

HOUSE COMMITTEE ON POWER DEREGULATION

April 24, 1997 Hearing Room E

1:00 P.M. Tapes 124 - 125

MEMBERS PRESENT:

Rep. Jim Welsh, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Randall Edwards

Rep. Jim Hill

Rep. Patti Milne

Rep. Ken Strobeck

MEMBER EXCUSED:

Rep. Lonnie Roberts

STAFF PRESENT:

John Larson, Administrator

Julie Neburka, Asst. Administrator

Lynda Sloan, Administrative Support

MEASURE/ISSUES HEARD:

HB 2821 PUBLIC HEARING AND WORK SESSION

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 124, A		
001	Chair Welsh	Opens meeting at 1:20 p.m.
<u>HB 2821</u> <u>PUBLIC</u> <u>HEARING</u>		
		Representing Oregon Public Utility Commission (PUC), presents testimony

015	Ron Eachus	<p>on HB 2821 (refer to Exhibit D from April 22 meeting).</p> <ul style="list-style-type: none"> * overview of amendments * Bill changes method of providing generation services to customers as well as prices charged for those services. * much wholesale competition currently, producing benefits for customers, and creating desire for retail access * electric delivery system very complex * deregulation done right, benefits to customers; done wrong, harm to customers * examples of harm to customers: lose benefits of low cost system in Northwest, end up with all the risks while covering utilities' stranded costs, not have adequate information or protection, loss of energy efficiency and renewable energy benefits
060	Eachus	<p>Says legislation needs to answer</p> <ul style="list-style-type: none"> * What encourages effective competitive market for all customer classes? * Will we maintain benefits of low cost power in region? * Are there adequate protections for customers? * Are public purposes maintained or enhanced?
065	Eachus	<p>Continues testimony</p> <ul style="list-style-type: none"> * PUC and Oregon Office of Energy (OOE) concentrated on stranded costs, rate options available to customers, consumer protections, and purchase of BPA power. * OOE worked on public purposes.
078	Eachus	<p>Continues testimony, discussing areas of critical concern to commission</p> <ul style="list-style-type: none"> * customer rate options in Section 8 * access to Bonneville power, Section 22 * transition costs, Sections 12 and 16 * public purposes, Section 19 * consumer protection, Section 23

		* default supplier, Section 7
084	Eachus	Continues testimony, discussing issues implementation schedule and transmission capabilities.
135	Eachus	Continues discussing implementation schedule and transmission capabilities.
151	Eachus	Continues discussing implementation schedule and transmission capabilities.
170	Rep. Hill	Asks if PUC has list of projects that have potential of becoming stranded costs.
179	Eachus	Says Trojan potential stranded cost. One recent study (EXHIBIT A) concludes some utilities may have negative stranded costs; Pacific Power and Light (PP & L) and Idaho Power are two. PP & L has created potential for negative stranded costs. Oregon's total impact may be negative. Portland General Electric (PGE) most likely to have positive stranded costs. PUC opened proceeding on stranded costs. Says there is relationship between amount of stranded costs and date of implementation.
235	Eachus	Resumes testimony. * implementation schedule: delay final report until pilot projects underway
251	Eachus	Overview five other issues needing further work, not related to Section 3. * PUC funding mechanism * whether pilot project voluntary or mandatory * ancillary services * customer owned meters, language clarification * anti-trust, elimination of state action exemption overly broad
319	Chair Welsh	Has concern all customer classes go at same time so that no customer class is disadvantaged, and with January 1, 2000, implementation, 36 consumer owned utilities (COUs) are left out. Asks for suggestions to handle this issue.
366	Eachus	Suggests there are several ways to get everyone to direct access. New area of concern is transmission issue. Having specific date, regardless of whether January, 2000, or October, 2001, is most important, because date forces people to deal with implementation and policy issues and everything else. Discusses potential consequences of any date.
Tape 125, A		
		Continues testimony * no way to avoid study * Tradeoffs: delay means period with no direct access, but time to get

