

HOUSE COMMITTEE ON POWER DEREGULATION

May 7, 1997 Hearing Room E

6:00 P.M. Tapes 145 - 148

MEMBERS PRESENT:

Rep. Jim Welsh, Chair

Rep. Jim Hill

Rep. Patti Milne

Rep. Ken Strobeck

MEMBER EXCUSED:

Rep. Randall Edwards

Rep. Lonnie Roberts

Rep. Cynthia Wooten, Vice-Chair

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 145, A		
001	Chair Welsh	Opens meeting in subcommittee at 6:18 p.m. Announces further evening meetings will be scheduled if necessary to finish work on bill. Begins with Section 13 of HB 2821.
<u>HB 2821 PUBLIC HEARING</u>		
HB 2821, letter from		

Lee Sparling submitted for record by Rep. Hill.		
046	Steven Weiss	Fair and Clean Energy Coalition, offers amendment to HB 2821 (EXHIBIT B) . Amendment provides for intervenor funding to provide technical assistance to Public Utility Commission.
083	Rep. Hill	Says he won't support amendment.
086	Denise McPhail	Portland General Electric (PGE), offers testimony and amendment to HB 2821 (EXHIBIT C) . Discusses implications of amendment. * Public Utility Commission (PUC) has ability to hire experts needed. * joint responsibility on transmission filings * suggest July 1, 1999, for Federal Energy Regulatory Commission (FERC) filing * PUC suggests leaving in November 1 filing date. * PGE will not ask for this amendment to go forward.
106	Rep. Hill	Asks consequences of not meeting filing dates.
107	McPhail	Says without FERC determination, it is difficult to go forward with restructuring on January 1.
120	Jim Anderson	PacifiCorp, offers amendments on HB 2821, Section 13 (EXHIBIT D) .
129	Jim Paine	Stoel Rives, representing PacifiCorp. Testifies for amendments to HB 2821. Discusses amendments. * details necessary for filing with PUC * general rate case not necessary for filing
144	Chair Welsh	Asks about language deleted in subsection 3.
148	Paine	Says current wording reflects general rate case filing; describes what they feel is necessary to file with PUC.
160	Rep. Hill	Asks for clarification of PacifiCorp amendment.
169	Paine	Explains purpose of amendment.
187	Ron Eachus	PUC. Says they have no amendment to 13 but willing to discuss implications of Section 13.
198	Chair Welsh	Asks if need for reference to People's Utility District and municipals in subsections (e)(2) and (4).
204	Eachus	Reluctant to discuss, not area of expertise. Explains implications of Section 13 for PUC.

247	Bill Warren	<p>PUC. Explains rate setting process PUC will follow to implement Section 13.</p> <ul style="list-style-type: none"> * Determine reasonable amount of revenues utilities collect from customers to set rates for unbundled services appropriately. * Company files revenue requirement by January 1, 1998. * Activities in Section 4 of timeline (EXHIBIT E) begin later in year. * Section 4 activities usually contentious
328	Rep. Hill	Asks how PUC will assess fees or be funded in deregulated market.
338	Eachus	<p>Discusses Rep. Hill's question.</p> <ul style="list-style-type: none"> * Workload over next four to six years could increase. * Gross revenues on which funding based may decrease. * Working group is dealing with funding methods. * Rate case will likely be needed to work out kinks. * If PacifiCorp approach adopted, ensure it doesn't preclude PUC ability to require rate case, if necessary. * Timeline provided is based on information needed for January 1, 2000 date.
396	Warren	Gives example of how timeline could change. Notes rate cases will occur even after open access begins.
419	Chair Welsh	Asks about language in Section 13(b)(2) which refers to PUD or governing bodies in subsection (4).
425	Tom O'Connor	Oregon Municipal Electric Utilities. Objects to date of implementation only.
Tape 146, A		
004	Chair Welsh	Requests testimony on Section 14.
026	McPhail	Offers amendment to Section 14 (EXHIBIT F). Discusses changes.
036	Chair Welsh	Requests testimony on National Electrical Contractors Association (NECA) amendment to Section 14, which was submitted to committee prior to meeting.
043	John Larson	Says NECA asked new subsection (4) be added to Section 14. Reads NECA amendment.
		International Brotherhood of Electrical Workers. Comments on

