

HOUSE COMMITTEE ON POWER DEREGULATION

April 22, 1997 Hearing Room E

1:00 P.M. Tapes 122 - 123

MEMBERS PRESENT:

Rep. Jim Welsh, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Randall Edwards

Rep. Jim Hill

Rep. Patti Milne

Rep. Lonnie Roberts

Rep. Ken Strobeck

STAFF PRESENT:

John Larson, Administrator

Julie Neburka, Asst. Administrator

Lynda Sloan, Administrative Support

MEASURE/ISSUES HEARD:

PUBLIC HEARING ON HB 2821

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 122, A		
003	Chair Welsh	Opens meeting at 1:27 p.m. in subcommittee. Outlines process for meeting. Asks caucuses to indicate which sections of bill for which they plan to offer testimony.
050	Chair Welsh	Continues polling work group caucuses.
100	John Larson	Explains Section 38 of HB 2821 (EXHIBIT A).

112	Chair Welsh	Opens work session on HB 2821.
<u>HB 2821 - WORK SESSION</u>		
112 add add	Rep. Strobeck	MOTION: MOVES that HB 2821 BE REPORTED OUT WITH AMENDMENTS, without recommendation as to passage, for printing of engrossed bill and re-referral to committee. VOTE: 4-0 AYE: 4 - Hill, Strobeck, Wooten, Welsh EXCUSED: 3 - Edwards, Milne, Roberts
135	Chair Welsh	Asks for testimony on Section 1.
148	Rep. Hill	Asks for review of definitions of terms, Section 2, prior to discussion of substantive portions of bill.
160	Chair Welsh	Notes four groups have testimony on definitions.
168	Steve Weiss	Fair and Clean Energy Coalition, testifies on HB 2821. Suggests change in definition 6, core customer. Specific language suggested: "Core customers mean residential and other customers defined by the Commission or governing bodies on the basis of load characteristics or other criteria who are eligible to be served by the default supplier." Suggests definition 27, renewable energy, be changed to definition in Comprehensive Review: "Renewable energy resources means electricity generation facilities fueled by wind, solar, geothermal, or low emission organic, non-toxic biomass based on solid organic fuels from wood, forest, and field residues, or dedicated energy crops available on a renewable basis, and by hydro-electric facilities located outside of protected areas as defined by the Northwest Power Planning Council or other federal or state agencies or statutes."
216	Jim Anderson	Representing PacifiCorp and Portland General Electric, offers proposed amendments to HB 2821 (EXHIBIT B) .
227	Jim Deason	Eugene Water and Electric Board, offers proposed amendment to HB 2821 (EXHIBIT C) . Suggests change in definition 17, governing body, insert after ". . . or the council . . ." the phrase "or board". Says this will adequately reflect allocation of authority in various municipal electric utilities in respect to their charters.
251	Ron Eachus	Oregon Public Utility Commission, offers written testimony and proposed amendments to HB 2821 (EXHIBIT D) . Discusses amendments to definitions 6, core customer; 21, low usage customers; 22, market based index rate; and 31, transition charge.
	Craig	Ogden Energy Group, which operates a waste power conversion plant, offers written testimony regarding HB 2821 (EXHIBIT E) . Notes current and

