

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE

March 27, 1997 Hearing Room 343

8:30 AM Tapes 35 - 36

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 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 35, A		
002	Chair Hill	Opens meeting at 8:31 AM. Opens public hearing on HB 2060. Draws attention to US West's updated information on privilege taxes (EXHIBIT A) and to the fact that it differs from that submitted by the League of Oregon Cities.
<u>HB 2060 - PUBLIC HEARING</u>		
025	David Olsen	Director of Cable and Franchising for the City of Portland. States that the legislative status quo contains many fiscal difficulties. Discusses submitted testimony including:

		<ul style="list-style-type: none"> * the importance of competitive neutrality * the distribution of right of way management costs
050	Chair Hill	Asks if the rates for connectivity include franchise fees.
054	Olsen	<p>Answers yes. Discusses:</p> <ul style="list-style-type: none"> * HB 3021 not achieving neutrality in the area of allowable compensation * that compensation for administrative costs should be collected by local governments * that deducting or offsetting permit fees should not be allowed * the taxpayer bearing the burden for plant relocations
104	Olsen	<p>Continues:</p> <ul style="list-style-type: none"> * that cities are "vendors" to utilities and should be treated as such * that the administration of these programs should be simple * that cable television should be excluded from the bill
116	Chair Hill	Asks about the possibility of cable companies extending into other areas.
121	Olsen	States that federal law addresses that possibility, but it cannot be a part of franchise agreement.
131	Chair Hill	Asks if a data system providing video services would be considered telecommunications.
140	Olsen	Notes that the definition of a telecommunications provider is in flux. States that as an institutional network, a cable company can set aside a portion of their cable for data transmission.
163	Rep. Adams	Asks about the possibility of cable aggressively competing in the data transmission market.
180	Olsen	States that it is possible but that it has never happened, Mentions that I-Net is reserved solely for local governments and that it cannot be sold commercially. States that the costs of providing data transmission are incremental.
199	Rep. Adams	Notes that cable providers don't want to fall under supervision of the PUC, and that currently they can compete without oversight.
216	Olsen	States that cable would be regulated if it acts as a telecommunications provider
221	Rep. Adams	Suggests that they can hide cost expenses under cable in franchise agreements.
224	Olsen	

		Doubts they would hide costs. Cites federal law allowing franchise fee costs to be itemized on bills.
232	Rep. Adams	Expresses concern that cable could extend data transmission with an insignificant incremental cost.
252	Olsen	Answers that there is no exclusive franchise agreement. Supports the promotion of competition in all industries.
268	Rep. Wooten	States that telecommunications companies believe cable companies could extend services without dealing with a franchise agreement. Believes that the state has the capacity to have regulatory oversight and to impose fees.
295	Rep. Adams	Notes that Mr. Olsen suggested that the committee shouldn't include cable.
300	Olsen	Agrees that the state has the authority it doesn't exercise.
315	Rep. Wooten	Suggests a workgroup on the issue.
320	Rep. Johnson	Asks if permit fees are cost-based.
323	Olsen	Answers that they are cost-based.
328	Rep. Johnson	Mentions reasons for the bill. Asks if cable companies itemize franchise fees on their bills.
341	Olsen	States that itemizing costs is allowed by federal law, but that it is up to the individual companies.
356	Tom O'Connor	Director of Oregon Municipal Electric Utilities. Submits written testimony (EXHIBIT B). Represents the state's seven municipal utilities. States that municipal utilities operate under city boards and municipal law. Mentions the various sizes of municipal utilities. States that most municipal utilities purchase electricity from the Bonneville Power Administration. Mentions services provided by municipal utilities. States that they don't pay franchise fees, but rather "in lieu of" property taxes. Mentions deregulation of the electric industry and municipal utilities' participation in that process. States that they wish to keep intact their in lieu of tax structure.
TAPE 36, A		
027	Rep. Adams	Asks if municipal utilities receive a discount from the Bonneville Power Administration.
032	O'Connor	Refers to a preference clause under federal law which mandates that power is sold to them at cost. Adds that preferential rates are currently above the market rate.
054	Rep. Adams	Asks what preferential rates were in the past.
060	O'Connor	Answers that it has varied over time. Notes current issues affecting rates, namely salmon recovery and low natural gas prices.
068	Rep. Wooten	Asks if the municipal utilities oppose a statewide franchise fee structure which would not affect them.

