

**HOUSE COMMITTEE ON COMMERCE**

**SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE**

April 2, 1997 Hearing Room 343

8:15 AM Tapes 40 - 41

**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

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 40, A</b>		
<b>002</b>	<b>Chair Hill</b>	<b>Calls meeting to order at 8:25 AM. Opens public hearing on HB 3021.</b>
<b><u>HB 3021 - PUBLIC HEARING</u></b>		
<b>008</b>	<b>Julie Neburka</b>	<b>Committee Administrator. Informs the committee where they left off discussing amendments.</b>
<b>025</b>	<b>Ginny Lang</b>	<b>US West Communications. States that the commission's proposal was rushed and that it isn't helpful. Expresses optimism about</b>

		finding common ground in some areas. Discusses cost determinations and universal service requirements.
075	Lang	Continues presentation. Comments on the size of the bill, stating that pages 36-80 basically change the definition of a telecommunications utility to a definition of a telecommunications carrier. Notes that current laws are too "prescriptive" for US West.
109	Roger Hamilton	<p>Chair of the Oregon Public Utilities Commission. Reports that meetings with US West were helpful and that they found common ground in these areas:</p> <ul style="list-style-type: none"> <li>* the bill should provide a framework for transmission to open markets</li> <li>* the regulatory process should be streamlined</li> <li>* there should be an agreement on pricing flexibility</li> <li>* entry barriers should be avoided</li> <li>* facility-based competition should be encouraged</li> </ul> <p>Mentions issues outstanding:</p> <ul style="list-style-type: none"> <li>* cost methodology</li> <li>* "access of competitive providers to commission processes"</li> <li>* enforcement powers for service quality violations</li> </ul>
156	Rep. Johnson	Asks if the commission has regulatory powers over yellow page companies.
159	Hamilton	Answers no. Adds that they don't want to control incumbents.
178	Rep. Johnson	Asks if the AFOR agreement had a timeline.
180	Hamilton	Answers that it did and that five years following the termination of the AFOR "it" would be reviewed.
185	Rep. Adams	Mentions the AFOR agreement and that it "turned sour" for US West. Warns of the danger of legislation hurting competition due to the rapid rate of change in the technological world.
200	Chair Hill	Announces that the committee will go through the bill section-by-section.
210	Hamilton	Mentions how the commission does depreciation.
219	Chair Hill	Asks where depreciation is in the bill.
226	Lang	Answers section 13, page 13. Explains the section, stating that its purpose is to create depreciation schedules which won't discriminate against incumbents. Adds that subsection 2 allows incumbents a surcharge to speed cost recovery.

271	Hamilton	Submits written material relating to depreciation schedules (EXHIBIT A).
313	Sterling Sawyer	PUC. Mentions his former employment with GTE. Explains the methodology for determining depreciation; states that it is forward-looking. States that he analyzes a company's budget as well as its recent performance.
363	Sawyer	Continues presentation on the determination of depreciation schedules.
377	Chair Hill	Asks about the relationship between depreciation and service.
383	Sawyer	Answers that with depreciation service declines.
388	Rep. Johnson	Asks if telephone companies replace technology faster than the federal government's tax depreciation schedules.
396	Sawyer	Answers yes, mentioning that there is an appeal process. Adds that that occurrence is particularly common with the smaller companies.
406	Rep. Johnson	Asks if companies, in those instances, can recover the remaining value of their equipment.
413	Sawyer	Answers that they can and that it is spread out over time.
424	Rep. Johnson	Asks if a company replaces a piece of equipment in 5 years which has a 10 year depreciation schedule, if the remaining value of the old equipment is added to the value of the new equipment.
TAPE 40, A		
005	Sawyer	Answers yes, that the value is added to a negative reserve which increases rates due to the increased value of the investment.
011	Rep. Johnson	Asks if earnings are still allowed on "that component" even if they have depreciated it.
013	Sawyer	Mentions a rate case where they disallowed that because of accounting errors.
014	Rep. Johnson	Asks if they are adjusting depreciation schedules to reflect the reality of current technological changes.
018	Sawyer	Answers that depreciation schedules are based on their study of companies' forward-looking projections which consider future conditions.
021	Rep. Johnson	Asks what happens if a company submits a proposal for a plant to depreciate in 10 years but the commission feels it will last 15 years.
023	Sawyer	Answers that the commission requires that the company follow a plan supporting their proposal.
029	Rep. Johnson	Asks if the commission relies on the utility to project the depreciation of equipment.
032	Sawyer	Answers that the commission has a "default condition" for equipment that a company must demonstrate is wrong in order for the depreciation schedule to change.
036	Chair Hill	Asks if depreciation is based on planned rather than actual employment of equipment.