001	Eachus	<p>things in place and stranded costs lower; earlier date with acceptable bill means customers have access sooner.</p> <p>* Either choice means a legislative session that can change things before implementation.</p>
028	Rep. Hill	Asks if he would see Idaho Power, PGE, and PP & L forced into retail wheeling if retail wheeling were a PUC decision..
031	Eachus	<p>Says two things would probably happen if open access delayed till October 1, 2001.</p> <p>* If PGE-Enron merger is approved, they would file plan to open territory for direct access.</p> <p>* Industrial customers would seek ability as a class to have opportunity to go to market and not buy from utility.</p>
053	Rep. Hill	Asks if it is likely any investor owned utility would be required to enter retail wheeling, not of its own volition.
057	Eachus	Says unlikely they would be forced prior to 2001, but would not necessarily be allowed just because they asked, either, because many issues to discuss.
078	Jason Eisdorfer	<p>Representing Citizens Utility Board and Fair and Clean Energy Coalition, offers amendments to HB 2821, Section 3.</p> <p>* amendment allows delay, including date</p> <p>* Add a number 4: "No utility shall offer open access to one class of customers without on a simultaneous basis offering open access to all classes of customers."</p> <p>* Notes Montana close to passing legislation allowing large customers to go four years before small customers.</p> <p>* Notes Commissioner Eachus's testimony makes best statement of why open access discussed and what needs to be protected, recommends rereading it.</p>
128	Steven Weiss	<p>Representing Fair and Clean Energy Coalition offers testimony on HB 2821. Discusses alternatives to consider regarding date and other issues.</p> <p>* ability to delay, if necessary</p> <p>* Allow Consumer Owned Utilities (COU) to delay until 2001.</p> <p>* Move date for everyone to 2001.</p> <p>* in bill right now: no delay, but COUs allowed to recover 100 percent stranded costs related to Bonneville contracts</p>

		<p>* problem with pilot projects: brought to Commission on utility's terms</p> <p>* Without Commission authority to mandate, could mean no pilots will happen.</p>
184	Rep. Hill	Asks effect of different classes going at different times.
180	Eisdorfer	<p>Says several effects</p> <p>* incentive to shift costs from competitive class to captive class of customers</p> <p>* not allowing open access for everyone guarantees open access for class that is most ready to go</p>
204	Weiss	Agrees with Eisdorfer; says marketers may hesitate to enter market they feel has been poisoned by incentives to cost shift. Says small projects probably can work.
223	Rep. Hill	Asks if they see potential for abuse from lack of PUC ability to protect regulated class from cost shifts.
226	Eisdorfer	Says model creates substantial incentive which PUC would have to try to correct. Emphasizes no other state has allowed one customer class to go before another.
242	Tom O'Connor	<p>Oregon Municipal Electric Utilities, offers testimony on HB 2821. Says interim task force approach best way to go. Discusses reasons</p> <p>* question whether transmission system ready in time</p> <p>* Bonneville's lack of retail wheeling policy</p> <p>* pilots not ready, but information available in 1999</p> <p>* Regional Review changes still being made</p> <p>* process for designing BPA contract offerings for post-2001</p> <p>* which federal entity to be responsible for Fish and Wildlife and Treasury payments</p>
299	O'Connor	Continues testimony noting issues that have not yet been resolved. Notes BPA has said they will hold utilities to their contracts.
346	Chair Welsh	Asks for possible amendments to language in Section 3.
356	O'Connor	Says this is not the time to set date, should not be sooner than 2001.
377	Rep. Hill	Asks that copies of partial and full requirements contracts be provided to Committee. Introduces letter regarding effects of retail access (EXHIBIT B). Says he doesn't know what effect of passing the bill with Section 3 in current status would be on publicly owned utilities.
		Will make contracts available. Says Bonneville will have to answer what

426	O'Connor	will happen to utilities.
Tape 124, B		
001	O'Connor	Continues testimony.
017	Rep. Welsh	Asks if all municipals affected by contracts expiring in 2001.
023	O'Connor	Says yes, but in different ways.
030	Rep. Welsh	Asks what would be an agreeable date to support this bill.
037	O'Connor	Says their position is for interim study to set date, and 2001 makes difference in how they deal with contracts; says WWPPS debt will also be an issue.
055	Chair Welsh	Says he appreciates comments. Notes in phase 2 of five phase process, and asks O'Connor if he is recommending another Regional Review.
064 070 080 097 103	O'Connor	Discusses with committee * value of regional process * discussion of phases 2,3,4,5 * interim task forces valuable in getting good laws made * HB 2821 framework for continuing discussion * support for bill addressing task force and public purposes, with amendments regarding task force
120	Diane Cowan	Oregon People's Utility District Association offers comments on HB 2821, Section 3. Asks Chair Welsh to repeat question.
125	Chair Welsh	Restates question about date.
131	Cowan	Says can't support bill with amendments unless they delete all sections except the task force and public purposes and pilot programs. Says date they support is October, 2001. Says they have amendments to task force section that makes it more fact finding; would like broader direction for pilot programs.
149	Chair Welsh	Asks if all customers in their representation district would agree with her.
152	Sarah Baker-Sifford	General Manager of Oregon Rural Electric Cooperative Association, says their preference is no date certain in bill, study, come back 1999, set date certain, move forward with legislation and date. If today must set date, October 1, 2001, is only date can morally and legally support.
159	Chair Welsh	Asks recommendation for rest of bill.
		Says they have always felt that the issue needs more study.

