
158	Rep. Montgomery	MOTION: Moves to amend HB 2577 with the conceptual amendments submitted by Ms. Jensen (EXHIBIT A) and to send the bill to the full committee with a DO PASS AS AMENDED recommendation.

160		VOTE: 4-0
	Chair Krummel	<p>Hearing no objection, declares the motion CARRIED.</p> <p>REP. ROSENBAUM will lead discussion on the floor.</p>
165	Chair Krummel	Opens the public hearing on HB 2669.
<u>HB 2669 ñ PUBLIC HEARING</u>		
174	Jason Cody	Administrator. Explains that HB 2669 permits cable service companies to charge late fees and sets requirements in process of assessing late fees.
180	Mike Dewey	Oregon Cable Telecommunication Association. Introduces Craig Heitting, Paragon Cable. Points out that language in the bill is "may" as opposed to "shall" on late charges. Their association asked to have the bill introduced and is supportive. A late charge from a cable company could not exceed five percent of the unpaid balance or \$6, whichever is greater. Language in the bill deals with disclosing on the statement that a late charge may be imposed and Section 3(3) provides timeframes before a late charge can be charged.
218	Dewey	Gives example of \$29 late fee charged on credit card and asking to have it waived by credit card company.
233	Dewey	Comments that in Oregon, some banks are credit card banks providing billing for several customers. They had a limit of \$10 and there was a question of whether it could only be imposed on Oregonians at a different rate than customers in other states. They asked to change the statute from a limit of \$10 to \$15 last session and the bill passed. They were concerned about being competitive with other credit card banks and they discussed what it cost to collect on past-due accounts.
249	Dewey	Comments they asked that HB 2669 be introduced because there are plaintiff attorneys going around the state believing that late charges on cable companies are fairly ripe for litigation. A TCI customer filed a lawsuit In Polk County District Court in December, 1997. The case is on hold. The plaintiffs are looking for another lawyer. There are two legal theories. One is, TCI late fees constitute a legal liquid damageóthat is, the fee is not reasonable. Second, they say it is constructive fraud because cable has a "monopoly" and a higher duty with regard to unpaid balances because it is, inr their view, a monopoly.
276	Dewey	If it becomes a class action lawsuit, it could amount to a substantial award. In one case, a cable company on the east coast lost. Judge said the cost would be 32 cents, the cost of sending out a first class notice to an individual. Adds that Oklahoma has passed legislation on late fees.

297	Dewey	Late charges in Oregon today are in the neighborhood of \$5. The \$6 is based on some studies and recognizes that with inflation. They do not want to have to come back every two years to change the statute.
303	Dewey	States cable companies are not covered by late fee statutes today. TCI had a study done. The late fee is basically an administrative fee to cover costs imposed by past due accounts. The costs were divided into 1) office notification and collection, 2) billing, 3) cost of funds, 4) field collection, and 4) disconnection. Explains they have to send a service truck out to disconnect. The hope is the customer will make a payment or partial payment so they will not disconnect the service.
334	Dewey	Adds that un-returned converters, a \$100 value, was not included in the study. Studies indicated a range of late fees of \$10, \$7.50 and \$4.80. They see this as fair to the consumer and at the same time it is an opportunity to collect the \$6 if there is a need to.
365	Chair Krummel	Asks if the statute says they cannot charge a late fee.
366	Dewey	Responds their interpretation of the statute is they can charge any fee they would like.
377	Deckert	Asks what the amount is of the typical three-month past-due bill.
383	Dewey	Responds that if the bill were more than two months past due, the fee from most companies would be between \$4 plus \$4 or \$5 plus \$5.
397	Rep. Rosenbaum	Asks who would enforce this.
400	Dewey	Responds he would guess it would fall under unlawful trade practice and therefore the AG would enforce.
TAPE 14, A		
004	Craig Heitting	Vice-President, Operations, Paragon Cable. Paragon serves about 130,000 customers in Portland and East Multnomah County. Explains Paragon's process for billing and imposition of late charges. Forty percent of calls received in their office are billing calls. They usually waive the first late fee. On day 46 they generate a past-due letter, day 55 make a phone call, day 60 converter is disabled, day 62-75 field collectors are sent out, day 100 they are turned over to collection agency. The policy is one to attempt to keep the customer. Paragon disconnects 800 to 1,000 customers every month. Bad debt is about \$100,000 per month.
078	Rep. Montgomery	Asks how much the average bill is per month.
081	Heitting	Responds their average customer bill is about \$42.