038	Sawyer	Answers that depreciation is based on a company's 2-3 year plans extended over time.
042	Chair Hill	Asks what substantive changes US West seeks in current practices.
048	Lang	Answers that the bill "moves forward the day" when incumbents and competitors will receive the same treatment from the commission with regards to capital recovery and depreciation schedules.
072	Chair Hill	Asks how Section 13 of the bill will "change the world."
076	Rep. Adams	Expresses a desire for specific examples.
088	Sawyer	Notes the commission's guarantee that a company will recover 100% of the un-depreciated value of its assets over future rates.
093	Chair Hill	Asks if they guarantee 100% recovery of the cost of the infrastructure.
094	Sawyer	Answers yes.
095	Chair Hill	Asks how come. Asks what other industries are guaranteed full recovery of their infrastructure investments.
100	Sawyer	Answers that they are talking about the portion of the industry remaining subject to regulation and to tariffed rates. Adds that once public service considerations, i.e. regulation, are removed from the telecommunication industry, then rates will be determined by the competitive sector and full recovery through depreciation schedules will no longer exist.
115	Rep. Johnson	Notes that in the regular tax code that companies are entitled to a 100% write-off of an item's original cost.
122	Chair Hill	Replies that the companies recover costs through rates and not through taxes, noting that in the private sector there is no guarantee of a 100% recovery through rates.
127	Rep. Adams	Notes that companies can write off costs of obsolete plants. States that US West liked having long depreciation schedules in a monopolistic environment but that now their obsolete plants are a disadvantage.
141	Chair Hill	Asks how PUC is meeting the "reality" that incumbents' depreciation schedules need to change. Asks if there is currently a disadvantage for incumbents.
148	Sawyer	Replies that they addressed that issue in the US West docket, which established a forward-looking depreciation schedule based on company plans. States that the commission places the "burden of proof" on incumbents but not on competitors.
163	Chair Hill	Asks how the language in Section 13 differs significantly from present statute.
168	Sawyer	Specifies the 3-year amortization on a surcharge basis. States that presently rates are considered "in the structure" and that adding a surcharge would force the commission to recalculate that structure

177	Chair Hill	Asks US West how they justify Section 13, Subsection 2.
178	Lang	Answers that they tried to match the recovery schedule with the transition time-frame of Section 7. Expresses a willingness to negotiate the 36 months. Adds that US West seeks to accelerate recovery.
187	Chair Hill	Asks about the effects of taking out Subsection 2 and treating US West like the competitors.
196	Sawyer	States that it would result in a \$30-50 million increase in current rates.
200	Chair Hill	Asks if competitors can realistically shift depreciation costs into rates.
202	Sawyer	Answers that in the competitive market there is no direct relationship between depreciation and rates.
214	Rep. Adams	Questions whether US West is in a competitive situation, i.e., whether they have to "eat" bad investments.
223	Hamilton	Replies that there isn't a competitive situation at present. Mentions US West's attempt to align depreciation with planned investments but that the commission decided to track their construction budgets. Submits chart demonstrating that depreciation dollars aren't being used to modernize equipment (EXHIBIT B).
248	Rep. Adams	Notes that new technology is more efficient and less expensive. States that strictly looking at capital investment is no longer appropriate.
265	Lang	States that Subsection 2 acknowledges previous agreements with regulators. Cites changing circumstances and a desire for equity.
292	Rep. Adams	Asks Mr. Hamilton to further explain the chart.
296	Hamilton	Reiterates that depreciation expenses did not attract modernization capital.
326	Chair Hill	Asks if there is an assumption that 100% of the depreciation be reinvested.
332	Sawyer	Replies that there is no obligation.
338	Chair Hill	Asks if there is an expectation, noting the commission's displeasure with US West's performance.
359	Hamilton	Answers that there was no guarantee, noting the implication however that service quality will suffer.
365	Chair Hill	States that they need to adjust the figures in the chart (EXHIBIT B) to reflect the possibility that infrastructure costs less than it once did. Notes US West's service quality problem and offers that it can be attributed to several different factors. Mentions that with Subsection 2 the commission can't review rates until after three years, asking if along with universal service funding the incumbents could recover costs through unregulated rates. Asks about the relationship to the universal service fund.
396	Hamilton	