320	Campbell	suggested amended definitions of renewables, definition 27, would cut the Ogden plant out of loop for renewables, and says that the plant should qualify as renewable.
345	Diane Cowan	Oregon People's Utility District Association, asks to clarify date issue for open access, changing "by January 1, 2000" to "on January 1, 2000."
384	Tom O'Connor	Oregon Municipal Electric Utilities, will have additional language on ancillary services.
393	Chair Welsh	Asks people to bring written Section 2 proposals on Thursday. Calls for testimony on Section 1.
412	Weiss	Suggests change in Section 1.4, "Ensure that all customers benefit from restructuring the electric marketplace". Suggests adding 16, "Oregon historically has enjoyed low cost electricity from the federal based system; restructuring must be accomplished in such a manner as to retain low-cost federal power in the Northwest for future generations."
Tape 123, A		
003	Eachus	Discusses PUC proposed amendments to HB 2821, Section 1, Declaration of Policy (EXHIBIT D, p. 31). Explains that reason they are proposing amendments is to include Governor's principles for restructuring.
016	Rep. Hill	Asks how this policy statement will help PUC decision making.
022	Eachus	Says they provide benchmark for measuring, and when in statute, orders are appealable.
032	Rep. Strobeck	Asks how proposed Section 1.18 differs from Section 1.4.
036	Eachus	Says not much difference; one tries to address spreading the benefits to everyone, and the other tries to ensure effective competitive market.
046	Rep. Strobeck	Says he sees no serious difference; suggests merging or amending the amendments.
049	Eachus	Agrees with Strobeck and says 16 and 17 are more critical because they support Governor's principles, and preservation of benefits of low-cost power resource base should be part of Declaration of Policy.
053	Rep. Edwards	Asks Eachus to explain, relative to subsection 17, how to determine reasonable price.
061	Eachus	Says statutes talk about just and reasonable prices, which are generally determined in context of other things that go into establishing price, and not necessarily on policy statement itself. Defines term "reasonable" as used by PUC.
091	Rep. Hill	Asks how Chair wants indications of whether proposed changes are acceptable.
094	Chair Welsh	Says until testimony complete, make notes; will enter work session when all recommendations have been received.
124	Chair Welsh	Suggests working on PUC recommendations.

133	Rep. Hill	Comments on subsections 18 and 4. Says PUC proposed 16 is more succinct than Fair and Clean proposal; sees 18 and 4 as separate and distinct issues. Says he doesn't see how it can be ensured all customers benefit from restructuring.
158	Weiss	Says that the principle and declaration of policy are that all customers will benefit, and the bill provides the means of accomplishing that goal through such things as default provider options, cost-based rates, and other pieces of the bill aimed at benefiting customers.
170	Rep. Hill	Disagrees; says language speaks to the goal of benefiting, but he doesn't know how it can be ensured that everyone benefits from restructuring, when customers can make poor choices from which they might not benefit. Says present language in printed bill adequately assures customers benefit.
183	Rep. Strobeck	Comments that access to benefits is different from being treated fairly in competitive market. Suggests again merging 18 and 4.
198	Eachus	Says the amendments attempt to address similar things, and it is possible to develop language to combine; but he feels they delineate the difference between benefits being enjoyed on fair basis and whether or not competition is fair and equitable.
211	Chair Welsh	Says will go with Rep. Hill's recommendation to stay with original language.
226	Chair Welsh	Add 16, 17, 18 to Section 1 as proposed, retaining Section 1.4 as currently written, by consensus of committee.
239	Rep. Edwards	Asks if Section 1.1 first reference to date. Asks if agreed upon by all work groups
244	Chair Welsh	Says 4 of 5 agreed on date.
256	Rep. Edwards	Says would like to hear about reason for disagreement on date.
259	Rep. Welsh	Asks for testimony on reasons for opposing January 1, 2000, implementation date.
280 320 326 338 350	Sarah Baker-Sifford	<p>General Manager of Oregon Rural Electric Cooperative Association (ORECA) discusses with Committee reason for opposing implementation date.</p> <p>* not prepared to offer written testimony at this time, but will provide</p> <p>* Quotes PUC testimony that Bonneville Power Administration (BPA) questions its ability to handle the expected number of transmission requests by 2000 (EXHIBIT D, p. 14).</p> <p>* request for proposed amendment</p> <p>* expiration dates of contracts with BPA October 1, 2001, for full and partial requirements customers of BPA</p> <p>* BPA rates compared to available open market rates</p>

