

SENATE COMMITTEE ON PUBLIC AFFAIRS

March 11, 1999 Hearing Room B

7:00 p.m. Tapes 18 - 19

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Eileen Qutub

Sen. Charles Starr

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SB 1149 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 18, A		
000	Chair Derfler	Opens meeting at 7:00 p.m. and opens public hearing on SB 1149.
<u>SB 1149 PUBLIC HEARING</u>		
022	Sandy Flicker	Oregon Rural Electric Cooperative Association (ORECA). Presents (EXHIBIT A) . States ORECA is governed by the locally elected board of directors/city councils. States concern about increased costs to customers that may be caused by restructuring. States ORECA has prepared amendments to SB 1149. States

		the legislature should consider two paths to restructuring: one for investor-owned (for-profit) utilities and one for consumer-owned (not-for-profit) utilities.
062	Tom O'Connor	Oregon Municipal Electrical Utilities (OMEU). Presents (EXHIBIT B) . States the flowchart shows how community-owned utilities work. States the community elects the board or city council with the community having the power to recall board members. States the elected body sets the overall utility policies, approves contracts with power providers, establishes rates and consumer protection rules, approves conservation and community service programs, and acts as an appeal body for consumer complaints. States the elected body chooses the utility manager who implements policy.
111	Chair Derfler	Asks if the board is the final appeal.
113	O'Connor	States the board is the final appeal, but the customers would have redress under the court system.
118	Chair Derfler	Asks about the present situation and if OMEU has provided market-based power to anyone in their service area.
121	O'Connor	States they have, but it depends on the utility.
127	Chair Derfler	Asks if, under existing law, OMEU can offer market-based power to other customers.
129	O'Connor	States it depends on the contract. States the power is offered as preference power from Bonneville Power Administration (BPA), delivered at cost to residential, commercial, and industrial customers. States some utilities were able to diversify and purchase power from other entities.
145	Chair Derfler	Reiterates, that under existing authority, OMEU has been able to offer market-based power to other customers.
146	O'Connor	States, in some cases, it has happened.
147	Flicker	States there are nine electric cooperatives in the state who belong to a power marketing organization. States those cooperatives have diversified as much as 30 percent of their loads off of BPA and have offered the power to large industrial customers.
155	Diane Cowan	Executive Director, Oregon People's Utility District Association (OPUD). Presents (EXHIBIT C) . States the amendments presented request that all references to community-owned utilities be deleted from SB 1149, except Section 14, subsections 1,2, and 4. States it would be less confusing if community-owned utilities were compiled in a separate path. States the amendments outline the flexibility needed for elected boards to respond to their customers' needs. States there are two exemptions to the Public Records Act to protect personal customer information and sensitive business information. States

		only public utilities and municipals would have this concern, while all other utility types are protected.
207	Chair Derfler	Asks why it would be a concern.
208	Cowan	States, if the information is requested, it would include all private information, including Social Security numbers.
214	Chair Derfler	States OPUD would set the rate for the distribution cost. Asks how OPUD will ensure the utilities remain competitive.
218	Cowan	States there should not be a concern because OPUD is mandated to distribute electricity at a cost-based rate.
223	Chair Derfler	Asks if the cost would be the same as if they were charging themselves.
224	Cowan	States the costs would be the same. States, if it becomes an open/competitive market in Oregon, negotiations should be private. States OPUD will continue its public purposes to collect three percent for conservation, renewables, low income weatherization, and payment assistance.
260	Bruce Hellebuyck	Regulatory Policy Director, PacifiCorp. Presents (EXHIBIT D) . States PacifiCorp supports the general structure of SB 1149, especially direct access for large commercial customers and portfolio options for residential customers. States the dates for the portfolio customers (January 2006) should not be set until it can be determined that there is a direct access market for residential customers. States in Northern California there is direct access, but not many customers have opted to change providers. States the portfolio project PacifiCorp is currently running in Klamath Falls is successful.
297	Vice-Chair Dukes	States with the deregulation process in California, she would not blame the customers for keeping their current provider. States California did not successfully handle the stranded costs.
308	Hellebuyck	Believes that the problems with California may be due to the specific rules or with residential customers not interested in making choices.
316	Hellebuyck	States the customers have the certainty with getting direct access, but there is no certainty with PacifiCorp on how the stranded cost issue will be dealt with. States the outcome for stranded costs is put forward to a PUC proceeding. States during that proceeding, PacifiCorp will argue whether or not there will be stranded costs or stranded benefits. Explains the scenarios that would result in either stranded costs or stranded benefits.
379	Chair Derfler	Asks, if PacifiCorp has stranded benefits, if that would that lead them to lower their prices.

