

**SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS**

**March 3, 1999 Hearing Room C**

**1:00 P.M. Tapes 51 - 52**

**MEMBERS PRESENT: Sen. David Nelson, Chair**

**Sen. Lee Beyer, Vice-Chair**

**Sen. Rick Metsger**

**Sen. Randy Miller**

**Sen. Charles Starr**

**MEMBER EXCUSED:**

**STAFF PRESENT: Y. Sherry Sheng, Administrator**

**Nancy Masee, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 436 Public Hearing and Work Session**

**Informational Meeting ñ Telecommunications**

**SB 142 and SB 143 Work Session**

**Introduction of Committee Bills**

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
<b>TAPE 51, A</b>		
003	Chair Nelson	Opens meeting at 1:00 p.m. Opens public hearing on SB 436.
<b><u>SB 436 PUBLIC HEARING</u></b>		

007	Jack Munro	<p>Oregon Land Title Association. Introduces Cleve Abbe. Explains SB 436 introduced by the Oregon Land Title Association. Refers to letter from Deputy Administrator of the Insurance Division supporting SB 436. Presents <b>(EXHIBIT A)</b>. Describes the statutory changes provided by SB 436:</p> <ul style="list-style-type: none"> <li>• Modifications of the back plant requirement, in Section 1, subsection 1 and Section 3 of SB 436.</li> <li>• Changing the word "evidence" to "insurance" on line 13, subsection 1, Section 1.</li> <li>• Joint maintenance of title plants, on page 2, lines 17 through 24. Present law does not allow title companies to jointly access information.</li> <li>• Deletion of obsolete time limitation language, on page 2, through line 8.</li> </ul>
087	Sen. Metsger	Asks if title companies have conflicting information.
088	Cleve Abbe	Oregon Title Insurance Company and Chair of the legislative committee of Oregon Land Title Association. Says that should not happen often. Failure to post could cause a difference. Says title insurance is supposed to give some protection.
109	Sen. Metsger	Asks, when property changes ownership, if the title insurer uses their own information or pulls up other information from other sources to check for conflicting information.
117	Abbe	Answers that when title companies search the first time they rely on that search being thorough. Searches vary among states.
125	Sen. Metsger	Comments on searches that go back in time.
	Chair Nelson	Closes public hearing on SB 436. Opens work session on SB 436.
<b><u>SB 436 WORK SESSION</u></b>		
135	Sen. Miller	<b>MOTION: Moves SB 436 to the floor with a DO PASS recommendation.</b>
136		<b>VOTE: 5-0</b>
137	Chair Nelson	<p><b>Hearing no objection, declares the motion CARRIED.</b></p> <p><b>SEN. MILLER will lead discussion on the floor.</b></p>
138	Chair Nelson	Closes work session on SB 436. Opens informational meeting.