049	Liz Shuler	NECA amendment, says NECA will be making some changes to proposed amendment.
065	Eachus	Discusses amendment deleting subsection (1) of Section 14. PUC amendment deletes date January 1, 1999.
088	Chair Welsh	Asks if PUC wishes to comment on subsection (3) deletion.
093	Rep. Hill	Says covered under subsection (3), right of customer to choose.
095	Chair Welsh	Asks if subsection (3) necessary.
096	Rep. Hill	Subsection (3) does not guarantee that every electric utility will provide service.
105	McPhail	Section 6 addresses that issue.
106	Rep. Hill	Accepts tied to Section 6, not Section 3.
113	Chair Welsh	Notes Section 3 can be excluded.
121	Rep. Hill	Comments "to maximum extent permitted by federal law" not covered in Section 6.
137	McPhail	Says may relate to publicly owned transmission systems because they are not under FERC regulation.
135	Rep. Hill	It refers to direct access. Needs clearer language.
152	Chair Welsh	Refers to definition of direct access in bill.
157	McPhail	Notes points they want clarified in Section 14. * regarding publishing tariffs * line 20 regarding direct access to distribution facilities
180	Jim Deason	Eugene Water and Electric Board. Ensure subsection (3)(b) does not create right of interconnection.
190	Rep. Hill	Asks if term "direct access to distribution facilities" implies right to connect.
193	Deason	Says no, explains meaning of term.
200	Rep. Hill	Says term appears not to be used as defined
210	McPhail	Explains it means necessary ancillary services.
219	Rep. Hill	Says doesn't make sense in context of definition of direct access.
226	Jock Mills	Bonneville Power Administration. Says it seems to place more responsibility on transmission system than distribution system. Says this section doesn't deal with Direct Service Industries (DSIs) in Oregon.
247	Rep. Hill	Asks if this bill makes it possible for a retail customer to choose to bypass distribution.
251	Chair Welsh	Asks where language came from. Recommends deleting phrase.
260	Committee	Discusses changes in language in subsection (13).
		Says purpose of subsection (13) may be to require unbundling.

284	Eachus	If unbundling covered elsewhere, section is redundant.
305	Chair Welsh	Asks if Section 13 is needed.
306	Eachus	Discusses other sections that address unbundling of services.
342	Committee	Discusses with panel
353		* what language to retain and eliminate
413		* degree of specificity of unbundled products
		* necessity of language about publishing rates
Tape 145, B		
001	Committee	Continues discussion.
012	Chair Welsh	Moves to Section 15, Comparability.
016	McPhail	Offers amendment (EXHIBIT G). Discusses amendment.
026	Dan Meek	Residential Energy Service Companies. Agrees with McPhail's language. Notes problem in subsection (2). Suggests adding "or necessary to allow efficient provision of services by electric service providers."
044	Eachus	Suggests adding "service" rather than replacing "facilities."
061	Rep. Hill	Asks if deregulation will be creating proprietary information on systems that could put distribution facilities at a disadvantage.
065	Eachus	Assumes PUC continues to regulate distribution facility and it would not create proprietary information.
075	Rep. Hill	Suggests adding language making PUC the arbiter in cases where proprietary information might be involved.
089	Eachus	Says existing law and consumer protection section would cover those situations.
091	Rep. Hill	Explains reasons for suggested language.
101	Eachus	Section 23 gives PUC necessary authority to establish rules on that type of information.
105	Rep. Hill	Comments on ties between Sections 15 and 23.
107	Eachus	Says it is a comparability issue. PUC determines what information is available when.
118	Rep Welsh	Asks Meek about including "distribution services" and "distribution facilities."
122	Meek	Refers to definition of distribution in bill. Discusses problems with terminology.
139	Chair Welsh	Comments on terms defined and not defined in bill.
156	Meek	Suggest terms that could be used.
171	Chair Welsh	Moves to Section 16, Transition charge; notes some amendments already submitted

