

HOUSE COMMITTEE ON POWER DEREGULATION

May 1, 1997 Hearing Room E

1:00 P.M. Tapes 136 -138

MEMBERS PRESENT:

Rep. Jim Welsh, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Randall Edwards

Rep. Jim Hill

Rep. Patti Milne

Rep. Lonnie Roberts

MEMBER EXCUSED:

Rep. Ken Strobeck

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 136, A		
004	Chair Welsh	Opens meeting at 1:20 p.m. Opens hearing on HB 2821.
<u>HB 2821 PUBLIC HEARING</u>		
	Jock	

010	Mills	Bonneville Power Administration (BPA) introduces speakers.
023	Paul Arnold	<p>Manager of Transmission Supply, BPA, discusses transmission scheduling (EXHIBIT A).</p> <ul style="list-style-type: none"> * role of scheduler * types of scheduling: by control area, with retail aggregators, and without retail aggregators * anticipated growth of scheduling transactions
075	Arnold	<p>Continues discussing transmission scheduling</p> <ul style="list-style-type: none"> * need for tracking at every level to keep control areas in balance * need for industry standard
104	David Mills	<p>Retail Wheeling Manager, BPA, discusses retail wheeling and BPA's current position on retail wheeling.</p> <ul style="list-style-type: none"> * committed to supporting state retail access efforts * committed to providing retail transmission services to IOUs for PUC approved demonstration projects * supports public utility retail customers consistent with current contracts * customers offered services through Western States Coordinating Council existing control area transmission scheduling practices * BPA to continue to refrain from retail wheeling to customers other than those with which BPA already has contracts
150	D. Mills	<p>Continues discussion. BPA not currently prepared to deal with level of transmission needed to meet individual retail transaction; can meet January 1, 2000, date if following conditions satisfied</p> <ul style="list-style-type: none"> * energy suppliers aggregate contracts to threshold beyond one megawatt * acknowledgment that BPA schedules transmission only between control areas * local distribution utilities be responsible for metering, billing, accounting for individual retail transactions * assure system reliability; develop system protocol for termination of services

		* thorough review of protocols
202	D. Mills	Continues discussion. Examples of what California is doing with retail wheeling. Transmission costs will rise; need to be cautious
220	Chair Welsh	Asks cost of single transaction.
223	Arnold	Says they don't have breakout of transition costs at this time.
239	Chair Welsh	Comments on need for aggregation among four northwest states. Asks effects on projections.
246	Arnold	States aggregators necessary to do adequate job; can minimize amount of additional infrastructure BPA needs to erect to accommodate retail wheeling.
253	Chair Welsh	Comments on possibility aggregation could reduce load.
263	D. Mills	Says need to find more cost effective solution than just investing in computers and developing software. Current process in development will bring BPA as transmission provider to wholesale level ability. Not ready to go to retail level.
277	Chair Welsh	Asks if working with customers on retail model.
279	D. Mills	No.
280	Chair Welsh	Asks when they expect to.
283	Arnold	Says no current plan for moving to retail wheeling because little definition on how supposed to work.
288	Rep. Wooten	Asks if not working on continuum to deal with retail sale of power and transmissions at this time.
298	D. Mills	Not just BPA issue. Western States Coordinating Council (WSCC) and other regional groups need to work with BPA to develop solution.
307	Rep. Wooten	Comments will have to go to aggregators, increase threshold, without suggesting amount. Asks for suggestion where to begin.
328	D. Mills	Says joint effort between WSCC, regional transmission groups, Northwest Power Pool, BPA, and transmission providers, and technical people to develop industry or regional standard and protocol for system is beginning place.
341	Rep. Wooten	Asks if he envisions this happening soon and whether BPA will initiate it.
346	D. Mills	Says will commit Bonneville to initiate, not lead, process.
348	Chair Welsh	Asks if some of these questions have been asked by Congressional members.
352	D. Mills	No.
355	Rep. Wooten	Asks him to estimate capacity of system to phase in competition in marketplace in the Northwest requiring, at an unknown, factor an

