

**HOUSE COMMITTEE ON COMMERCE**

**SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE**

**April 24, 1997 Hearing Room 343**

**8:15 AM Tapes 60 - 61**

**MEMBERS PRESENT:**

**Rep. Jim Hill, Chair**

**Rep. Ron Adams**

**Rep. Tom Whelan**

**Rep. Cynthia Wooten**

**STAFF PRESENT:**

**Julie Neburka, Administrator**

**Coben Tistadt, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 2060 - Public Hearing**

**HB 3260 - Public Hearing**

**HB 3041 - Public Hearing**

**HB 3500 - Public Hearing**

**HB 3246 - Public Hearing**

**HB 3102 - Public Hearing**

**HB 3678 - Public Hearing**

**HB 3685 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 42, A</b>		

005	Chair Hill	Opens meeting at 8:35 AM. Opens public hearing on HB 3260, closes public hearing on HB 3260. Opens public hearing on HB 3041, closes public hearing on HB 3041. Opens public hearing on HB 3500, closes public hearing on HB 3500. Opens public hearing on HB 3246, closes public hearing on HB 3246. Opens public hearing on HB 3102, closes public hearing on HB 3102. Opens public hearing on HB 3678, closes public hearing on HB 3678. Opens public hearing on HB 3685, closes public hearing on HB 3685. Opens public hearing on HB 2060.
<b><u>HB 2060 - PUBLIC HEARING</u></b>		
036	Denise McPhail	Portland General Electric. Mentions privilege tax principles:  * they should be applied neutral  * they should not be expanded to county governments  * they should be set at current levels  * the cap should not apply to municipal utilities.
054	Chair Hill	Asks if municipal utilities include public co-operatives and people's utility districts (PUDs).
058	McPhail	Answers that co-operatives and PUDs are currently taxed as are private utilities, and that only municipal utilities are subject to the in lieu of tax structures. Continues listing principles:  * city taxes should only be imposed on constituents who benefit from them  * taxes should be shown separately on the bill  * city should be able to tax energy transactions they currently tax, irrespective of the supplier  * energy taxes shouldn't be shifted to different classes of customers through deregulation
108	McPhail	Talks about PGE's proposal that energy taxes be collected by the Department of Revenue and the cities rejection of that proposal. Continues with principles:  * cities should not have duplicative authority to regulate rates or conditions of service for utilities  * one state-wide standard for work in the rights of way
128	Chair Hill	Asks for examples of differing standards concerning cuts in rights of way.

134	McPhail	States that she's not a expert in this area.
145	Chair Hill	Asks if PGE would support the public utility commission setting those standards.
149	McPhail	Answers yes. Notes that the city of Portland would be an exception.
152	Rep. Whelan	Asks if the city of Portland has been excluded in statute.
157	McPhail	Answers no. States that it is part of the city's charter authority.
168	Jim Anderson	Pacificorp. Notes that some co-operatives don't operate in public rights of way. States that there is a consistency problem with the standards. Asks for a common standard.
192	Chair Hill	Asks why there is a consistency problem.
199	Anderson	Answers that it depends on how much right of way space is given. Talks of adherence standards.
227	Chair Hill	States that a private investor normally develops new communities.
239	Anderson	States that in widening a road they need to contact the owner of the property.
249	Rep. Adams	Asks Mr. Anderson if he is requesting the city purchase additional rights of way to suit his company's needs.
259	Anderson	Answers that his company hasn't the authority to ask for that.
263	Rep. Adams	Asks who deals with that issue.
266	Anderson	Answers that sometimes his company has to purchase the rights of way.
270	Rep. Adams	Asks about the costs of relocation.
274	McPhail	Answers that relocation doesn't often occur. Adds that the city of Portland has offered financial help in the past for relocation.
294	Rep. Adams	Asks if relocation resulted from bad planning by the city if the city would bear the costs.
299	McPhail	Answers that the costs would be passed on to the developer.
305	Rep. Adams	Notes that that issue is not addressed in the bill.
308	McPhail	Responds that she might have misunderstood the question.
314	Chair Hill	Asks for the definition of a "public works project."
320	McPhail	Answers a street-widening or some such project done through the city's planning rather than through a contractor.
325	Chair Hill	Asks if a street was widened twice if that would be considered one public works project or two.
328	McPhail	States that the bill addresses instances where a company is asked to relocate twice on the same project.
339	Anderson	