## TELECOMMUNICATIONS

155	Kent Lassman	Citizens for a Sound Economy (CSE). Gives background on his organization. States the goal of the organization is an unfettered market to create opportunity and improve the quality of life for all Americans. Expresses their belief that for all policy that affects telecommunications and information technology, the laws created must be neutral and consistent. Presents <b>(EXHIBIT B)</b> .
185	Jerry Ellig	<p>Senior Research Fellow, George Mason University, Virginia and also Senior Research Fellow for Citizens for a Sound Economy Foundation. Explains his discussion will cover the effects of rate of return regulation (ROR) and alternatives. Telecommunications has had adequate academic research to be useful. A large number of states have adopted alternatives to rate of return regulation, Federal Communications Commission (FCC) has adopted alternatives to ROR regulations, and foreign governments have adopted alternatives to ROR. Broad consensus among economists who study deregulation covers three points:</p> <ul style="list-style-type: none"><li>• Rate of return regulation inflates costs and reduces innovation that is valuable to customers.</li><li>• Instead of ROR, the most effective way is to deregulate and introduce competition.</li><li>• Where regulation continues, regulation should simulate the types of incentives that firms would face if deregulated.</li></ul> <p>Negative side of ROR:</p> <ul style="list-style-type: none"><li>• ROR awards a firm for inflating costs.</li><li>• Firms use more capital under ROR.</li><li>• No strong incentives to reduce costs.</li><li>• High risk, high return ventures are penalized under ROR.</li></ul>
240	Ellig	Continues discussing ROR. Explains the more costs there are the more revenue is needed. Discusses that competition and deregulation create the most incentives. Research on all deregulations shows a similar pattern that emerges and noticeable price reductions occur after a few years. Industries that move to competition benefit all customers: urban, rural, and other divisions. Gives example of AT&T deregulation. Local rates ten years later were about where they were when AT&T broke up.
300	Chair Nelson	Says Oregon has one monopoly.
319	Ellig	States where monopolies continue, the issues of price cap regulation, or other forms of regulation, come into play. The best and most important form of deregulation is price caps. The basic idea is to prevent the firm from profiting by inflating costs. Give the firm incentives to reduce costs. At the same time protect consumers. This method has been tried in many states and international areas. Where price cap or incentive regulation has been tried, lower or the same rates result. Price cap regulation reduces phone rates about \$1.60 a month. In universal service, where there is some form of incentive regulation, a 1 percent increase in use is shown.
365	Ellig	Service quality is a mixed bag. Some studies show no effect from price caps and

		others show some improvement of service quality. In some states with price caps it takes less time to get new telephone service and there is a lower complaint rate, but the phone company takes a little time to answer complaints. Deployment of new infrastructure studies show that where there are price caps you get faster deployment of all advanced technologies.
<b>TAPE 52, A</b>		
013	Chair Nelson	Asks about the rural areas.
015	Ellig	Says he does not think changing from ROR to price caps would increase prices in rural areas.
025	Chair Nelson	Explains that businesses subsidize residential areas. Asks how the change from ROR affects that.
028	Lassman	Explains moving from ROR to price caps does not affect the relative weight from business to consumer. By legislation a means of changing the price caps is determined. The process established by legislation needs to be addressed.
060	Ellig	In some places telecom companies have cut prices. Predicts, under price caps, business customers would probably get a reduction. Residential rates would remain about the same.
065	Sen. Beyer	Comments on price caps. Says the Willamette Valley corridor experiences relatively good service, compared to the rural parts of the state, and asks how to provide good service in the vast rural areas.
083	Ellig	Most studies are not case studies of particular states, but aggregate studies of states. Says he does not have data comparable to one state. Explains rural areas and the implementation of universal service. Universal service can be introduced in a good way.
090	Lassman	Discusses the process of moving data and voice from place to place is different than how airlines get people from place to place. There are competing infrastructures. Emphasizes that affordable service throughout the state is the goal of this legislation. Explains that the marketplace works through many people, not a few, and urges trusting the marketplace in how this will be done. Legislation from rate of return to price capping is a step forward, as well as creating an environment to stimulate the market.
145	Lassman	States changing from ROR to price capping has two benefits. Says it will stave off political and regulatory meddling and over time the quality of service will grow beyond the regulatory services.
162	Chair Nelson	Asks about predatory pricing where a 98 percent monopoly exists.

