

**HOUSE COMMITTEE ON COMMERCE SUBCOMMITTEE ON  
TELECOMMUNICATIONS AND TRADE**

February 6, 1997 Hearing Room H170

8:30 A.M. Tapes 5-7

**MEMBERS PRESENT:**

Rep. Jim Hill, Chair

Rep. Ron Adams

Rep. Tom Whelan

Rep. Cynthia Wooten

**STAFF PRESENT:**

Julie Neburka, Administrator

Gary Seeder, Administrative Support

**MEASURE/ISSUES HEARD:**

House Measure 2124

House Measure 2142

1996 Federal Telecommunications Act

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 5, A		
004	Chair Hill	Calls meeting to order at 8:33 a.m., opens work session on HB 2124.
<b><u>HB 2124 WORK SESSION</u></b>		
008	Neburka	Summarizes HB 2124-1 amendments.
018	Rep. Adams	<b>MOTION: Moves HB 2124A to the full committee with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 3-0</b>

		<b>EXCUSED: 1 - Rep. Wooten</b>
	<b>Chair</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>022</b>	<b>Chair Hill</b>	<b>Closes work session on HB 2124, opens work session on HB 2142.</b>
<b><u>HB 2142 WORK SESSION</u></b>		
<b>023</b>	<b>Neburka</b>	<b>Summarizes HB 2142-1 amendments.</b>
<b>041</b>	<b>Rep. Adams</b>	<b>Questions where this fund comes from.</b>
<b>046</b>	<b>Yvonne Addington</b>	<b>Manager, Regional Development Division, Economic Development Department. Funds are generated from lottery dollars requested in the governor's budget. Loan repayments and interest payments also make up the fund.</b>
<b>054</b>	<b>Rep. Adams</b>	<b>Asks if additional dollars are added continuously to the fund.</b>
<b>056</b>	<b>Addington</b>	<b>Responds that a recapitization request is presented to the legislature each session.</b>
<b>059</b>	<b>Rep. Adams</b>	<b>Questions the amount being requested this session.</b>
<b>060</b>	<b>Addington</b>	<b>Responds that the request is a 25 percent reduction from the 1995 session and a 5 percent reduction in Waste Water fund.</b>
<b>078</b>	<b>Rep. Adams</b>	<b>Comments on proposed expansion; questions how these efforts could not have revenue impact.</b>
<b>085</b>	<b>Chair Hill</b>	<b>Responds that when the fund runs out of money there will be no more dollars.</b>
<b>097</b>	<b>Addington</b>	<b>Agrees.</b>
<b>100</b>	<b>Chair Hill</b>	<b>MOTION: Moves HB 2142A to the full committee with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Rep. Wooten</b>
	<b>Chair</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>105</b>	<b>Chair Hill</b>	<b>Closes work session on HB 2142.</b>

**1996**  
**TELECOMMUNICATIONS**  
**ACT**

113	Chair Hill	Opens informational meeting on the 1996 Telecommunications Act. Introduces Tom Barkin and comments on committee's position in this matter.
149	Tom Barkin	Administrator, Public Utility Commission of Oregon. Begins presentation with overview and history of the act(EXHIBIT A).
185	Barkin	Overview will cover three areas: * provision dealing with interconnection * procedures for negotiation, arbitration, and approval of contracts * universal service
225	Barkin	Continues presentation with history of telecommunication.
280	Barkin	Presentation focuses on ATT and direct voice communication; MCI's private line service.
296	Rep. Whelan	Questions the laying of new line.
298	Barkin	Responds and continues with decision to deregulate. Refers to (EXHIBIT A, p. 2). Discusses the impact of this decision.
341	Barkin	Addresses Oregon's legislation 759.050. Expands on duties of local exchange carriers (EXHIBIT A, p. 6).
<b>TAPE 6, A</b>		
001	Rep. Whelan	Asks about resale telecommunications service.
002	Barkin	Responds that incumbent company has to offer to sell services to competitive providers at wholesale rates. Proceeds with presentation on: * technical characteristics that act as barriers to resale * required number portability
035	Rep. Adams	Asks about the burden being placed on the companies by this requirement.
041	Barkin	