364		* BPA contracts would preclude them from full participation in retail access
382		* change service territories to make statewide, change definition of provider of last resort, makes non-issue
395		* territorial allocation addresses poles and wires; possible duplication of facilities
		* BPA contracts prime reason not ready to compete by 2000, as well as number of other reasons
Tape 122, B		
005	Rep. Hill	Asks for ORECA objections in writing.
010	O'Connor	Oregon Municipal Electric Utilities, will provide written objections. Says BPA contract for full requirements customer with 100 percent contract with BPA means they cannot purchase power from anyone else. State cannot abrogate by legislation without incurring penalties or lawsuits.
020	Rep. Wooten	Asks how many contracts with BPA now in renegotiation or have been renegotiated in advance of 2001. Asks for full report on that activity.
026	O'Connor	Says no renegotiation underway at present as contract amendment period expired. Some utilities did renegotiate, but some small utilities were not in position to do that, balance of fixed price contracts with BPA remain in effect until 2001. Post 2001 process in development now.
043	Rep. Wooten	Asks number of members approached by third party providers regarding sale of electricity outside of BPA.
051	O'Connor	Says utilities in easy-to-serve, high density areas have been approached with wide range of offers.
063	Rep. Wooten	Asks for concrete information.
065	Baker-Sifford	Says all but about four of members have been approached by other providers of power.
079	Rep. Roberts	Asks what they mean by process.
088	O'Connor	Explains that includes the investigation of a new process, as recommended in Regional Review, to determine whether BPA will have sufficient load to meet treasury payments AKA the subscription process. Notes chart in PUC testimony describes timelines (EXHIBIT D, p. 20).
125	Baker-Sifford	Discusses difference between distribution, generation, and transmission.
134	Rep. Edwards	Asks if possible for them to break their contracts.
140	O'Connor	Says for a small municipal utility to break contract with Bonneville would require legal expenses that could be perceived by rate payers as irresponsible use of public funds.

151	Rep. Edwards	Comments if set in statute that retail access will happen by year 2000, compliance with law only possible by breaking contracts.
157	Jock Mills	BPA Oregon liaison, discusses contracts * considered as givens with no renegotiating before 2001 * expectation that revenues allow BPA to meet treasury payments
179	Rep. Strobeck	Asks reason for insistence on protecting higher priced BPA power even though lower cost power is available on open market.
192	O'Connor	Responds to Rep. Strobeck * reference to low-cost Northwest power is long-term projection * Bonneville low-cost option over time
211	Rep. Strobeck	Refers to subscription tiers for BPA power after 2001 and asks if Direct Service Industries (DSIs) and Consumer Owned Utilities (COUs) get power at same rate publics receive today.
217	Mills	Says they do not, explains prices are charged on basis of load factors.
226	Rep. Strobeck	Asks if intent after 2001 is to sell at same rates to utilities with variable loads or DSIs with same loads.
229	Mills	Says term "at cost" deals with cost of serving them, therefore prices may be different for different classes of customers.
240	Rep. Edwards	Asks, if state puts mandate in statute, if it will conflict with Federal contracts.
261	Mills	Says this is issue where Bonneville differs. Reviews testimony from BPA administrator Hardy given in March. * ways to protect BPA and its customers if retail competition begins prior to 2001 * examples: exempt BPA customers from requirement; make sure they can recapture costs from customers who leave; create another mechanism to buy out contracts * None of suggested solutions require renegotiation of contracts.
282	Rep Hill	Asks what application of law requires customers who leave to pay BPA contracts.
296	Mills	Says Section 16 attempts to cover that through definition of transition costs and uneconomic investments.
300	Rep. Hill	Says that is in what is going to happen. Wants to know through what application of law the contracts are transferred onto those who exist today.
		Discusses question. * The essential difference between a utility and a business that can choose

324	O'Connor	<p>which customers to serve is that a utility has a regulatory obligation to serve.</p> <p>* Contracts were entered with that obligation.</p> <p>* The bill replaces obligation to serve with obligation to connect, which changes relationship with the public.</p> <p>* For full requirement utilities, stranded costs relate to Bonneville contracts.</p>
371	Rep. Hill	Says he would like to know if there is a case precedent that could be applied to determine the obligation of existing customers to pay these costs. Says that information will determine what date he supports for implementation.
400	Chair Welsh	Asks if this bill, with January 1, 2000, date becomes legislation, what it forces utilities to do.
410	Diane Cowan	Says one option is to buy out portion of contract existing at time of open access, but based on one utility's discussion with Bonneville about buyout, it may not be cost effective.
Tape 123, B		
001	Rep. Edwards	Points out that consumer has right to direct access, whether or not it is offered.
010	Rep. Roberts	Comments on problems of using "shall" in setting date, then being unable to follow through, and term "at cost" when discussing Bonneville contracts.
019	Chair Welsh	Asks if utilities would consider going to court on BPA contracts if January 1, 2000, date were implemented.
022	O'Connor	<p>Discusses problems inherent in implementation date prior to expiration of BPA contracts for utilities and consumers. Two points to consider</p> <p>* doesn't want to be in position for potential litigation with BPA</p> <p>* full requirements utilities would not have option to compete proactively in market for lower cost product</p>
070	Rep. Hill	Asks if this would be considered unfunded mandate.
075	O'Connor	Says he doesn't know, but there are mandated costs associated with new requirements on distribution entity. Reserving judgment as to whether they are mandated costs.
084	Rep. Hill	Asks for list of memberships and types of contracts they have.
086	O'Connor	Says can be provided.
087	Baker-Sifford	Suggests asking legal counsel from Bonneville what they do to customers of COUs if legislation is adopted that implements open access in 2000.
102	Chair Welsh	Asks again if taking Bonneville to court an option for COUs if January 1, 2000 date is mandated.
104	Baker-Sifford	Can't say if option, would like to know if option for BPA to take utilities to court if that legislation is passed.