383	Hellebuyck	States that if Oregon deregulates, people will pay the market price for electricity.
391	Sen. Qutub	Asks if there currently is no profit.
392	Hellebuyck	States it does not make sense to deregulate.
395	Sen. Qutub	Asks if Hellebuyck is stating that PacifiCorp is not producing electricity at a profit.
404	Hellebuyck	States that part of the cost includes a return to pay investors and bond holders. States there are different opinions with market price fluctuations, due to deregulation.
418	Chair Derfler	States, according to Hellebuyck's testimony, any time competition is added, prices will lower.
419	Hellebuyck	Believes deregulation will lead market prices to be lowered.
429	Chair Derfler	Asks if stranded costs are short-term.
430	Hellebuyck	States the stranded costs issue is a transition issue.
431	Chair Derfler	States most stranded costs are usually paid off quickly.
434	Hellebuyck	States regimes could be put in place to collect the stranded costs.
444	Vice-Chair Dukes	Asks if Hellebuyck supports deregulation.
448	Hellebuyck	States PacifiCorp supports deregulation and believes deregulation will lower market prices. States many people believe that deregulation will raise prices.
TAPE 19, A		
022	Chair Derfler	Asks why prices would go up in a deregulatory market.
023	Hellebuyck	States he does not believe the prices will go up. States that stranded benefits will exist only if prices rise due to competition. States if one believes there are stranded benefits, one would not pursue deregulation.
031	Chair Derfler	States that PGE owns the hydro-power and if they sold that power it would reflect positively on their books. States he does not recommend that PGE do that, but it is a possibility.

033	Hellebuyck	States there may be isolated resources that a utility owns that would be lower than market prices, but if the utilities resources were less expensive than the markets, the utility would not pursue deregulation. States there needs to be structure during deregulation that does not require PUC proceedings for stranded cost issues.
044	Chair Derfler	States the public does not trust the utilities to be honest about stranded cost issues and would prefer PUC regulation.
046	Hellebuyck	States having the PUC regulate and calculate stranded cost issues is a second option.
050	Vice-Chair Dukes	Asks which option PacifiCorp prefers.
051	Hellebuyck	States PacifiCorp's first preference would be to agree on the first option of creating a structure that would not require PUC proceedings.
052	Vice-Chair Dukes	Asks if PacifiCorp prefers the structure used by California.
058	Hellebuyck	States there needs to be a structure put in place for a period of time that will aid in the transition to market. States the stranded costs of one customer should not be the responsibility of another. States the other option is to give it to the PUC and let them do a proceeding. States the PUC would then need to figure out how to move to direct access: who is the default supplier, consumer protection, and other issues. Proposes a two-step process where the PUC looks at what will happen to market prices and does a stranded cost test, first. States that if the PUC finds there are stranded benefits then the utility would continue with business as usual. States the third option is for PGE to sell all of their assets and get the stranded cost and stranded benefit issue out of the way. States the third option would not work for PacifiCorp.
081	Vice-Chair Dukes	Asks Hellebuyck to specify which option PacifiCorp prefers.
087	Hellebuyck	States the first option is to put a structure in place, as a legislative package, that has the agreement of customers and utility providers, instead of having the PUC hold proceedings.
100	Chair Derfler	Asks what the advantage is of a structure in lieu of using the PUC.
101	Hellebuyck	States it will do away with market price questions for the next 30 years.
107	Chair Derfler	Asks how this structure would be different than that of the PUC.
112	Hellebuyck	States he would like to see legislation that everyone involved has agreed upon.