161	Baker-Sifford	<ul style="list-style-type: none"> * Pilot projects provide valuable information. * Public purposes needs to be addressed, but no mandatory expenditures prior to implementation of retail access * Clarification from PUC needs to be provided on pilot projects proceeding before implementation. * Utilities who want to start open access early may, with PUC approval.
180	Chair Welsh	Asks if all customer classes and utilities should go same date.
185 207 223 238 242 251 262 284	Panel	<p>Discusses several issues with Committee.</p> <ul style="list-style-type: none"> * market barrier if COUs go later than other classes * possibility of COUs participating in pilot program if date pushed back and level of participation * BPA full requirements contracts prevent COUs from selling BPA power outside service territories. * need for BPA input on pilot programs * value of observing other states programs * certain amount of power not contract bound to BPA which could be used for pilot projects * possibility of BPA contracts prohibiting others from selling within a service territory * default supplier portion of contracts being studied * PUD's in Oregon constitutionally based; no right under constitution to abrogate responsibility to supply service
292	Rep. Hill	Asks about possibility of BPA renegotiating contracts if loads decreased as result of another supplier marketing within COU established territory.
323 342 400 430	Tim Johnson	<p>Counsel for BPA, discusses with Committee</p> <ul style="list-style-type: none"> * as long as BPA revenues met, no violation of contract due to loss of load as result of retail access * Ensure BPA not left with stranded costs. * whether BPA contracts require minimum level of payment * Intent of parties is spirit of contract.

		* contracts for actual firm load
Tape 125, B		
001	Johnson	Continues discussing contracts.
004	Rep. Hill	No requirement that regardless of load someone who holds one of these contracts would be expected to make payment to BPA for electricity not delivered.
005	Johnson	Says these are requirements contracts of net their own resources. Doesn't speak to having no customers. Obligations of parties to contract uncertain at this point.
012	Chair Welsh	Asks for copies of contracts with various utilities for Committee to review.
017	Rep. Edwards	Asks Mills about BPA's ability to be flexible in dealing with contracts with COUs and publicly owned utilities.
032	Mills	Says they looked at legislation and provisions for <ul style="list-style-type: none"> * capture of transition costs associated with retail access * expectations of revenue held whole * retain revenues needed and expected to receive under contracts
042	Edwards	Asks if pilot programs could be accommodated under current contracts.
048	Mills	Says entities given percentages of diversification to use for pilots if they choose. For full requirement customers, that part of load not open to mandatory or pilot projects unless legislation provides recovery of stranded costs associated with those loads. As legislation written now, they don't see need for changes in legislation per their contracts.
081	Rep. Hill	Asks if HB 2821 were passed as written today, which would put full requirements utilities at odds with their contracts with BPA, would BPA prohibit delivery of electricity from third parties to these utilities.
089	Mills	Says BPA doesn't believe if bill were enacted and customer utilities undertook actions that there would be any violation of contracts, because bill provides BPA ability to recapture lost revenues resulting from mandatory retail wheeling.
095	Rep. Hill	Asks if there is requirement in BPA contracts for replacement of revenue lost as result of retail wheeling mandate.
109	Mills	Refers to Regional Review with respect to BPA contracts.
118	Rep. Hill	Says he wants to know if BPA contracts have requirement to replace lost revenues.
128	Mills	Says if customers take actions that would reduce revenues to BPA, they believe it would be an abrogation of contract; but they believe bill provides ability for BPA to work with the customers to ensure revenues would come back through transition charge.
146	Rep. Hill	Says still doesn't answer question of where in the contract it says the person

		who signs the contract guarantees the load to BPA.
156	Johnson	Says it gets to intent of parties signing contracts, but not explicit in language of contract, and parties of contracts will come to terms at later date.
161	Rep. Hill	Asks if courts look at intent rather than what actually signed in contract.
165	Johnson	Says they feel the legislation as drafted provides BPA with some assurance that its revenue expectancy will be met.
173	Mills	Offers to work with Legislative Counsel if desired. Says would like to discuss at next Thursday's meeting scheduling of transactions in retail access. Says they could also bring attorney representing WWPPS to discuss net billing agreements, which go beyond year 2001.
198	Jim Tarpey	Representing Enron, discusses proposed amendment * not offering retail wheeling to any class before any other * leave to PUC to decide * pilot is way to learn about retail wheeling * cost shifting can be left until dealing with retail competition * clarify language
234	Chair Welsh	Asks if he will have specific language for Section 3.
235	Tarpey	Says working on language.
240	Jim Deason	Eugene Water and Electric Board, offers amendment to Section 3 (EXHIBIT C), clarifying language in Subsection 1.b.
262	Chair Welsh	Discusses need for additional meeting times to finish amendments. Adjourns meeting at 3:05 p.m.

Submitted By, Reviewed By,

Lynda Sloan, John Larson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2821, written materials, Ron Eachus, 1 p.

B - HB 2821, written materials, Rep. Jim Hill, 4 pp.

C - HB 2821, proposed amendment, Jim Deason, 1 p.