		increase in transmission loads.
375	D. Mills	Able to predict capacity of transmission system and load flow within 12-month period; i.e., volume of transactions, not megawatts; guessing what aggregation load will look like.
395	Chair Welsh	Asks if customers have suggested they begin working on answering some of these questions.
398	D. Mills	No.
403	Rep. Wooten	Asks how they anticipate factoring increased costs, and anticipated increase in threshold for aggregation.
412	D. Mills	Says costs not defined yet; some could be shared among all parties to transaction. Has not estimated level of aggregation.
Tape 137, A		
001	Rep. Wooten	Asks about equivalent standards for approximate megawatts for average residential customers.
005	D. Mills	Gives estimate.
011	Rep. Wooten	Asks how threshold would affect competition.
014	D. Mills	Doesn't anticipate affecting competition, depends on physical constraints of system.
023	Chair Welsh	Asks what can be done within the bill to improve Bonneville situation with regard to aggregation.
031	D. Mills	Says both sides would need to act within the aggregation function or responsibility.
042	Rep. Wooten	Asks how capacity of system relates to incidents such as when brown out occurred in California.
052	Arnold	Explains some load shedding necessary to stabilize system.
057	Rep. Wooten	Suggests it could happen again with unanticipated increase in transmission activity.
060	Arnold	Says would have to be planned for.
067	Chair Welsh	Asks if they will be moving into planning for such transmission problems and solutions soon.
071	D. Mills	Says BPA will convene group to develop a regional solution.
079	Rep. Wooten	Offers to ask Congressional delegation to request study.
		From Willkie Farr and Gallagher, bond counsel for Washington Public Power Supply System, testifies about concerns regarding HB 2821 in terms of bondholders and security for the bonds.
		* net billing agreements for purpose of securing bonds for building nuclear plants
	Peter	* net billing agreements legal basis for issuance and tax exemption basis

098	Kenny	<p>of bonds</p> <ul style="list-style-type: none"> * net billing agreements security for bonds * HB 2821 would impair ability of co-ops to comply with terms of net billing agreements * agreements dependent on utilities being able to charge sufficient fees to pay bonds
145	Kenny	<p>Continues testimony</p> <ul style="list-style-type: none"> * Adoption of statute that curtails or impairs ability of public utilities to comply with obligations under net billing agreements would necessitate filing disclosure. * \$7 billion in bonds at risk * Impairment of contractual agreement can cause downgrading of bonds as well as other disastrous effects. * Oregon doesn't want to be viewed as unwilling-to-pay.
210	Kenny	<p>Offers written testimony and suggested amendment (EXHIBIT B).</p> <ul style="list-style-type: none"> * Amendment allows utility to levy rate, fee, or charge to recover funds to meet its obligations under net billing agreements. * Utilities must have ability to live up to net billing agreement.
234	Rep. Wooten	<p>Asks Kenny to describe elements of act that might be considered to be detrimental or to inhibit the ability of utilities to comply with their obligations.</p>
237	Kenny	<p>Says because the net billing contracts expire in 2012, 2017, and 2018, a transition charge that expires in 2005 will not allow full collection of funds due for repayment. Other factors such as prudence review may also interfere, so legislation needs to address this obligation.</p>
258	Rep. Wooten	<p>Asks if rate cap on any of the options would contribute to perception of unwillingness to pay because time frames overlap.</p>
267	Kenny	<p>Explains reasons for bondholders to be nervous about direct access and possibility of non-repayment due to legislation limitations.</p>
282	Rep. Edwards	<p>Asks if there should be a sunset clause to cover retirement of bonds.</p>
290	Kenny	<p>Says bonds retire in 2018, but some financial obligation may continue for decommissioning, so funding may need to continue beyond retirement date.</p>
	Rep.	

