

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE

March 11, 1997 Hearing Room 343

8:30 A.M. Tapes 19-21

MEMBERS PRESENT:

Rep. Jim Hill, Chair

Rep. Ron Adams

Rep. Eldon Johnson

Rep. Tom Whelan

Rep. Cynthia Wooten

STAFF PRESENT:

Julie Neburka, Administrator

Coben Tistadt, Administrative Support

MEASURE/ISSUES HEARD:

HB 3021 - Public Hearing

HB 2060 - 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 19, A		
003	Chair Hill	Opens meeting at 8:35 A.M. Opens public hearing on HB 3021.
<u>HB 3021 - PUBLIC HEARING</u>		
007	Julie Neburka	Committee Administrator. Gives brief overview of the bill.
025	Chair Hill	Invites proponents to testify.
035		

	John Dillard	President of Monroe Telephone Company. Submits written testimony (EXHIBIT A). Mentions his involvement in drafting the bill and his motivation. Talks about improving the work of the Public Utility Commission to meet a changing environment. Admonishes the committee to consider how the PUC regulates telecommunications in Oregon.
064	Gary Bauer	Representing the Oregon Independent Telephone Association. Submits written testimony (EXHIBIT B). Expresses neutrality. Cites a need to make the changes necessary to harmonize federal and state law, and to determine what is an appropriate level of regulation. Mentions unsuccessful attempts to bring PUC and the stakeholders together to talk. States that OITA has not introduced legislation and takes no position on the bill. Notes different levels of regulation for various classifications of telecommunications companies. States that those who are regulated the most are the most interested in change.
124	Chuck Lenard	Oregon Vice President of US West. Submits written testimony (EXHIBIT C). Discusses legislative history. Mentions the number of applicants for certification in the state. Notes the relatively high level of progress in Oregon.
174	Lenard	Discusses the role to be played by the committee, citing a current atmosphere of vast changes. Announces that HB 3021 seeks to maintain Oregon's position as a leader among states. Mentions the appropriate role of the PUC.
224	Lenard	Mentions the different timelines for arbitration in federal law and in state law. Mentions arguments in opposition to the bill. Expresses a willingness to modify the bill.
274	Lenard	Refers to Section 4, paragraph 4 of the bill as a section in need of modification.
300	Carol Rutgers	External Affairs Director of GTE. States that she will provide a breakdown of the bill if the committee wants.
307	Chair Hill	Responds that staff has already provided a breakdown of the bill.
315	Rutgers	Adds that they have tried to take a balanced approach.
325	Jim Jansen	President of Malheur-Home Telephone Company. Cites the importance of the bill to small companies.
341	Chair Hill	States his intention that questions be brief and to the point.
352	Rep. Wooten	Cites rural companies' support of the legislation. Asks about additional members of the "group" opposed to regulation.
368	Bauer	Refers to the regulatory structure affecting different companies differently. Mentions different business plans.
393	Rep. Adams	Asks if Malheur-Home is a subsidiary of US West.
408	Jansen	Answers yes.
TAPE 20, A		
002	Rep. Wooten	Refers to section 4, subsection 4, and asks for Lenard's view on pricing.