083	Rep. Montgomery	Comments the problem is not that the cable companies cannot charge a fee. The problem is they are afraid the lawsuit may come to pass and they will lose and they want to have a statute saying they can charge a fee. Asks if that is correct.
087	Dewey	Responds that is a very important part of the discussion. Most of the lawsuits have been dismissed. There is a potential for a substantial refund. If the cable companies win the lawsuit, they can charge what they want. They just thought it would be best to put something in statute.
096	Rep. Deckert	Asks what the basis of the lawsuit is.
102	Dewey	Responds from looking at the pleading, the suit is made on two counts. One is the cost of collecting a late fee is not \$5 or more; they would say it is substantially less. The other theory is that under a monopoly the cable companies have a higher duty. Suspects they would try to use that, somehow, the contract had been modified. Each contract would have to be reworked and a signature obtained from each customer. Adds that contracts are usually silent on late fees.
126	Rep. Deckert	Asks if industry policy is similar to Paragonis.
130	Dewey	Responds he talked to a smaller cable operator, and their billing system is different.
146	Rep. Rosenbaum	Asks what the minimum bill is.
150	Heitting	Responds a basic only service would be about \$13.00
154	Rep. Rosenbaum	Asks if Mr. Heitting knows what the late fees are for regulated utilities.
158	Heitting	Responds he does not.
159	Dewey	Responds he believes it is 1.5 percent of the balance. Adds that the cost of the average utility bill is much higher. Comments on regulated utilities' ability to raise rates.
179	Rosenbaum	Asks if Paragon has reconnect fees for those customers who are disconnected.
188	Heitting	Responds they do. Explains the fee and the prerogative of waiving the fee.
200	Chair Krummel	Asks if the 800 to 1,000 disconnects are based on the 120,000 customers.
206	Heitting	Responds affirmatively.

214	Chair Krummel	Closes the hearing on HB 2669 and opens the work session on HB 2669.
<u>HB 2669 n WORK SESSION</u>		
219	Rep. Deckert	MOTION: Moves HB 2669 to the full committee with a DO PASS recommendation.
224	Rep. Rosenbaum	Comments the fee seems somewhat excessive.
241	Chair Krummel	Explains the bill states \$6 or five percent of the unpaid balance. Compares the fee to a regulated utilities late fee of 1.5 percent on the unpaid balance or 18 percent annum.
300	Rep. Rosenbaum	Comments she would feel more comfortable if the bill said whichever is less.
308	Chair Krummel	Suggests Rep. Rosenbaum speak with Mr. Dewey to see if they are willing to make a change to say whichever is less.
313	Rep. Deckert	Suggests Mr. Dewey may want to clarify.
319	Dewey	Responds they would not be supportive of "5 percent or \$6, whichever is less" because of associated costs. The theory does not work in a competitive market; it does in a monopoly market.
348		Rep. Hill arrives.
378		VOTE: 3-0 EXCUSED: 1 - Rep. Rosenbaum
	Chair Krummel	Noting objection by Rep. Rosenbaum, declares the motion CARRIED . DECKERT will lead discussion on in full committee.
		Rep. Deckert will lead discussion on HB 2669 in full committee.
<u>HB 2577 n WORK SESSION</u>		

376	Chair Krummel	Rep. Rosenbaum will lead discussion on HB 2577.
405	Chair Krummel	Adjourns meeting at 1:58 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2577, prepared statement and conceptual amendments, Schelly Jensen, 2 pp