308	Edwards	Asks if the move to deregulation troubles the investment community.
322	Kenny	Says anytime anything complicate is done fast, the financial community gets nervous.
338	Rep. Hill	Asks if it would be viewed as impairment of contract if legislation caused events that lowered loads on People's Utility Districts (PUD) and cooperatives below what they are today, but above what they were when contracts issued.
349	Kenny	Says load change not problem, but ability to levy charge to make payments.
385	Rep. Hill	Asks if legislature is being asked to give PUDs and co-ops an ability to do something they don't have today.
402	Kenny	Says this is maintaining status quo, which is to retain their ability to pay, and is not intended to give them any other power.
410	Rep. Hill	Discusses with Kenny assumptions about and conditions of market that could affect utility payments on contracts.
Due to equipment malfunction Tape 136 B recorded same information as 137 A.		
Tape 138, A		
001	Rep. Hill	Continues discussion with Kenny. Asks if HB 2821 contained no provision to regulate rates if there would be a problem.
019	Kenny	No.
021	Rep. Edwards	Asks about argument concerning public and private use bonds.
030	Kenny	Says too much private use of facility financed with tax exempt debt can cause bonds to become taxable.
054	Rep. Wooten	Asks if amendments suggested would protect utilities from the perception that legislation would inhibit ability of utilities to repay bonds.
059	Kenny	Yes.
060	Rep. Wooten	Comments on perceptions of utilities' ability to pay their obligations.
071	Kenny	Says competition may not lower market price below what is necessary to collect fees to pay obligations, but present form of bill contains potential restrictions on ability to raise charges.
089	Rep. Wooten	Comments on BPA.
101	Rep. Roberts	Asks if other states have come up against same concerns.

102	Kenny	Says has discussed same concerns with other states.
111	Rep. Wooten	Asks if public financing of stranded costs expands risk to rate payers so that it alleviates perceived inability to pay.
125	Kenny	Says it is securitization, and how much public pays depends on how much of stranded costs are allowed to be financed.
133	Rep. Wooten	Comments on similarity to privately bought timber sales at exorbitant prices that, when the market fell, the public bailed out existing contracts.
140	Rep. Hill	Comments if nothing placed which limits ability of entities to pass on costs, no problem; but if we limit the ability of utilities to levy sufficient charges to meet obligations under these contracts, there is a problem.
160	Kenny	Says yes. In Montana they allow utilities to charge until problem is solved.
175	Larry Cable	<p>Cable Huston, special counsel to Eugene Water and Electric Board and special counsel to other public utilities, offers testimony in response to Kenny's testimony on HB 2821.</p> <p>* comments regarding perception of bill's effect on utility's ability to pay</p> <p>* consider not only security of utilities, but also security offered by BPA to payment of debts</p> <p>* explanation of BPA agreements</p>
225	Cable	<p>Continues testimony.</p> <p>* Quotes 1974 letter from Don Hodel, then administrator of BPA, to Jack Stein (EXHIBIT C).</p> <p>* series of bonds marketed on multi-security basis; if any one security weakened, Oregon law inherently in deregulation may result in potential for lawsuits to determine constitutionality of law as to whether there is impairment of contract</p> <p>* makes sense to include provision in law to avoid perception of impairment of contract</p> <p>* if provision included, important for deregulation to occur that four Northwest state governments and Northwest Congressional delegation face directly proposition: "that if Bonneville does what it said it will do in this letter of commitment, there will never be one nickel or dime paid under the kind of provision that is being suggested because Bonneville will pay on a parity basis with its operating and maintenance expenses as a function of a legal continuing appropriation all sums due to pay the net bill debt."</p>