		Mentions the possibility of building temporary facilities. States that the bill addresses situations where a city has specified a particular location and subsequently changed that location.
387	Rep. Wooten	Asks if there was a curb cut requiring relocation if the developer would pay. Asks what defines a public interest.
400	Anderson	States that providing access for the disabled would be a public interest and that a for-profit business would be a developer's interest.
416	Rep. Adams	Mentions a development project in West Linn and the effort to extend utilities to that area. Asks when such extensions go from being the developer's interest to a public interest.
<b>TAPE 61, A</b>		
006	Anderson	Answers that such projects require pre-planning and that there would prior consideration of that issue.
020	Chair Hill	Asks if the placement of a parking lot entrance would be a developer's interest.
035	Anderson	Answers yes.
037	Rep. Adams	Suggests that the amendments don't meet PGE's "real needs," and that they should remove lines 2-10 on page 4.
054	McPhail	Notes that an alternative is to deduct relocation costs from franchise fees, yet acknowledges the desire to keep city's revenues whole.
067	Rep. Adams	States that keeping the bill "focused" will increase its chances of being passed.
082	McPhail	Submits conceptual amendments (EXHIBIT A).
105	Chair Hill	Talks of shifting costs between classes.
115	Julie Brandis	Associated Oregon Industries and the Oregon Energy Coalition. Introduces Mary Ann Hutton.
117	Mary Ann Hutton	Executive Director for Northwest Industrial Gas Users Association. Opposes -12 amendments. States that having the tax imposed on the purchase price of gas won't provide a stable revenue base, noting large fluctuations in the cost of energy. States that tax should be applied to the distribution function. Talks of administrative difficulties in collecting taxes from each provider. Notes that an industry's use of energy is currently kept confidential. Warns that the amendments might interfere with interstate commerce. States that the amendments are premature, and that changes should be made subsequent to upcoming changes in the industry and in the market place.
170	Chair Hill	Notes that the witness argues against the present "franchise system" saying it provides an unstable source of revenue.
172	Hutton	Responds that due to regulation prices have been relatively stable, but with deregulation they will be less stable.
178	Rep. Adams	Asks the witness who she represents.
185	Hutton	

		Answers the Northwest Industrial Gas Users Association. Submits the association's membership (EXHIBIT B).
211	Rep. Adams	Points out that incumbents' retail prices will be 5% higher than the retail prices of companies who directly connect with the pipeline.
237	Hutton	Talks of changes due to the interstate pipeline. States that larger users use the transportation services of local utilities to deliver the gas from the interstate pipeline. Notes misunderstandings of the term "by-pass," stating that a "physical by-pass" is when a large company lays their own pipe.
287	Hutton	Notes that most companies haven't chosen the by-pass option. Discusses co-generation and how it drives down costs. Talks of the effort to develop a mechanism to deal with both the natural gas industry and the electricity industry, which have different levels of unbundling.
337	Hutton	Suggests taxing distribution and analyzing how much the delivery function costs. States that taxing distribution will create equality due to the fact that it won't discriminate against those relatively more or relatively less unbundled.
387	Hutton	Admits the difficulties of legislating a distribution tax.
392	Chair Hill	Asks if the witness is suggesting taxing volume rather than price, noting that large consumers would be taxed relatively more in such a structure.
413	Hutton	Answers no. Clarifies that she was suggesting taxing a percentage of the delivery charges.
<b>TAPE 60, B</b>		
015	Rep. Adams	Asks what percentage of the bill currently comes under the franchise tax.
022	Hutton	States that industrial rates for gas sales are between 25-45 cents per therm, and that the distribution costs are approximately 2-3 cents per therm. Lists the quantities used by various industrial users.
047	Rep. Adams	Asks if distribution would be 10% at the maximum or 5% at minimum.
054	Hutton	Answers that those percentages are a bit extreme.
062	Rep. Adams	Mentions the cities' dependence of franchise fees as revenue. Notes difficulties to be worked out with the witness' suggestions.
079	Hutton	States that the main difficulty is to determine a fair percentage of distribution costs to total costs for all the various suppliers.
089	Chair Hill	Notes that the committee will have to juggle the desire to protect the cities' revenue with the interest in open competition and fairness, noting that the two issues are not clearly complimentary.
113	Hutton	Adds that revenue growth should be proportionate to new development.
126	Rep. Adams	States that subsidizing low-income customers is no longer feasible. States that the franchise fee system of the past is obsolete Questions

		whether they can fix a situation to be determined in the future. Asks if the state can tax the local loop when there is a direction connection to the interstate pipeline.
158	Hutton	Answers that that is a policy question. Adds that it would be hard to justify such a tax.
166	Rep. Adams	States that if they don't tax direct connections then they encourage direct connections, which he doesn't want to do.
180	Hutton	States that in a competitive marketplace there is a high degree of ingenuity, and that companies will "eat" any subsidies the government offers them.
188	Rep. Adams	Talks of the importance of understanding that ingenuity so that the committee doesn't get "used."
193	Chair Hill	Notes that there is floor session at 10:00 AM. Encourages the witness to work with staff on drafting amendments.
205	Rep. Adams	States that if they could agree in principle "in advance of amendments" that he would understand the issues better.
209	Rep. Wooten	Suggests getting all the witnesses' ideas "on the table" and then the members can bring their respective approaches to the issue to come to a resolution.
213	Chair Hill	States that having the amendments drafted not will make the final resolution process quicker. Adjourns meeting at 9:49 AM.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

### **EXHIBIT SUMMARY**

A - HB 2060, conceptual amendments, Denise McPhail, 1 p.

B - HB 2060, membership roster, Mary Ann Hutton, 1 p.