074	O'Connor	Answers that they oppose removing the cities' right of way authority.
083	Rep. Wooten	Asks if the bill excluded municipal utilities from paying franchise fees if the municipal utilities would support it.
096	O'Connor	Answers that they haven't had that discussion.
106	Rep. Johnson	Suggests that the municipal utilities are requesting immunity from competition in order to maintain an existing monopoly.
120	O'Connor	Remarks that the deregulation schemes he has seen would not affect distribution entities.
132	Rep. Johnson	States that there is a competitive disadvantage at issue.
135	Rep. Wooten	States that competition is inevitable.
146	Rep. Johnson	Remarks that an in lieu of tax scheme could stop the competitive process from occurring.
154	Rep. Adams	Asks if municipal utilities have separate rates for large users.
157	O'Connor	Answers yes.
159	Rep. Adams	Asks if they could compete for large contracts.
162	O'Connor	Answers yes under the schemes proposed.
167	Rep. Johnson	Asks if they would choose to compete.
170	O'Connor	Answers that in lieu of taxes would apply at the distribution level and that they would apply to all applicants in that area.
189	Rep. Johnson	Asks if a competitor would pay the same in lieu of tax amount if they entered a municipal utility's market.
195	O'Connor	States that the in lieu of taxes would be the same for everyone.
200	Rep. Johnson	Notes that in that scenario the residents would be at a disadvantage. Expresses desire to have open competition in the provision of energy.
220	Rep. Adams	Asks how the kilowatt charge in Eugene compares to PGE's kilowatt charge.
235	Gary Carlson	Association of Oregon Industries. Submits written testimony (EXHIBIT C). States that this issue has an impact on businesses statewide. Requests that passage of franchise fee legislation be contingent upon passage of electric deregulation legislation. States that changes in existing fees should not be designed to raise revenues for local governments.
274	Rep. Johnson	Asks counsel to research how the committee can create a level franchise fee structure.
278	Rep. Wooten	Assures the witness that the legislation is not an attempt to replace funds lost through Measure 47.
288		

	Jim Craven	Oregon Counsel of the American Electronics Association. Remarks that the ultimate impact of the bill will be on the consumer.
317	Chair Hill	Asks if "leveling the playing field" would be a "boon" to the consumer.
324	Craven	Answers that it would. States that power costs are second only to labor costs in some industries. Opposes an increased tax on retail sales of power outside areas currently paying franchise fees. Agrees with AOI that the discussion should be linked to the power deregulation deliberations. Notes that a wireless providers' gross revenue from internal wireless systems might be subject to franchise fees and wonders why.
374	Rep. Wooten	Asks if the companies Mr. Craven represents also own companies in the state of Washington.
376	Craven	Replies that there are a few.
381	Rep. Wooten	Asks about the effects of the six percent sales utility tax in Washington compared with a hypothetical five percent sales utility tax in Oregon.
383	Craven	Answers that he doesn't know.
385	Rep. Wooten	Remarks that the six percent tax hasn't discouraged expansion in Washington.
TAPE 35, B		
007	Chair Hill	Asks about the effects of the proposals on direct service industries.
010	Tom Gallagher	Direct Service Industries. Submits written testimony (EXHIBIT D). Wants franchise fee matters left to the public utilities commission. Makes four points: 1) the franchise fee bill should be related to power deregulation, 2) franchise fees should not be expanded, 3) the bill should be revenue neutral, and 4) the electric industry should be treated differently than the telecommunications industry.
060	Gallagher	Cites the high costs of electricity for some large industries. Concurs with the opinion that franchise fees should be charged at the distribution level. Suggests changing the rates charged to distribution companies, and then itemizing how much is passed on to the consumer.
110	Gallagher	States that what the current bill proposes is essentially a sales tax on energy. Notes that to remain revenue neutral it will have to become a privilege tax. Remarks that if the tax is passed on to the consumer than it should be put to a vote. Doesn't support the bill.
160	Rep. Adams	Comments that historically deregulation increases the prices consumers pay for services.
176	Craven	States that two-thirds of the companies he represents have fewer than a 100 employees.
180	Chair Hill	Asks for input from members concerning what further information they require. Mentions upcoming agendas.
192	Rep. Wooten	

		States her intention to propose significant amendments. Remarks that there are issues which need to be addressed before the bill is moved into a work session.
200	Chair Hill	Notes that they can discuss the issues in work session.
208	Rep. Adams	Mentions value-added taxes and their repercussions. Cites a reluctance to pass legislation which would change how a company normally operates in a competitive market, particularly if the company does business in several states. Comments that he wishes to understand the ramifications of those issues.
235	Chair Hill	Replies that those issues will be addressed when the amendments are before the committee.
243	Rep. Adams	Asks the audience to inform him of any unanticipated effects.
249	Mike Dewey	Oregon Cable Telecommunications Association. Mentions a telecommunications ordinance proposal in Eugene, and that it reinforced his opinion that there is a need for legislation and for limits. Notes that there is a senate bill which would impose limits on franchise fees. Discusses the issue of whether wireless and satellite technology should be included, stating it depends on whether the committee decides it is a franchise fee or a tax.
300	Dewey	States that cities have the ability to double tax. Requests that the rate be lowered. Remarks that the proposal in Eugene doesn't have anything to do with the use of rights of way.
350	Dewey	Continues testimony discussing the proposal in Eugene.
398	Rep. Adams	Reiterates that there are different rates for cable and for telecommunications.
427	Dewey	Responds that it is appropriate that a city can impose a franchise fee, but that there should be limits.
431	Rep. Johnson	Asks for a description of wireless services.
437	Rep. Adams	States that wireless is a movement of the future.
447	Chair Hill	Adjourns meeting.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2060, charts, US West, 2 pp.

B - HB 2060, written testimony, Tom O'Connor, 2 pp.

C - HB 2060, written testimony, Gary Carlson, 1 p.

D - HB 2060, written testimony, Tom Gallagher, 3 pp.