

**HOUSE COMMITTEE ON COMMERCE**

**SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE**

March 6, 1997 Hearing Room 343

8:30 A.M. Tapes 16 - 18

**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 2079 - 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 16, A</b>		
<b>001</b>	<b>Chair Hill</b>	<b>Open meeting and public hearing on HB 2079 at 8:35 A.M.</b>
<b><u>HB 2079 - PUBLIC HEARING</u></b>		
<b>006</b>	<b>Julie Neburka</b>	<b>Committee Administrator, gives brief summary of HB 2079. Explains why the bill has no revenue impact.</b>
<b>027</b>	<b>Roger Hamilton</b>	<b>Public Utilities Commission. Submits written testimony (EXHIBIT A). Talks about public service standards established. States that the commission doesn't have a "stick." Explains the fines proposed by the bill.</b>
<b>077</b>	<b>Hamilton</b>	

		Continues discussion on penalties proposed. States that HB 2079 includes "due process." Adds that the bill earmarks the penalties to recompense those who have been harmed by poor service. Urges support of the bill.
104	Rep. Adams	Asks if this is a service quality statement or a service provision statement.
110	Hamilton	Gives example of water flow and water quality. States that they overlap.
120	Rep. Adams	States that he sees a huge "hole" in the bill.
138	Hamilton	States that the bill applies only to the monopoly providers, because their services have been unsatisfactory. Asks if the representative doubts that the bill will work.
152	Rep. Adams	Cites example of a 100 new lines into an area and that delivery in five days is unreasonable.
162	Hamilton	States that unreasonable requests would be sorted out.
166	Rep. Adams	Notes that the bill asks for a lot of discretion.
168	Hamilton	Concurs. States that complaints often concern a lack of service.
178	Phil Knight	PUC. Notes that in the example given by Rep. Adams it would count as one held order.
193	Hamilton	Notes that if penalties existed in 1992 there would have been no violations, but today there would be six million dollars in penalties. States that if there is a reasonable level of service that no penalties would be assessed. Emphasizes how service has gone "downhill."
218	Chair Hill	Refers to memo (EXHIBIT A). Asks if the memo contains accurate information.
229	Hamilton	Answers that it applies to US West.
232	Chair Hill	Asks if other companies have held orders besides US West.
239	Hamilton	Answers that if GTE was included in the memo that its numbers would be insignificant.
247	Woody Burko	PUC. Clarifies that companies are allowed a certain number of delays before penalties. States that he isn't sure if GTE has passed the threshold.
267	Chair Hill	Asks if there are drafted rules.
280	Hamilton	Answers that the rules are already in place.
285	Chair Hill	Asks if the bill simply imposes penalties.
290	Hamilton	Responds that the bill fits into the existing rules.
294	Chair Hill	Asks if there will be changes in the rules if the statute passes.

300	Hamilton	States that these rules were adopted in January and they wish to preserve them.
307	Chair Hill	Asks if he anticipates no substantive changes in the rules.
309	Hamilton	Answers yes.
311	Chair Hill	Asks why penalties are only imposed on monopolies. Asks if that would violate the federal Act.
316	Hamilton	Answers that there would be no cause for the penalties if there was effective competition.
331	Chair Hill	Mentions companies moving into local provisioning.
351	Hamilton	States that the issue is being addressed in a docket. States that they are subject to complaint procedures but not to what is contained in the bill.
365	Knight	Notes that none of the parties raised this issue during the docket.
374	Chair Hill	Talks about a particular area undergoing development, and asks if ELI provided service to that area if they wouldn't be subject to the same rules and penalties as the current incumbent.
404	Hamilton	States that they would no longer be certified if they failed to provide adequate service.
415	Chair Hill	Notes that that doesn't do anything for quality of service. Asks why companies are excluded from the requirements.
TAPE 17, A		
012	Hamilton	States that the bill targets what the commission felt was the problem.
014	Burko	Describes the adoption of the rules. States that there will be another phase which will be all-inclusive
029	Chair Hill	States that that would be a good idea and that it should be addressed promptly.
033	Rep. Wooten	Mentions an amendment she has proposed. Asks staff to distribute the amendments. Asks the witness for a response to the amendment. Congratulates the PUC's work but states that there might be problems with competitors in the future.
050	Rep. Adams	Speaks of cable interconnecting at a line site interconnection, and asks who would be responsible for service quality.
060	Hamilton	States that both providers would be responsible.
074	Rep. Adams	Asks if the only one liable is the local exchange carrier.
079	Knight	Mentions the second phase of rulemaking. States that in carrier-to-carrier instances the rules will apply to everyone.
087	Rep. Adams	States that the witnesses are asking for a lot of trust. States that the commission is implying that \$6 million in penalties is better than \$6 million in investments.
110	Hamilton	