010	Lenard	Cites the premise that tax-supported entities shouldn't be allowed to enter the market of telecommunications. States that US West feels that section is not a crucial element of the bill.
023	Rep. Wooten	Asks if the drafters considered the bill's contradictions with the federal law.
028	Dillard	Answers that they didn't see a contradiction.
034	Rep. Adam	Doesn't agree with language as drafted in that section.
040	Chair Hill	States that with amendments this could be good legislation.
046	Lenard	States a willingness to compromise. Refers to a news article on breaks and pricing. Mentions inaccuracies in the article relating to PUC's regulatory role.
072	Chair Hill	Calls new witness.
074	Roger Hamilton	Submits written testimony and written materials (EXHIBITS D and E). Opposes bill because it doesn't deliver what it promises. States that it doesn't promote competition and that it will hurt the customer. States that the bill sets no limit on pricing network services and elements to competitors, essentially creating barriers to entry. States that the bill allows price discrimination.
124	Hamilton	Cites discrepancies in estimated costs of local loops. Cites sections in conflict with the Federal Telecommunications Act. Mentions past legislation in this area.
177	Hamilton	Cites large-scale opposition to the bill. Cites a need to look at the proposed statutory changes. Refers to HB 2093 and cites that most stakeholders support its contents..
216	Chair Hill	Asks for a section-by-section analysis of the bill.
242	Rob Bovett	Assistant County Counsel for Lincoln County. Submits written testimony and materials (EXHIBIT F). Agrees with the idea behind the bill but opposes the contents. Mentions the bill's interference with Coastnet. Suggests blending the bill with HB 2093 to get to a right result.
278	Bob Cantine	Association of Oregon Counties. Submits written testimony (EXHIBIT G). Discusses: deregulation, equitable treatment, and management of road rights-of-way. States a need to understand how the system is currently performing and a role for good public oversight. Mentions road rights-of-way.
336	Chair Hill	States that the committee will address franchise fees at a future meeting. Asks the witness to deal with issues relating to telecommunications.
340	Cantine	Responds that he will hold his testimony for the public hearing on HB 2060.
353	Joe Strahl	Association of Oregon Counties. States that the bill grants incumbents "exhorbinant" authority over public lands.
385	Rep. Wooten	Thanks the witness from Lincoln County.

TAPE 19, B		
031	Bob Jenks	Citizen's Utility Board. Opposes the bill. Mentions service quality standards, and that the bill makes drastic change thereto. Mentions what made Oregon a leader in this area. States that the bill creates higher rates and less competition.
066	Rep. Johnson	Asks for the written testimony.
090	John Glascock	American Association of Retired Persons from Polk County. Submits written testimony (EXHIBIT H). Cites the association's past support for customer protection. States that the bill would create higher rates and poorer service and that it would strip PUC of its most important functions. Notes that within the bill there is no requirement that a choice is provided residential customers. Notes that under the bill PUC cannot determine whether prices are reasonable: a requirement of federal act. States that PUC needs full authority.
140	Glascock	Mentions barriers set by the bill for those who do not own facilities. Expresses a willingness to work with the committee.
180	Laura Culberson	Consumer Advocate for the Oregon State Public Interest Research Group. Submits written testimony (EXHIBIT I). Discusses pricing considerations.
230	Rep. Adams	Asks if Mr. Glascock believes the federal act promised reduced rates and better quality.
232	Glascock	Answers yes.
236	Rep. Adams	Disagrees.
257	Chair Hill	Closes public hearing on HB 3021, opens public hearing on HB 2060.
<u>HB 2060 - PUBLIC HEARING</u>		
265	Neburka	Gives overview of the bill.
290	Chair Hill	Asks for a witness from the Oregon Utilities Workgroup.
299	Gary Bauer	Representing the Oregon Independent Telephone Association. Submits written testimony (EXHIBIT J). States that cities currently have the authority to charge for the use of right of ways and that counties do not. Compares state law and federal law relating to right of ways. Cites a "blurring" of the lines drawn between cable and telecommunications services. Poses the question of whether there should be a franchise tax or a privilege tax.
380	Bauer	Draws a distinction between a franchise tax and a priveledge tax. Notes that the bill requires taxes be shown on the customer's bill.
TAPE 20, B		
011	Rep. Wooten	Asks if members of the association are certified to engage in local exchange beyond present territory.
014	Bauer	Answers yes.