113	Chair Derfler	Asks if Hellebuyck does not want the PUC involved in regulation.
114	Sen. Qutub	Clarifies that under this option the PUC is not involved and the legislature, through discussions, would come to an agreement of what the structure will be. States part of that structure would be a price freeze for "x" number of years, for planning.
121	Vice-Chair Dukes	Asks how the legislature would create statutes differently than what the PUC would do by rule.
124	Hellebuyck	States that California used a system where the prices were frozen for a specified amount of time and stranded costs were available for collection after that time. States California's structure was put in place through legislation.
129	Vice-Chair Dukes	States, in California, everyone ended up paying for stranded costs. States that what is being proposed here is not the same.
137	Hellebuyck	States everyone would share in the stranded costs, similar to if the PUC held a proceeding and determined there were stranded costs. Believes cost shifting is not appropriate either between customer classes, or customers and shareholders. States cost shifting should not occur.
144	Vice-Chair Dukes	Clarifies that the issue is that everyone pays.
145	Hellebuyck	States if there are stranded costs, all customers who have direct access should pay. States if everyone has the benefit of the market, everyone should pay.
149	Chair Derfler	Asks if Pacificorp anticipates stranded costs.
152	Hellebuyck	Replies they will. Believes the market will force prices down lower than the cost of production.
156	Vice-Chair Dukes	Asks about his concern with the 2006 date, because residential customers would not be ready for deregulation. Asks how he plans to spread the stranded cost to everyone.
161	Hellebuyck	States the structure proposal could be different for industrial customers and residential customers. States it is imperative to isolate stranded costs within the category of customers.
165	Vice-Chair Dukes	Asks if the residential customers' portion of stranded costs would be saved for them until deregulation has taken place in their market.
166	Hellebuyck	States there are no stranded costs for the residential customers if they are paying a cost-of-service rate. States, by definition, they are paying cost-of-service so

		they are not creating any stranded cost.
173	Chair Derfler	Asks, if industrial customers buying at the market rate decided to change options to buy at a lower cost, would Hellebuyck consider that to be a stranded cost between what is being paid for market power and the cost of Pacifcorp doing business.
178	Hellebuyck	States that would be a stranded cost to Pacifcorp. States that plants were built to supply the customersi needs.
181	Chair Derfler	Interjects that no one would leave that market to go to another if the same rate is paid. States it would not be a competitive market.
183	Hellebuyck	States there is a way to work through the stranded cost issue. States, once the issue is solved, customers have access to market prices.
188	Chair Derfler	Asks if he would expect the customer to pay the difference between cost of production and what can be saved by buying power on the market.
189	Hellebuyck	States, by definition, that would be considered a stranded cost.
194	Sen. Qutub	Asks if the effect of the actual market rate would come to fruition after five years at a fixed rate. States the entire system will be frozen until everything is caught up.
195	Hellebuyck	States it will take a short period of time to work through the transition cost issue and then customers will have access to market prices. States if one believes there are stranded costs, then market prices are below the embedded costs, and deregulation is a good option. States if one believes there are stranded benefits, then market prices are above embedded costs, and deregulation is not a good option.
207	Sen. Qutub	Reiterates that the PUC believes there will be stranded benefits.
210	Hellebuyck	Believes there will be stranded benefits. States he has issues with the PUC default supplier, who provides electricity for customers. States there are issues with how the company needs to be structured to make sure the market works. States there are affiliate issues and other issues Pacifcorp has with deregulation.
228	Chair Derfler	Asks Bill Warren, if the market price is below Pacifcorpis cost and a customer decides to leave for a better market price, how long the customer would have to pay the cost difference. Asks if Warren considers this a stranded cost.
234	Bill Warren	PUC Staff. States that scenario is generally what characterizes a stranded cost. States the utility cannot recover in the marketplace because its costs on the books exceed its assets. States most feel five years is appropriate to recover stranded costs.