		States that the deterrent of the penalties would make such penalties rare. Notes the basic principle that customers deserve good service, and adds that the commission doesn't want to "meddle" with the businesses.
142	Rep. Adams	Notes the implication in the bill that if US West did a good job there would be no reason for the penalties.
149	Hamilton	States that US West's revenues from depreciation have not gone to upgrading existing networks. Notes that customer complaints have initiated this bill.
160	Rep. Wooten	Asks if it the opinion of the witness that US West has been negligent.
174	Hamilton	Responds that US West decisions are not made within the state of Oregon, and may not have the state's best interests in mind.
181	Chair Hill	Asks how many customers were driven to a competitive provider by these problems.
191	Hamilton	Responds that primarily business customers in the Portland metropolitan area were driven to change carriers.
202	Chair Hill	Asks if the \$21 million in penalties noted in the memo isn't excessive.
209	Hamilton	States that it is troubling but that if the penalties were in place he hopes the company would find the motivation to provide adequate service.
221	Chair Hill	Asks if there is a facility problem for another company if the bill wouldn't in that instance hurt the wrong target, i.e., new competitors.
237	Hamilton	States that penalties would either compensate customers or go towards general rate relief. Predicts however that the penalties won't amount "to a hill of beans."
254	Rep. Whelan	Asks about a regular revisiting of the rate structure getting the stockholders attention.
262	Hamilton	Cites that the commission tried that approach, giving incentives for quality service, but that it didn't work.
286	Rep. Whelan	Asks if imposing penalties is the only solution.
290	Hamilton	Notes the numerous competitors poised to enter the markets. Expresses wonder that the commission has to impose penalties, but notes that there is still a monopoly environment.
308	Rep. Adams	Asks for the number of fines in Idaho.
312	Hamilton	States that he doesn't know.
318	Burko	Mentions a fine in Colorado of six million dollars.
326	Rep. Adams	Mentions that the point is to ensure good service.
329	Hamilton	

		Notes that there have been no residential customers who have moved to a competitor.
340	Chair Hill	Expresses concern that the commission is not dealing with the problem holistically but rushing out to deal with a particular problem, and that it becomes a us-against-them situation.
368	Hamilton	States that he considers himself fair-minded. Notes that GTE in Beaverton facing rapid growth will not have a problem complying with the established rules.
387	Chair Hill	Notes that GTE has the newest infrastructure in the state, and that US West has the oldest.
400	Virginia Lang	US West. Submits written testimony (EXHIBIT B) and opposes the bill. Agrees that their service levels need to improve. States that growth in their line requests outraced their predictions, and that resulted in the discussed problems. Notes US West extensive investment in Oregon.
<b>TAPE 16, B</b>		
028	Lang	Talks of US West increasing its number of technicians. Mentions natural disasters which affected their services. Talks of the company's desire to serve customers satisfactorily because of impending competition. States that the bill will do nothing to improve service, since a company uses resources to improve services, and that penalties will significantly reduce those resources. Disagrees with the level of the penalties. Gives an example of providing new lines and the penalties that could be imposed.
078	Lang	States that rules need to consider new conditions in the industry. Mentions the company's compensation policy for customers whose service has been impaired.
093	Fred Logan	GTE. Opposes the bill. States that the bill allows the commission to be the judge and the jury, and that Section 3 is unclear on the use of the funds. Notes that the federal Act requires neutral rules, and that the bill puts the onus onto incumbents. Expresses a desire for less regulation.
142	Chair Hill	Refers to Section 1, Subparagraph 3A. Asks how someone can "aid and abet" an incumbent not providing service.
159	Lang	States that she was confused by the section as well.
163	Rep. Wooten	Notes that US West is one of the nation's largest providers. Questions Ms. Lang's statement that her company was surprised by the recent surge in demand, asking how the company could fail to anticipate growth in Oregon.
177	Lang	Responds that she doesn't understand the process of forecasting growth. Mentions that growth outside the I-5 corridor caught the company by surprise.
192	Rep. Wooten	Cites the numerous occurrences of problems.
196	Lang	