015	Rep. Wooten	Asks witness to relate the association's experiences in getting franchise fees approved.
019	Bauer	Cites a debate on whether cable operations are considered distinct from telephone operations in this area. Notes that a number of entities are talking to cities about requirements for franchise fee approval before going to the PUC.
029	Rep. Whelan	Asks for a "optimal" relationship between franchise fees and the use of rights of way.
034	Bauer	Suggests specifying that the fee is for the use of a public right of way.
040	Rep. Whelan	Asks about different values of urban rights of way versus rural rights of way.
042	Bauer	Answers that value can be determined either by the right of way's market value, by the user's impact on the right of way, or by the revenue generated by the user in a local jurisdiction.
051	Rep. Johnson	Notes that franchise fees have been an important element in the telecommunication market. Notes that they are a tax imposed on citizens for something the citizens already own. Expresses his distaste for franchise fees.
080	Bauer	Notes that the utilities are not suggesting anything that will harm local governments. Mentions upcoming challenges in managing rights of way with multiple providers.
088	Rep. Adams	Refers to EXHIBIT A, p. 2 and asks if a provider of both cable and telephone services would have an advantage regarding franchise fees over a provider of only one service.
106	Bauer	Answers that both single-use cables and multiple-use cables would have the same impact on rights of way. Mentions revenue generated as a factor. Mentions steps designed to avoid a double tax.
118	Rep. Adams	States that multiple-use cables are a good idea. States that the tax might not be fair and that it is based not on use but on an outdated monopoly provision. Notes that the tax is the second largest source of income for Wilsonville's general fund.
134	Bauer	Gives an example of a single trench be shared by multiple providers. Cites the potential increases in revenues for local governments in such instances. Expresses neither support nor opposition to HB 2060, but that the issues raised need to be addressed.
142	Chair Hill	Asks if franchise fees are imposed "on the wire or on the surface."
150	Bauer	Answers that the association hasn't addressed that issue
158	Joe Strahl	Association of Oregon Counties. Discusses discrepancies in the law discriminating against counties. Cites the various activities of the county and notes that the county is prevented from recovering costs. Notes that recovering costs is allowed by federal law
208	Strahl	Speaks of HB 3021. Asks for the same rights for counties as provided to cities, i.e., to recover costs for the use of right of ways.
228	Strahl	Notes that funding for roads in county budgets is inadequate.

249	Rep. Johnson	Asks if the revenue would be placed in counties' general funds.
252	Strahl	Answers that he doesn't know. Suggests that they would be placed with their road funds.
266	Rep. Wooten	Cites the counties' authority to recover costs through processing permits and through charging for the use of right of ways.
271	Strahl	Answers that counties are prohibited that authority, under ORS 758.010.
283	Rep. Wooten	Talks of pole attachment agreements and asks if competitors prefer that to underground approaches.
293	Strahl	Answers that that is their preference.
299	Rep. Wooten	Asks what companies have penetrated the ground for the use of existing conduits.
305	Strahl	Answers that he doesn't have extensive knowledge in that area.
315	Rep. Wooten	Asks why citizens should pay for the use of their own right of way.
330	Strahl	Notes that power companies charge phone companies for the use of lines. Emphasizes that there is a real cost for providing these facilities.
347	Rep. Wooten	Expresses confusion with the witness' testimony. Troubled with notion that road funding should be supplanted with franchise fees.
364	Bob Cantine	Association of Oregon Counties. Reads written testimony (EXHIBIT F).
TAPE 21, A		
020	Cantine	Continues reading testimony (EXHIBIT F, p. 2).
052	Rep. Adams	Asks whose bill this is.
059	Neburka	Answers that it came from the utilities work group.
060	Rep. Adams	Refers to the definition of telecommunication carriers in the bill. Asks if wireless is included in that definition.
063	Rep. Wooten	Answers no.
070	Rep. Adams	Asks what "activity" on a cable or a line has to do with gross billing once it is set up.
090	Strahl	Answers that there is a definite cost in providing right of ways.
100	Chair Hill	Interjects that the meeting must adjourn soon.
103	Rep. Wooten	States that she has additional questions for the witness.
106	Chair Hill	States that HB 2060 will be heard on Thursday.
128	Mike Jordan	City Administrator for the city of Camby. States that the league would happy to reschedule for next Tuesday.
138		

	Dave Olsen	Representing the city of Portland. States that he could reschedule as well.
141	Alan Bushong	States that he could come back on Tuesday.
137	Chair Hill	Closes public hearing on HB 2060 and adjourns meeting at 10:38 A.M.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3021, written testimony, John Dillard, 1 p.

B - HB 3021, written testimony, Gary Bauer, 2 pp.

C - HB 3021, written testimony, Charles Lenard, 7 pp.

D - HB 3021, written testimony, Roger Hamilton, 6 pp.

E - HB 3021, written materials, Roger Hamilton, 10 pp.

F - HB 3021, written testimony, Rob Bovett, 5 pp.

G - HB 3021, written testimony, Robert Cantine, 3 pp.

H - HB 3021, written testimony, John Glascock, 2 pp.

I - HB 3021, written testimony, Laura Culberson, 2 pp.

J - HB 2060, written testimony, Gary Bauer, 2 pp.