249	Chair Derfler	Asks if the PUC feels the market price will be above the present cost of the utilities.
253	Warren	States the market changes over time. States the best way to test the market is to auction off the utility's resources to see what the market will give for those resources. States the net gain would recover costs which are stranded benefits.
266	Chair Derfler	Asks, if the market lowered the price for the industrial customer, would the customer get the benefit after the five year period.
270	Warren	States it depends on the category of the customer and the amount of the stranded cost. States some deals could be made with larger customers because of their buying power and the ability to aggregate. States smaller customers may not have the buying power or the sophistication to make those deals.
296	Brian Boe	Portland General Electric (PGE). Presents (EXHIBIT E) . States PGE supports the general intent of SB 1149. States concern that SB 1149 failed to include natural gas utilities. Believes that Oregon should include gas utilities in its restructuring effort.
316	Chair Derfler	Believes the gas industry has been deregulated
318	Cindy Finlayson	Portland General Electric. States the gas industry is deregulated, but customers are not given the choice of who supplies their gas. States the industry still has service territory allocations.
324	Chair Derfler	Asks if gas can be purchased on the market and transported to the customer.
330	Finlayson	States that will not happen at the retail level, but it will at the industrial level.
332	Chair Derfler	States there is only one gas utility and by opening the territory it will not change much.
333	Finlayson	States there is Vista Corp.
334	Boe	Urges the committee to include all electric utilities, regardless of size or number of customers, in SB 1149. States that requiring one or two utilities to restructure ahead of others may appear expedient in the short term, but the net effect may result in a different set of impacts that may end up threatening the restructuring effort. States that SB 1149 only requires customer choice for two investor-owned utilities while 33 cooperative, PUD, municipal, and one investor-owned utilities are exempt. States that, if SB 1149 becomes law, there would be no requirement for those utilities to participate in any customer choice plans or provide direct access for commercial and industrial customers. States this will result in an economic disadvantage to customers in territories not under restructuring mandates. States that PGE has issues with the dates outlined in SB 1149. States that, with the BPA subscription process and the UE 102 filing, it is difficult for PGE to concur with the dates proposed in SB 1149. Asks the committee to

		consider the PUC proposal draft regarding restructuring. Believes the PUC model reflects a more comprehensive approach.
410	Vice-Chair Dukes	Asks what dates PGE proposes for deregulation.
419	Finlayson	Proposes moving through the issues on a timely basis that works for the utilities and the regulatory system. States that PGE does not want to repeat the problems in California where there was a specified date and the industry was not prepared to move forward. States the PUC proposal is structured to respond to proposals as they are filed by the utilities.
440	Vice-Chair Dukes	Asks if that would add to the concern that some utilities are deregulated before others.
TAPE 18 B		
017	Finlayson	Prefers there be an open market available, but they do not prefer that there be a mandate for two utilities on a date certain, when the rest of the utilities do not have the same time frame.
020	Chair Derfler	States the other utilities are afraid that PGE will get ahead of them in the market.
022	Finlayson	States PGE wants a robust competition. States if it is an open date and utilities can file their plans when they are ready, it will move the competition to a higher level.
026	Vice-Chair Dukes	Asks if the other utilities decided not to file a request for deregulation.
028	Boe	States that under that scenario PGE has the certainty of having those issues addressed prior to opening the market.
030	Finlayson	States that if PGE is required to meet a date certain they could be pushed to open before they are ready, the customers are ready, or the operational systems are ready. States that PGE would not like to open a market that would cause their customers problems.
035	Chair Derfler	Asks if PGE wants a more flexible date.
038	Finlayson	States PGE wants a more flexible date.
039	Chair Derfler	States the committee has spoken to the PUC about adjusting that date, if necessary.
052	Finlayson	States the date certain and mandating that only two utilities comply with the date