178	Lassman	For predatory pricing to work, which is rare, the predator must agree to lose more money than the person they are running out of business and there needs to be a barrier to new competition.
184	Ellig	Says one needs to be able to lower the price enough to force somebody out of the business (which is hard if the competitor has investment in infrastructure, etc.) and predators need to prevent others re-entering the industry. The reality of predatory pricing is very rare. Notes that SB 142 has a price floor, which would prevent predatory pricing.
203	Sen. Beyer	Comments on how Eugene airlines have practiced predatory behavior successfully.
218	Ellig	Comments that even though United Airlines does this, there are competitors who keep trying. Describes the difference between predatory pricing and competitive pricing in airlines. Comments on court cases of predatory pricing, but that only one has been proven.
246	Sen. Beyer	Says Oregon is interested in the quality of service. Says the market place is going to drive service. Asks how Oregon gets from where we are today to an open market in telecommunications. Price caps are the answer but the transition from monopoly to full open market is unstable.
258	Ellig	Says if there is a price floor, there is protection.
264	Sen. Metsger	Asks how the model works, without competition.
271	Ellig	Explains where there is price cap, there is competition.
286	Lassman	States that ROR focuses on corporate profits, but does not affect prices or services. Explains that price caps and other forms of incentive regulation puts consumers and prices first. PUC is not an independent policy making body. Oregon constitution says the powers of the government shall be separate legislative, executive, and judicial. The legislature writes the statute. PUC enacts what is written in statute. The current universal service system is based on an intricate (flawed) policy. Today, neither beneficiaries nor contributors to telecommunications subsidies know the values of those subsidies. Telecommunications should be subsidized as a result of a policy decision. The current system rewards companies and places, rather than people. Universal service should reach those in need of, and not those in want of, a subsidy. Universal service should be limited to making up the cost to providers and the prices to consumers. Universal service should encourage rates to move towards costs.
<b>TAPE 51, B</b>		
006	Lassman	The focus should be on people, not on profits of a corporation. Consumers are affected by regulation, not a company. People are more important than places. Step toward lower prices through price caps and price floors.

025	Ellig	Give the purchasing power directly to the consumers who qualify. Give purchasers who need it, the power to buy it. Subsidies should be explicit, so they are known.
050	Sen. Beyer	Asks if the chart shows reduction in local rates from price caps at about 7.6 percent.
052	Ellig	Responds that is from a very late study.
077	Chair Nelson	Asks about the Telecommunications Act of 1996.
077	Lassman	Says the act has glaring contradictions. It promotes deregulation, then it says Congress, through FCC, is to set up regulatory procedures. States competition is not achieved through regulation, and subsidies should be put in the hands of consumers.
102	Ellig	Says there is nothing to prevent going to a price cap in the bill.
106	Chair Nelson	Closes informational meeting. Opens work session on SB 142 and SB 143.
<b><u>SB 142 and SB 143 WORK SESSION</u></b>		
110	Paul Romain	MCI Worldcom. Introduces Gayle Gary. MCI started in 1970. Describes the competitive process for local exchange service. Presents <b>(EXHIBIT C)</b> .
143	Gayle Gary	MCI Worldcom. Opposes SB142 in its present form. Explains how MCI buys pieces from US West. SB 142 addresses some issues such as a price floor in addition to price cap. Language needs to be strengthened.
228	Gary	Suggests looking at language so that a local exchange carrier can charge its own prices. The competitors are dependent on the monopoly. There needs to be a competitive market to force prices down.
277	Sen. Beyer	Asks about the Utah incident. Asks why competition would force rates down.
288	Gary	Responds that she does not think price caps in themselves will bring competition. Other things needs to happen to promote a competitive market.
312	Gary	Suggests SB 142 should include looking at price caps annually and the bill should include penalties. Asks how this impacts various companies. Incumbent providers need penalty incentives to ensure the companies cooperate.
337	Sen. Beyer	Asks if there is competition in Utah.