186	Weiss	<p>Fair and Clean Energy Coalition. Submits written testimony on Section 16 (EXHIBIT H). Suggests moving entire section to study. Discusses stranded costs</p> <ul style="list-style-type: none"> * reasons Investor Owned Utilities (IOUs) want stranded costs recovery * reasons not to allow stranded costs recovery * recommends task force study stranded costs recovery * problem with Section 16 * suggestions for implementation of Section 16, if retained
319	Anderson	Discusses amendment to Section 16 (EXHIBIT I). Notes two changes in text of amendment.
369	Paine	Discusses amendment to Section 16. Proposes manner in which stranded costs handled. Explains reasons for suggestions.
Tape 146, B		
001	Paine	Continues discussing Section 16 amendment.
012	Chair Welsh	Asks Paine if Section 16 were passed to task force if he would be discussing this point again.
020	Rep. Hill	<p>Engages Paine in discussion about various points of amendment.</p> <ul style="list-style-type: none"> * transition charges * market power credit
070	Rep. Hill	Continues dialogue with Paine about transition charges.
114	Bruce Hellebuyck	PacifiCorp. Comments on exchange between Rep. Hill and Paine.
124	Rep. Hill	Continues discussion with Hellebuyck and Paine regarding transition charges.
175	Rep. Hill	Continues discussion with panel about transition charges.
182		* explanation of tariff
202		* potential for manipulating market
225		* effect of competition on prices
250		* operating costs, fixed and variable
280		* how prices are set
300		* returns on shareholder investments

345	Rep. Hill	Continues discussion with panel.
355		* stranded costs calculations * limit on amount of recovery
405	Rep. Hill	Continues discussion with panel regarding calculation of stranded costs.
Tape 147, A		
001	Rep. Hill	Continues discussion with panel regarding stranded costs.
032	Chair Welsh	Recommends Section 16 be placed with interim task force.
045	Rep. Strobeck	Recommends authorizing governing bodies and PUC to continue working on this section with task force.
055	Deason	EWEB. Requests, if transition period is retained, EWEB be allowed to retain exception for BPA language in 16 (2).
HB 2821 amendment to Section 16 submitted for record by Denise McPhail (EXHIBIT J) .		
069	Chair Welsh	Moves to Section 17, Statutory obligation to connect and provision of ancillary services.
081	Weiss	Fair and Clean Energy Coalition. Discusses concerns with language in Section 17.
098	Deason	Explains purpose of language is to maintain existing methods in law for reallocation of exclusive service territories.
108	Weiss	Comments not really necessary.
121	Deason	Provides obligation to connect. Suggests clarifying language if needed.
141	McPhail	PGE. Comments on language regarding obligation to connect within own service territory.
153	Chair Welsh	Says language needs to accommodate EWEB request.
154	Discussion among members of audience.	
172	Deason	Suggests adding "notwithstanding existing law" or similar term to amendment.
176	Eachus	Explains PUC statutes presently cover territorial allocations.
189	Deason	Says service territories encompass more than exclusive territorial allocation statutes.
195	Eachus	Says amendment seems to say, "if you're not prohibited by law, you can do it," and language suggests "if you're not otherwise

		prohibited by law, you can do what law allows you to do," and thus is unnecessary.
203	Deason	Agrees.
205	Chair Welsh	Asks if it could be deleted then.
206	Deason	Agrees, if that is committee's understanding.
212	Eachus	Withdraws PUC amendment as unnecessary.
HB 2821 amendment to Section 17 submitted for record by Denise McPhail (EXHIBIT K).		
226	Chair Welsh	Moves to Section 18 amendments.
254	Deason	EWEB. Submits and discusses amendment to Section 18 (EXHIBIT L) ; eliminates subsection (2). * duplicates federal and state laws governing anti-trust, undue market power influences, and unfair business practices * overly broad as applied to distribution systems which will remain regulated
272	Chair Welsh	Asks if anyone objects to amendment.
275	Meek	Residential Energy Service Companies. Objects to deletion of subsection (2). Explains objection.
305	Deason	Distribution will and should remain regulated. Subsection (2) too broadly written to be effective.
322	Meek	Suggests limiting to distribution utility or function.
327	Chair Welsh	Asks for suggestion of language.
328	Jim Gardner	Enron. Discusses how anti-trust law works as deregulation takes effect; says it takes effect automatically.
349	Meek	Says it still doesn't pertain to statutes relating to unfair business practices; suggests adding "except for distribution function of electric utilities" to end of subsection (2).
360	Gardner	Says Meek's suggestion won't work either and that EWEB's and PUC's recommendations should be followed.
367	Meek	Says that creates loophole in which there is not PUC supervision or normal laws pertaining to unfair trade practices governing what company does.
375	Eachus	PUC. Says elimination retains state action exemption and all other existing laws apply. Says he feels the section could be deleted.
		Says state action exemption is doctrine of federal common law. Expresses concern about provision now in bill; quotes section; refers to ORS 646.608, Oregon unfair trade practices act. Notes