		* provision, which may be justified because of perception, will not affect ability to deregulate
291	Rep. Hill	Asks if letter part of contract and considered contractual obligation.
299	Cable	Views as contractual obligation; but Bonneville counsel could say Congress may change fund to make money not available.
315	Rep. Hill	Asks about exclusivity and constitutional right of public utility to sell within and without area.
330	Cable	Says he agrees they can sell within and without, but nobody else can sell within. Says if things go they way they should, there should be no money paid by public utilities that is not reimbursed by BPA. Explains conditions that conceivably could preclude that.
366	Rep. Hill	Asks for copies of letter.
368	Cable	Will supply.
373	Rep. Wooten	Asks what language he would suggest that would not give license to find State of Oregon at fault by virtue of impairment and/or protects those we want to and still allow us to foster competition.
395	Cable	Says BPA and WPPSS are trying to address problem, and thinks prudent to have language in nature of what they are suggesting, but not leading to impairment of BPA's current absolute obligation to pay debts.
407	Rep. Wooten	Says would like language that would provide "contours of protection" and allow competition to move forward.
419	Rep. Edwards	Asks what to suggest to Congressional delegation to put in federal statute that would help protect.
Tape 137, B		
005	Cable	Yes.
012	Rep. Wooten	Asks if a competitive marketplace would be better served or have ability to go forward without legislation for restructuring in Oregon.
021	Cable	Says many possibilities for competition under existing statute, gives examples.
034	Chair Welsh	Comments on prices. Comments that language in Section 16 relates to BPA contract.
059	Rep. Hill	Distributes to Committee copies of constitutional provision on PUDs concerning PUD authorization to sell within and without assigned territories.
070	Chair Welsh	Explains that Committee will be reviewing proposed -2 amendments to HB 2821. Opens work session on HB 2821.
<u>HB 2821 WORK SESSION</u>		

077	John Larson	Reviews proposed -2 amendments to HB 2821-A (EXHIBIT D).
121	Rep. Roberts	Asks what is meant by tariffs.
124	Ron Eachus	Explains tariffs with respect to Public Utility Commission. Explains that tariffs and rates are common terms used by PUC in statutes relating to utilities.
140	Rep. Roberts	Asks if concerned parties have seen these amendments.
142	Chair Welsh	Says they have been agreed upon by work group participants. Asks for motion to move to HB 2821A.
167	Rep. Roberts	Moves -2 amends to HB 2821, dated 4-24-97.
173	Rep. Hill	Reserves ability to change if future objections arise.
184	Rep. Edwards	Agrees with adopting amendment to facilitate discussion. More discussion needed with respect to date and net billing agreements.
199	Chair Welsh	Says intent is to facilitate process.
205	Rep. Milne	Supports moving amendment.
210	Rep. Roberts	Calls for question.
214	Chair Welsh	Calls for vote.
220		VOTE: 5-0 EXCUSED: 2 - Strobeck, Wooten
	Chair	Hearing no objection, declares the motion CARRIED.
228	Rep. Hill	Moves -3 amendments to HB 2821A, again reserving ability to change if warranted after further discussion.
238	Rep. Edwards	Supports moving -3 with same reservations.
244	Larson	Reviews-3 amendments.
253	Chair Welsh	Calls for vote.
		VOTE: 5-0 EXCUSED: 2 - Strobeck, Wooten
	Chair	Hearing no objection, declares the motion CARRIED.

260	Rep. Roberts	Asks about -4 change.
264	Larson	Explains -4 amendment.
273	Rep. Hill	Asks if it was something neglected in A-engrossed version.
278	Chair Welsh	Yes.
279	Rep. Hill	Moves -4 amendment to HB 2821A.
282	Chair Welsh	Calls for vote.
		VOTE: 5-0
		EXCUSED: 2 - Strobeck, Wooten
	Chair	Hearing no objection, declares the motion CARRIED.
292	Rep. Roberts	Asks if Legislative Council could review suggestions regarding bonding and provide some information on them to Committee.
298	Chair Welsh	Says will continue discussion on Monday and asks Ron Eachus to give short form explanation.
306	Eachus	Says not prepared to respond.
315	Chair Welsh	Adjourns meeting at 3:06 p.m.

Submitted By, Reviewed By,

Lynda Sloan, John Larson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2821, written testimony, Jock Mills, 6 pp.

B - HB 2821, written testimony, Peter Kenny, 2 pp.

C - HB 2821, letter, Jock Mills, 2 pp.

C - HB 2821, Staff, 13 pp.