		Answers that there is a relationship. Describes a plant in Portland which needed to be modernized "a long time ago."
405	Chair Hill	Asks if the PUC can require US West to modernize plants.
407	Hamilton	Refers to a profit-sharing plan which the commission believed would provide incentive but that it didn't work.
414	Chair Hill	Asks if there was an explicit requirement.
415	Hamilton	Answers no.
415	Chair Hill	Asks if there was an implicit requirement.
416	Hamilton	Answers that there was an expectation but not an implicit requirement. Notes the commission's assumption that US West would be interested in becoming more efficient.
426	Chair Hill	Asks if they approved the plan.
427	Hamilton	Answers yes but that he wasn't on the commission at the time.
431	Chair Hill	Asks if the commission could have "pulled" the AFOR agreement at any time.
433	Hamilton	Mentions service quality standards expected with the AFOR, and that when those standards weren't met the commission terminated the agreement.
440	Chair Hill	Asks if they could have terminated the agreement at any time.
442	Hamilton	Answers that they couldn't, only with mutual agreement with the company.
444	Chair Hill	Asks if the service quality standards were violated.
445	Hamilton	Answers yes.
TAPE 40, B		
025	Chair Hill	Asks how they determined that the standards were violated
030	Hamilton	Refers to a report.
036	Chair Hill	Asks if there weren't explicit requirement how did they have "grounds" for complaint.
043	Hamilton	Talks of the benefits of HB 2079. States that there was a "trust" with the AFOR that the companies wouldn't degrade service quality standards.
052	Rep. Adams	Asks who initiated the AFOR.
055	Hamilton	Answers US West.
057	Rep. Adams	Notes the implication that US West took depreciation dollars and sent them somewhere else. States that technological advances drive down costs and therefore costs do not have a direct relationship with service quality.
094	Hamilton	Refers to the equipment in the local loop which is the biggest investment cost, stating that "it" is still useful but that "it need not be falling apart."
106	Lang	