414	Meek	other ORS acts specifically include exemptions for violations of acts perpetrated by business regulated by PUC. Says he believes those exemptions should not continue, which subsection (2) accomplishes.
Tape 148, A		
001	Meek	Continues discussing reasons not to eliminate subsection (2).
012	Brad VanCleve	Oregon Energy Coalition. Expresses concern that state action exemption may immunize conduct of a utility with respect to services it is offering in competitive market. Suggests lead in to section, "With respect to any services that an electric utility offers that are subject to competition, the electric utility shall not be entitled to any exemption from anti-trust laws or laws relating to unfair business practices."
023	Gardner	Objects to VanCleve's suggestion. Restates argument that anti-trust laws will take over as deregulation is implemented.
033	Meek	Says what Gardner is talking about does not relate to unfair business practices part, which has nothing to do with state action exemption.
036	Gardner	Notes reason other exemptions in law is an assumption that it is subject to oversight by PUC. Says whole section can come out.
042	Eachus	Says Gardner correct. Notes that rules are being established to govern competitive market.
050	Chair Welsh	Asks if using VanCleve's language will work if phrase "anti-trust" is removed.
054	VanCleve	Says anti-trust should remain. Explains why.
060	Chair Welsh	Says will take consumer side and take both recommendations, leaving anti-trust in.
062	Larson	Reads suggested language.
069	Chair Welsh	Asks if anyone else wishes to comment on Section 18.
075	Anderson	PacifiCorp. Withdraws Section 18 amendments (EXHIBIT M), supports EWEB's suggestion to delete subsection (2).
078	Chair Welsh	Says will take suggestion under consideration.
083	McPhail	PGE. Supports EWEB amendment. Does not discuss PGE amendment to section 18 (EXHIBIT N).
088	Eachus	Comments on Section 18. Supports eliminating subsection (2).
103	Chair Welsh	Asks Eachus, VanCleve and Meek to get together on language.
106	Eachus	Recommends someone other than himself to work on this assignment. Says they have discussed this section with Attorney General's office, who advised that section does create problems. Says will take VanCleve's suggestion to them. Discusses PUC amendment to Section 18 previously distributed to committee.
141	Chair Welsh	Adjourns at 9:07 p.m. Cancels Thursday, 6:00-9:00 p.m.,

Submitted By, Reviewed By,

Lynda Sloan, John Larson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2821, letter from Lee Sparling, Rep. Hill, 2 pp.

B - HB 2821, proposed amendment, Steven Weiss, 1 p.

C - HB 2821, proposed amendment, Denise McPhail, 1 p.

D - HB 2821, proposed amendments, Jim Anderson, 4 p.

E - HB 2821, chart, Ron Eachus, 1 p.

F - HB 2821, proposed amendment, Denise McPhail, 1 p.

G - HB 2821, proposed amendment, Denise McPhail, 1 p.

H - HB 2821, written testimony, Steven Weiss, 2 pp.

I - HB 2821, proposed amendments, Jim Anderson, 6 pp.

J - HB 2821, proposed amendments, Denise McPhail, 3 pp.

K - HB 2821, proposed amendments, Denise McPhail, 2 pp.

L - HB 2821, proposed amendments, Libby Henry, 1 p.

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

N - HB 2821, proposed amendments, Denise McPhail, 1 p.