		Clarifies that that is the repair and service requirement within 48 hours. Gives numbers done and not done.
213	Rep. Wooten	Asks if there were a 180,000 calls not responded to within 48 hours.
219	Lang	Answers yes.
222	Rep. Wooten	Asks about credit given for impaired service.
229	Lang	Gives specifics concerning credit for impaired service.
235	Rep. Wooten	Asks for a dollar amount.
237	Lang	States that it is pro-rated for the services provided.
240	Rep. Wooten	Asks if the figure is maybe fifty cents a day.
243	Lang	Answers yes.
247	Rep. Wooten	Asks about credit for missed commitments.
252	Lang	Answers that it is ten dollars for a residential "miss" and forty for business "miss."
256	Rep. Wooten	Asks if credits require that a complaint be issued.
258	Lang	Answers no, that it is automatic
264	Rep. Whelan	Asks if the commission plays a role in determining credit levels.
270	Lang	Answers no, that they developed the credit scheme on their own.
277	Rep. Adams	Refers to US West's increase in technicians. Asks about depreciation dollars not reinvested in Oregon infrastructure.
290	Lang	Answers that she isn't informed. Notes recent record investments.
300	Rep. Adams	Notes that there has been record growth as well. Asks about the revenue lost from held orders, out-of-service instances, and credits. Mentions businesses in Portland switching to competitors.
330	Lang	States that there are significant businesses held by US West in Portland.
341	Rep. Adams	States that competitive providers might think US West's not filling competitive orders is deliberate.
346	Lang	Disagrees with that conclusion. Cites a fourteen point checklist applying to the larger companies and that US West can't apply to the FCC until they meet that checklist.
377	Rep. Adams	Asks staff for the fourteen point checklist.
382	Chair Hill	States personal experience with service not being provided. Asks about services experiencing exponential growth.
TAPE 17, B		

003	Lang	Cites high-cap services. Cites growth at 27 percent.
012	Logan	Agrees that growth in sophisticated services has been exponential.
021	Rep. Wooten	Cites a broad frustration with not being able to get basic services, with US West's reductions in employment, and with its high profits. Asks what steps besides punishment could give US West the sufficient incentive to invest in the state.
045	Rep. Adams	Asks how the committee can help Ms. Lang get the attention of the decision makers in Colorado.
054	Lang	Notes that considerations come from Wall Street as well.
091	Chair Hill	Asks of the number of technicians let go.
094	Lang	States that the company removed management positions.
100	Pat Hickey	AT&T. Submits written testimony (EXHIBIT C). Supports the bill. Mentions unbundled elements and resale. Notes that PUC must maintain service level in the absence of competition.
142	Ken Snow	GST Telecom. Submits written testimony and materials (EXHIBITS D and E). Supports the bill because it "puts teeth into standards."
192	Snow	Suggests an improvement to the bill, namely, that complaints should be resolved more quickly.
204	Chair Hill	States that he works for a sister company of GST Telecom.
210	Rep. Wooten	Asks for commitments on her submitted amendment.
214	Hickey	States that competition will take care of service quality problems, mentioning the numerous and rapid changes occur between long-distance carriers daily.
232	Snow	Mentions the requisite neutrality, and that standards should apply to everyone, but that once competition is established that those standards could "sunset."
244	Rep. Wooten	Asks if Mr. Snow would suggest that the legislation sunset once "vigorous" competition is established.
246	Snow	Answers yes and that he would have the commission determine the requisite level of competition.
250	Chair Hill	Asks if it isn't better for the witnesses companies if there aren't penalties imposed.
262	Rep. Adams	Notes that according to EXHIBIT D the last quarter mile of local loops will continue to be provided by incumbents. Notes that that is the most expensive element. Asks if competitors will leave those areas to the incumbents deliberately.
287	Snow	Mentions that there are other means of getting to someone's home: cable, wireless, etc. States that his company is interested in purchasing local loops, and has said as much to the incumbents.
293	Rep. Adams	Cites that local loops are expensive but also important in winning a customer's business.