		Notes that the discussion has focused on US West's past. States that the issue at hand is the future.
120	Rep. Johnson	Notes that on the chart depreciation dollars are the same as modernization and growth capital dollars combined.
140	Sawyer	Notes US West's report showing that competition would necessitate modernization at an "exponentially compounding rate." States that fiber has been the major innovation in the industry, in which US West has not invested heavily, and that US West still asked for depreciation rates.
165	Rep. Johnson	States that with deregulation this component needs to change, i.e., that a company can't automatically raise prices because of investments in technology.
177	Sawyer	Notes that the rate-determining process looks at anticipated performance.
183	Chair Hill	Asks if the policy of 100% recovery results in increased rates for competitors.
199	Sawyer	States that it is a complex issue. Refers to docket 773, which looks at forward-looking depreciation life rather than prescribed life.
208	Chair Hill	Asks if that means the commission no longer allows 100% recovery.
210	Sawyer	Answers that there is no guarantee in the "wholesale pricing system."
212	Chair Hill	Asks of the effect on the incumbents.
218	Sawyer	Answers that it would defer to actual costs.
221	Rep. Johnson	Notes that it would raise rates.
225	Sawyer	Answers that in the short-term rates would increase but in the long-term, after the amortization period, they would decrease.
230	Chair Hill	Asks to hear from the competitors.
241	Rob McMillan	Electric Lightwave Incorporated. States that they don't submit studies to the PUC, and that there is no guarantee that they will recover costs. Questions if the PUC will impose more requirements on competitors.
265	Chair Hill	Asks for a hypothetical model which would treat everyone the same.
268	McMillan	Notes that rates will be higher with shorter depreciation lives.
278	Chair Hill	Mentions a central office with local loops. States that depreciation must be minimal.
290	McMillan	States that cost studies are based on forward-looking projections. Cites philosophical differences with US West concerning whether or not they are in a competitive market.
314	Chair Hill	Question how to build framework encouraging competition.
320	McMillan	Suggests looking at current competitive zone statutes and the pricing flexibility allowed US West.
334	Chair Hill	Asks about possibly using Section 13 as a stranded cost model.

337	McMillan	Answers that stranded costs aren't applicable because competitors are interested in purchasing the equipment.
345	Chair Hill	Asks for a model which would encourage updating local loops bought from incumbents. Asks if Section 13 would encourage investment.
358	McMillan	Replies that if it is to be Oregon's policy to encourage investment than it must be explicit.
369	Chair Hill	Asks if that should be left up to the commission or whether it should be established in statute.
376	Ken Snow	GST Telecom. Answers that his company will invest to replace "trashed" loops. Expresses support of HB 2079.
397	Chair Hill	Asks if facility-based competitors will invest to sell a better service.
407	McMillan	Replies that current competition is in areas where service quality has been a problem. Notes that competitors have to purchase US West's degraded services in order to compete.
<b>TAPE 41, B</b>		
009	Chair Hill	Asks about possibly bypassing US West.
011	McMillan	Mentions the long time it has taken to build the present infrastructure.
015	Chair Hill	Asks how they can be expected to replace the present infrastructure in five years, given the long time it has taken to create it.
016	McMillan	Answers that he has no such expectation.
018	Snow	Interjects that local loops are the most difficult area to get into, and so it is important to use the incumbent's equipment.
027	Chair Hill	Cites the expectation that there will be improvements to the local loops.
032	McMillan	Notes that extending US West's networks is cheaper than building a new network. States that the facilities are in place, but that they would have to extend sometimes from long distances.
054	Chair Hill	Asks if in the PUC's version there is no change in PUC authority.
062	Hamilton	Discusses problem with Section 9. Mentions requirements applying to carriers of last resort.
085	Chair Hill	Asks why they need to expand or constrict the authority of PUC.
094	Lang	Cites HB 3021's provisions applying to the PUC's authority, noting that that authority would apply equally to all companies.
133	Chair Hill	Asks how Section 3 would jeopardize the commission's ability to ensure service quality.
138	Hamilton	Notes that the federal act doesn't determine the authority of the commission. Refers to the bill's definition of eligible telecommunications carriers and the relation to universal service fund. Discusses Section 3 and problems.
188	Hamilton	Continues discussion of Section 3.
238	Hamilton	Continues discussion of Section 3.
281	Chair Hill	Asks of the consequences of not meeting deadlines.



296	Hamilton	States that six months is a short period of time for an alternative regulation plan. Continues discussion of Section 3.
328	Rep. Adams	Notes that the chart isn't adjusted for inflation. Asks about the bill giving the commission no authority over asset services and the effects on quality of service.
328	Lang	Responds that it wasn't intended to affect service quality standards.
347	Chair Hill	Adjourns meeting at 10:15 AM.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

**EXHIBIT SUMMARY**

A - HB 3021, written material, Roger Hamilton, 1 p.

B - HB 3021, table, Roger Hamilton, 1 p.