341	Gary	Answers that the price cap plan assumed there would be competition. As a result there was not competition.
344	Sen. Beyer	Asks how to distribute advanced telecommunications to rural Oregon.
362	Gary	Suggests structuring a universal service fund and promoting competition in a long-term strategy. Says the problem of moving from urban to rural has not been solved. Profit needs to be experienced before they can move beyond that. Mechanisms and incentives for incumbent carriers to live up to their interconnection agreements is needed.
<b>TAPE 52, B</b>		
004	Sen. Metsger	Comments that the money is made in urban areas. Asks if ROR provides incentives for operating efficiencies or investment.
013	Gary	MCI World wants to grow beyond the urban areas. Says it will take some time.
015	Chair Nelson	Asks what would ensure developing competition in rural areas.
017	Gary	Responds with the several approaches, including restructuring a universal service plan, price capping mechanisms, and PUC policy changes, including infrastructure development from incumbent over-earning.
060	Chair Nelson	Asks about the interconnections.
061	Gary	Responds that the facilities being put in today are much less costly than years ago. Companies are becoming more efficient. Costs are going down.
075	Sen. Beyer	Asks if entry is getting easier.
077	Gary	Says yes, it is getting less expensive.
080	Romain	Comments on a long distance network. Explains the AT&T deregulation process. Says that SB 142 mixes two concepts that are valid, but different. Infrastructure development is one, and there are many ways to get it. Suggests getting the returned money to go towards infrastructure development. Says all users should be addressed.
160	Chair Nelson	Comments on the court case, <i>PUC v. US West</i> , that was reversed, saying that US West does not need to return the money.
167	Romain	Says the issue is big enough for all providers to be included in the policy. Expresses the feeling that the committee should negotiate with all of the

		providers, not just one.
177	Chair Nelson	Asks about the court case involving City of Portland and TCI that says some companies should be regulated and not others.
193	Romain	Says that competition can be generated by legislation. Asks for a chance to get good legislation.
203	Gary	Asks why is it appropriate to treat competitors differently. Comments on the network built by the incumbent monopoly. Says MCI needs to be dependent on the incumbent for tapping into their line. Moving from a monopoly market to a competitive market is not easy because of a lack of choices. MCI feels that is why all providers should have a chance.
230	Chair Nelson	Asks, from experience in the long distance market, when the point of competition arrived.
235	Gary	Says in some areas there is competition.
253	Chair Nelson	Thanks the testifiers.
255	Sherry Sheng	Committee Administrator. Points out Lassman's written testimony addressing the productivity in the issue analysis section.
266	Sen. Beyer	Asks for the four incumbents' reaction to the 5 amendments.
268	Chair Nelson	Says the committee can get some written response from them.
291	Sen. Miller	Discusses the need to move SB 142 as it is or amended. Comments that PUC is blatantly biased against the incumbent carrier. Asks for a deadline to decide on SB 142.
316	Sen. Metsger	Agrees that the committee needs to come to a conclusion.
330	Sen. Beyer	Comments that regulation needs to make a transition to price caps and include better services to rural Oregon, even though it is not clear how.
373		Staff submits <b>(Exhibit D)</b> on behalf of Kathryn Thomas.
374	Chair Nelson	States that next Monday will be set as a work session for additional ideas to be introduced. Closes work session on SB 142 and SB 143. Opens work session to introduce committee bills.



**INTRODUCTION OF COMMITTEE BILLS**

331	Chair Nelson	<b>MOTION: Moves LC's: 3130, 3865, 3813, 3847, 3619, 2894, 3281 BE INTRODUCED as committee bills.</b>
332		<b>VOTE: 5-0</b>
333	Chair Nelson	<b>Hearing no objection, declares the motion CARRIED.</b>
		LC 3130 becomes SB 1089, LC 3865 becomes SB 1085, LC 3813 becomes SB 1088, LC 3847 becomes SB 1087, LC 3619 becomes SB 1086, LC 2894 becomes SB 1084, and LC 3281 becomes SB 1083.
353	Chair Nelson	Says next Monday there will be a work session to move SB 142. Closes meeting at 2:53 p.m.

Submitted By, Reviewed By,

Nancy Masee, Y. Sherry Sheng,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 436, Letter, Jack Munro, 1 p**

**B ñ SB 142, Written testimony, Kent Lassman, 28 pp**

**C ñ SB 142, Written testimony, Paul Romain, 4 pp**

**D ñ SB 142, Letter, Kathryn Thomas, 2 pp**