		certain is the issue.
053	Chair Derfler	States that, if the public is required to deregulate under the PUC, the committee will not be able to pass a bill.
054	Finlayson	States the framework the PUC has developed is voluntary, according to when a utility is ready to file.
060	Vice-Chair Dukes	Asks, if a utility can file for deregulation when ready, if it is alright that the public does not deregulate.
061	Finlayson	States the competitive market will develop when the people move forward. States that no utility will want to be left behind.
071	Jason Eisdorfer	Citizens Utility Board and the Fair & Clean Energy Coalition. Presents (EXHIBIT F) . States the issue is the market compared to the utility's costs. States in Pacificorp's situation there is a possibility of stranded benefits. States an independent survey from a few years ago showed that Pacificorp had stranded benefits in the amount of \$1.5 billion. States, within the next 10-20 years, Pacificorp's system may be cheaper than what the market may deliver.
104	Chair Derfler	Asks if it would be to Pacificorp's advantage to deregulate. States that, if Pacificorp can produce electricity at a lower rate than the market, they could own the market.
106	Eisdorfer	States it would depend on who would get the value of the resources. Believes that if Pacificorp remains below market for the next 20 years, it would essentially be a better deal than the market. Believes, however, that if the State of Oregon allows them to take the resources, sell them, and then keep the profit, the customers would not get the value of resources.
112	Chair Derfler	Asks if this is what happened in California.
113	Eisdorfer	States in some cases that may have happened. States the customers are making up the difference if the costs are stranded. Believes that the customers should get the difference if there are benefits.
120	Steve Weiss	Northwest Energy Coalition, Fair and Clean Energy Coalition. States the Fair & Clean Energy Coalition supports the PUC because of the recommendation to share the costs. States that if the utility has stranded benefits the customer will receive 95 percent of the benefits and the utility would receive 5 percent of the benefits. States the Northwest Energy Coalition also supports the PUC's recommendation on stranded costs and benefits.
133	Eisdorfer	States that customers want direct access. States there is a market for commercial/industrial customers. States residential customers do not have a market waiting for them. States residential customers do have access to low cost power from BPA. States if residential customers move to a market, they would

		lose their access to BPA. Believes BPA's market value will be low for 20 years. States that any restructuring proposal that would disconnect residential customers from BPA will not have the support of the Northwest Energy Coalition. States he agrees with PGE on the issues of figuring stranded costs and benefits before imposing legislation.
183	Eisdorfer	Agrees with PGE to start charging for public purposes. States there is no attempt to postpone deregulation, even though there is issue with having a date certain. Explains he met with BPA today to find out how restructuring would affect their access to BPA power. States that there is the possibility of BPA giving retail access to commercial/industrial customers. States this may undercut the access to BPA power that the residential customers currently receive. States he will provide a written summary of what took place with BPA and submit it at a later date.
234	Weiss	States that in the BPA meeting it was made clear that if residential customers would not buy through the utility, BPA would not allow them access to their power. States BPA supports the portfolio option. States that currently only the residential customers have the right to BPA. States that if residential customers are forced into the market they would lose their rights to BPA power. Supports keeping the portfolio option for the residential customers.
254	Eisdorfer	States his association does not support the public purposes section of SB 1149. States they are negotiating with other customer groups to create a public purpose section that complies with everyone's needs. States he would like to see the public purposes maintain the three percent of total retail revenues, a 10 year duration, allocation for conservation and renewable resources, sufficient accountability to be sure the money is spent correctly, and that low income bill assistance is on top of the three percent. States there has been the discussion on meter charges, which would limit what each customer pays to the low income bill assistance fund.
288	Vice-Chair Dukes	Asks about the concern with low income bill assistance, because prior bills have not covered this issue.
294	Weiss	States there is a need for bill assistance, about \$20 million a year, including federal funds. Recommends a small charge of \$.20 per month for residential customers, \$2.50 per month for commercial customers, and a few hundred dollars per month for industrial customers. States federal funds have fallen. States low income assistance programs save the utilities administration fees, disconnect fees, and write-offs, and aid in collecting more money than before from customers with delinquent accounts.
340	Vice-Chair Dukes	States concerns that if the legislature undertakes another "social program" it will be difficult to stop. States low income bill assistance is not the only need, in terms of energy.
355	Weiss	States they can show persuasively that these programs are vital. States there are savings, write-offs, and lower collection costs. States, according to Oregon law, utilities are not allowed to implement these programs. States this is not a new welfare bill, but the program will take advantage of savings while helping others pay their electric bills.