		Answers that hopefully the networks have been planning to accommodate the requirement. States that it is a manageable requirement.
051	Chair Hill	Asks about remote call forwarding.
053	Barkin	States that technology is not fully developed and that remote call forwarding is an "interim" solution.
060	Chair Hill	Asks about resistance.
061	Barkin	Answers that there is not resistance, but that it isn't an efficient answer.
070	Chair Hill	Asks if the act creates a requirement that it is incapable of enforcing.
072	Barkin	States that there are interim solutions, but no permanent solutions. Continues presentation:  * dialing parity  * affording access to poles, ducts, and rights-of-way  * establishing reciprocal compensation for termination of transport of telecommunications
120	Barkin	Mentions incumbent exchange carriers
122	Chair Hill	Asks witness to identify the incumbent exchange carriers.
123	Barkin	Answers "GTE, US West, GTI Pacific Telecom, United Telephone Company, and a plethora of smaller companies." Enumerates additional duties placed on incumbent exchange carriers.
155	Barkin	Continues presentation:  * unbundling network elements
202	Barkin	Continues:  * offering retail telecommunications services at wholesale rates
224	Rep. Adams	Asks if there is a differential between business and residential rates.
229	Barkin	Answers that there is for resale, but not for unbundled elements. Cites that a company can't re-sell residential services to serve a business customer.
255	Chair Hill	Asks if the rates accurately reflect costs.

273	Barkin	Answers that "basis for costing unbundled elements and retail services are different." States that a "competitor will purchase a residential service at a discount and a business service with unbundled elements."
306	Chair Hill	Asks about the role of state in this matter.
322	Barkin	States that the Congress placed responsibility on the states. Refers to rules fixed by FCC and the states' legal challenge of those rules.
370	Rep. Adams	Notes that these issues are particularly pertinent to his district in that a significant number of businesses are residential. Questions how this is resolved equitably.
395	Barkin	Presents the question of whether increasing demand for network services will result from greater availability provided by "incumbents" or from the proliferation of competition.
435	Chair Hill	States that a third possibility is that increasing use will result from new technologies like frame-relay.
461	Barkin	Predicts that there will be many problems to be addressed in the next few years.
467	Rep. Adams	Interjects that the question will be "who makes the investment."
TAPE 5, B		
026	Barkin	Continues presentation: * physically co-locating switches and virtually co-locating
051	Chair Hill	Asks if virtual co-location is in effect the same as physical co-location.
058	Barkin	States that virtual co-location is satisfactory for competitors. Continues: * refers to EXHIBIT B, tables relating to requirements
078	Chair Hill	Asks if there are requirements of the act which the state lacks the authority to implement.
087	Barkin	Responds that the commission has been set up as an "arm" of the federal government and so has authority. Mentions that state laws for the most part complement the federal law.
100	Chair Hill	Asks about the PUC's authority.
106	Barkin	States that Congress gave authority to the PUC.

115	Chair Hill	Remarks that he hasn't seen a bill from PUC yet to "make this work."
119	Mike Kane	Public Utility Commission. Answers that PUC's HB 2093 is in the committee and that it identifies steps needed to conform to the federal act.
130	Chair Hill	Notes that the commission's existence was created by the state legislature. Warns the commission not to assume that federal law is sufficient without concordant state law.
158	Barkin	Continues presentation with discussion of the FCC's role: <ul style="list-style-type: none"> <li>* determining network elements</li> <li>* responsibility for cost allocation and number portability</li> <li>* lack of authority to preclude state regulations "consistent with the act"</li> </ul>
178	Barkin	Continues presentation: <ul style="list-style-type: none"> <li>* rural exemptions</li> </ul>
194	Chair Hill	Clarifies that smaller companies are not regulated by PUC.
200	Barkin	Notes that there are specific situations where they are regulated by the PUC.
201	Chair Hill	Gives an example of a "specific situation" and notes that that would require further state legislation.
213	Barkin	States that he hasn't studied the issue.
220	Rep. Adams	Asks for definition of "rural" or "smaller"
223	Dave Booth	Responds that only GTE and US West are not rural.
231	Chair Hill	Asks if definition is by region or by lines.
236	Booth	Answers that it is by size nationally.
244	Barkin	Continues presentation: <ul style="list-style-type: none"> <li>* Section 252, the dispute provision</li> <li>* initial efforts to have company-to-company negotiations unsuccessful</li> </ul>
294	Barkin	Continues:

		* forced arbitration
302	Rep. Whelan	Asks who does the arbitration.
305	Barkin	Responds that he has done some arbitration. Mentions difficulties of arbitration. Predicts many lawsuits
340	Rep. Adams	Asks what happens if the arbitration is unsatisfactory for a party.
342	Barkin	States that the commission must approve arbitration, and that appeals go to federal district courts.
352	Rep. Whelan	Asks of the nature of the appeal.
354	Barkin	Mentions that the act didn't specify standards for review. Reports that the courts look to see if arbitrator exceeded his/her authority and/or "procedural improprieties" occurred. Notes that the state courts have a higher standard.
378	Chair Hill	Asks about legal costs to the state in defending arbitration.
382	Barkin	Responds that he doesn't know, and that there is a question as to whether or not the arbitrator is a party in the appeal.
404	Chair Hill	Expresses desire for the state to "jump into the dogfight" to protect its citizens.
421	Barkin	Reiterates that commission role in appeals is as yet unclear. Continues presentation on disputes. Notes that "loops" are the most expensive element of a network.
<b>TAPE 6, B</b>		
030	Chair Hill	Asks if costs of connecting new neighborhoods is spread out over the whole system.
040	Barkin	States that commission determines "forward-looking" costs of providing a loop, which considers depreciation
065	Chair Hill	Asks what "forward-looking" costs are.
071	Barkin	Distinguishes forward-looking cost from historical cost.
087	Booth	Adds that forward-looking cost considers new loops required to meet demand.
101	Chair Hill	Asks if there is mathematical formula that the PUC could apply.
106	Booth	

		Answers negatively, that each company has their own formula.
118	Barkin	States that for every model there is a "set of assumptions."
133	Chair Hill	Asks if there is a formula to estimate costs and thereby attract investment.
140	Barkin	Notes difficulties coming to a consensus. Mentions that the PUC's formula has changed. Discusses consideration of replacement costs.
175	Booth	States that there isn't a formula, but that it is a "working relationship."
181	Chair Hill	Emphasizes the importance of the issue for committee.
186	Rep. Adams	Notes the industry's radical change. Talks of the pitfalls of establishing mathematical formulas in statute in effecting industries' natural competitiveness.
231	Chair Hill	Answers that it should be clear what industry can expect.
249	Barkin	Refers to EXHIBIT A, p. 9. Mentions importance of determining the costs of the loops.
277	Chair Hill	Asks about time needed to come to estimates EXHIBIT A, p. 9.
280	Barkin	Talks of Congress' requirements regarding arbitration.
330	Barkin	Continues talk of requirements, talks of impending arbitration.
350	Chair Hill	States that he wants to "tighten up" process.
363	Barkin	Answers that parties actually wanted arbitration to go more in depth, and that tabled arbitration (EXHIBIT A, p. 9) was derived from previous estimates made by the commission.
413	Barkin	Continues discussion of arbitration and mentions built-in discrimination.
430	Chair Hill	Asks again for time required to come up with cost studies.
440	Barkin	Answers three years. Mentions that the commission was the first in the nation to research issue.
450	Chair Hill	States that there should be a price list.
467	Barkin	States that the commission is in the process of creating a satisfactory price list.
TAPE 7, A		



027	Rep. Adams	Asks if there are service provision penalties.
046	Barkin	Answers no. States that the commission didn't include service provision penalties because it didn't know enough.
064	Barkin	Talks of universal service requirements.
090	Rep. Adams	Asks about discounts to schools.
091	Barkin	Answers that the discounts aren't specified. Continues talk on universal service and changing technologies. Describes the joint board and their guidelines determining universal requirements. Talks of federal subsidies and state subsidies for universal service.
136	Rep. Adams	Asks who contributes to subsidization of hard to reach areas.
149	Booth	Answers that there is broad support from many proprietors.
168	Rep. Adams	Asks if wireless is included in that support.
169	Booth	Responds that a wireless carrier could be an eligible carrier.
180	Rep. Adams	Asks of legislature's role in determining the size of the support fund.
182	Booth	Responds that it is a federal fund, but that the state will have to evaluate whether the fund is sufficient.
200	Chair Hill	Asks for documentation that the commission is authorized to act under the federal act.
211	Rep. Hill	Reserves the right to ask the witnesses back.
218	Chair Hill	States that the committee will hear the companies' views and then return to the witnesses at a future date. Adjourns meeting at 10:41 A.M.

Submitted By, Reviewed By,

Gary Seeder, Julie Neburka,

Administrative Support Administrator

Transcribed By,

Coben Tistadt,

Administrative Support

EXHIBIT SUMMARY

**A - 1996 Federal Telecommunications Act, written testimony, Thomas Barkin, 24 pp.**

**B - 1996 Federal Telecommunications Act, tables, Thomas Barkin, 11 pp.**