298	Snow	Notes difficulty in determining appropriate levels of competition with regard to local loops.
310	Rep. Adams	Asks if there is no doubt that the incumbent will become the carrier of last resort.
319	Hickey	Notes that the local loop is considered the "golden connection."
349	Gary Bauer	OITA. Submits written testimony (EXHIBIT F). Speaks of reports that there is not an industry-wide problem. Speaks of the industry requirements and that the fines might force companies to take actions that are not cost effective.
400	Bauer	Speaks of differences between existing statute and the proposal, namely that existing statute requires that the commission take a utility to court. Opposes adoption of the bill.
TAPE 18, A		
024	Bob Jenks	CUB. Submits written testimony (EXHIBIT G). Cites examples demonstrating the seriousness of the issue. Notes that the problem is not getting better, and that US West has had similar problems throughout the west. States that the bill would establish Oregon as a priority. Supports the bill.
077	Mark Dodson	TRACER. Supports the bill. Expresses concern over rates. States that the need for a "referee" will increase with deregulation.
133	Rep. Wooten	Asks about lost revenues during down time.
144	Dodson	Answers that it is difficult to determine.
148	Rep. Wooten	Asks if there is a ball park figure.
152	Dodson	Answers that it is in the neighborhood of the proposed penalties.
159	Rep. Whelan	Asks if the local carriers are immune from civil court proceedings.
164	Dodson	States that it is still up in the air.
165	Chair Hill	Asks Roger Hamilton to "close."
167	Hamilton	States that the recommendations will be taken back to the commission.
181	Chair Hill	Asks who "procures, aids, and abets."
185	Hamilton	Suggests that it might be to insure incumbents cannot evade the legislation and its penalties, but that he is not sure
193	Rep. Wooten	States that it is to insure that an incumbent cannot bypass liability through the use of a subsidiary or sister company.
198	Rep. Adams	Asks if the bill will include small companies.
206	Hamilton	Cites that the language allows waivers for the small companies
220		



	<b>Chair Hill</b>	<b>States that the measure should be aimed at local providers generally and not just US West.</b>
<b>228</b>	<b>Hamilton</b>	<b>Notes that the problems have not been encountered with regard to the small companies.</b>
<b>231</b>	<b>Chair Hill</b>	<b>Asks if there is further testimony. Hearing none, adjourns public hearing and meeting at 10:45 A.M.</b>

**Submitted By, Reviewed By,**

**Coben Tistadt, Julie Neburka,**

**Administrative Support Administrator**

**EXHIBIT SUMMARY**

**A - HB 2079, written testimony, Roger Hamilton, 4 pp.**

**B - HB 2079, written testimony, Virginia Lang, 4 pp.**

**C - HB 2079, written testimony, Pat Hickey, 2 pp.**

**D - HB 2079, written testimony, Ken Snow, 3 pp.**

**E - HB 2079, written materials, Ken Snow, 2 pp.**

**F - HB 2079, written testimony, Gary Bauer, 1 p.**

**G - HB 2079, written testimony, Bob Jenks, 3 pp.**