377	Eisdorfer	States the public purposes and the low income assistance piece has been the same funding purpose for the last five years. States they are not interested in creating new programs. Believes there is not a retail market for residential customers and proposes language to amend SB 1149 to create the portfolio option. States the PUC would have the oversight of how the portfolio would be structured, how the rates would be on the default, and what the terms and conditions would be. States the PUC would have the authority to oversee contract negotiations between the utility and BPA.
TAPE 19, B		
002	Eisdorfer	States that Trojanis stranded cost, determined by the PUC, has been appealed and is now before the Supreme Court. States, in SB 1149, Trojan should be taken out of the definition of stranded costs, because it is now in a different venue. States SB 1149 should include the environmental characteristics of the energy being offered and uniform disclosure of price.
042	Vice-Chair Dukes	Asks what is included in environmental characteristics.
045	Rachel Shimshak	Renewable Northwest Project. States those characteristics would include air emissions such as CO2, SO2, and elements that would contribute to smog, acid rain, and global warming. States that fuel source disclosure should also be available to energy customers.
051	Vice-Chair Dukes	Asks if that would include hydro-resources impact on fish.
052	Shimshak	States there is an interest in determining some way of describing an environmental impact for hydro-resources. States there is a strong effort to characterize those impacts simply, so that customers understand what they are buying.
058	Vice-Chair Dukes	Asks for a general definition to give to the committee.
060	Weiss	States the administrator of the Oregon Office of Energy would determine what to include in SB 1149 concerning characteristic definitions.
069	Eisdorfer	Supports the idea that the only party to disconnect or reconnect a customer would be the distribution utility. States the PUC should determine issues concerning metering, billing, and collecting. States it is an enormous issue. Endorses the League of Oregon Cities' language to ensure that cities are not harmed by retail access.
110	Chair Derfler	States SB 1149 should move fairly quickly and any information spoken about earlier should be presented to the committee as soon as possible.
112	Eisdorfer	States BPA was informed on the timeliness of SB 1149 and BPA will meet with the Fair & Clean Air Coalition next week to discuss federal legal issues that may impact SB 1149.

120	Carol Fleischman	Bonneville Power Administration. States BPA's subscription issue is out of sync with the timeline for SB 1149. States there are complex federal statutes they need to abide by.
130	Chair Derfler	Asks the possibilities of the Northwest losing BPA.
134	Fleischman	Concerned with the Midwest/Northeast Coalition. States there is not strong political support in the Northwest delegation. States there are no delegates for votes, and if it went to a vote today, BPA would lose and the power would go to market-based rates, instead of cost-based rates.
139	Chair Derfler	Asks her to clarify.
140	Fleischman	States that going to a market-based rate would, in turn, increase prices. States that if subscription unravels, the congressional delegation will perceive that issues are not being resolved in the Northwest.
151	Chair Derfler	Closes public hearing and adjourns meeting at 8:45 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 1149, written testimony, Sandy Flicker, 3 pp

B ñ SB 1149, flowchart, Tom O'Connor, 1 p

C ñ SB 1149, written testimony and proposed amendments, Diane Cowan, 16 pp

D ñ SB 1149, written testimony, graph, and proposed amendments, Bruce Hellebuyck 17 pp

E ñ SB 1149, written testimony and proposed amendments, Brian Boe, 5 pp

F ñ SB 1149, written testimony and proposed amendments, Jason Eisdorfer, 12 pp