108	O'Connor	Says can't give legal answer, but the fact that many of 100 percent contracts are with very small utilities places a practical and moral responsibility on governing body to determine whether practical to take on protracted legal battle with federal government.
125	Chair Welsh	Says committee understands that issue.
129	Brad VanCleve	Says would be useful to look at language of contracts because they don't prohibit utility from offering direct access or provide for payment of stranded costs charges, but they do require that when customers sell power, it must be purchased from BPA. However, retail wheeling or direct access is not selling power, so obligation to purchase from BPA goes down.
144	Rep. Edwards	Agrees would be helpful to have either attorney from Attorney General or Legislative Counsel to advise committee on legal liabilities or obligations in this matter.
150	Karla Droste	Springfield Utility Board, says will provide list of reasons they are uncomfortable with date. Notes concern is bill contains no assurance of benefit to customers, either through lower rates or even rates remaining at same level. Also concerned that amount of stranded costs for Oregon have not been determined.
167	Chair Welsh	Asks if Droste feels deregulation will happen whether there is legislation or not.
169	Droste	Says deregulation will likely happen at least at functional level, but important to know the dollars and cents before legislation happens.
174	Chair Welsh	Asks Jock Mills to respond to question: "What will BPA do if the date January 1, 2000, places a mandate out there on our utilities that are contracted with BPA?"
168	Mills	<p>Responds</p> <ul style="list-style-type: none"> * not attorney and not interested in getting into litigation discussion * Bonneville's attorneys say they have ability to work with customers based on what is in bill. * concerns regarding exposure on WWPPS costs because they are obligations to bondholders, but working on that issue * Representatives of bondholders or BPA will provide information on specific concerns and language to protect them. * Bill has mechanisms to work with customers.
208	Rep. Roberts	Asks about state and Bonneville working together.
214	Mills	Says they take very seriously what the state wants, and that if the four northwest states don't stick together in telling Congress what is needed, we will face some real problems in Washington, D.C. in keeping the cheap hydro

		benefits in the Pacific Northwest.
227	Rep. Roberts	Comments BPA is directed by federal government to cooperate with states, and if they told BPA to ignore states, there would be nothing states could do about it.
229	Mills	Disagrees. Says they are doing everything they can in interests of serving needs of this region. Says he understands Rep. Roberts' concern regarding certainty of treasury payments.
238	Rep. Hill	Asks if everyone purchasing electricity through utilities served by BPA were to take conservation measures to reduce load by 50 percent, would BPA sue those PUDs for the lost revenue.
244	Mills	Says as he understands contracts it would be considered load loss due to conservation, and is not addressed in contracts as lost revenues.
255	Chair Welsh	Comments on next meeting. Adjourns meeting at 3:08 p.m.

Submitted By, Reviewed By,

Lynda Sloan, John Larson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2821, L.C. draft amendment, Staff, 52 pp.

B - HB 2821, proposed amendments, Jim Anderson, 2 pp.

C - HB 2821, proposed amendments, Jim Deason, 2 pp.

D - HB 2821, written testimony and proposed amendments, Ron Eachus, 30 pp.

E - HB 2821, written testimony, Craig Campbell, 2 pp.