

**HOUSE COMMITTEE ON POWER DEREGULATION WORK GROUP**

**March 19, 1997 Hearing Room 137**

**1:00 p.m. Tapes 57 - 60**

**MEMBERS PRESENT:**

**Rep. Jim Welsh, Chair**

**STAFF PRESENT:**

**John Larson, Administrator**

**Mieko Aoki, Administrative Support**

**Lynda Sloan, Administrative Support**

**MEMBERS OF PUBLIC PRESENT:**

**Jim Anderson, PacifiCorp**

**Gary Conkling, Oregon Energy Coalition**

**Diane Cowan, Oregon People's Utility District Association**

**Karla Droste, Springfield Utility Board**

**Ron Eachus, Oregon Public Utility Commission**

**Jason Eisdorfer, Fair and Clean Energy Coalition**

**Sandra Flicker, Oregon Rural Electric Cooperative Association**

**John Glascock, American Association of Retired Persons**

**Libby Henry, Eugene Water and Electric Board**

**Denise McPhail, Portland General Electric**

**Paul Murphy, PG & E Energy Service et al**

**Tom O'Connor, Oregon Municipal Electric Utilities**

**John Savage, Office of Energy**

**Brad VanCleve, Oregon Energy Coalition**

**Bill Warren, Public Utility Commission**

**ISSUES DISCUSSED:**

**DEVELOPMENT OF CONSENSUS BILL**

**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 57, A		
001	John Larson	Opens meeting at 1:25 p.m. Makes announcements about future meetings. Announces agenda for the day. Suggests starting with Section 19.
028	Ron Eachus	<p>Says Section 19 incorporated into consumer protection. Discusses consumer protection issues.</p> <ul style="list-style-type: none"> <li>* handout suggested amendments and consumer protection issues (<b>EXHIBIT A</b>)</li> <li>* focus on objective rather than language</li> <li>* combine Sections 19, 20, 21, 28</li> <li>* rules for bill disclosure and other issues.</li> </ul>
085	Eachus	<p>Continues discussion of proposed amendments</p> <ul style="list-style-type: none"> <li>* Public Utility Commission (PUC) would work in collaboration with Department of Energy to establish rules.</li> <li>* Establish rules for third party market providers.</li> <li>* Explains amendments.</li> </ul>
140	Denise McPhail	Asks about application of rules to group of residential customers whose aggregate load is over 1 megawatt.
142	Work Group	Discusses whether or not the rules will apply to aggregated residential customers.
190	Work Group	<p>Continues discussion about aggregated customers</p> <ul style="list-style-type: none"> <li>* waiver of rules when necessary</li> </ul>
248	Work Group	<p>Continues discussing aggregated customers</p> <ul style="list-style-type: none"> <li>* size of megawatt demand</li> <li>* size of customer</li> <li>* suggestion of changing wording to "electricity to end use customers"</li> </ul>

300	Work Group	Continues discussing aggregated customers * example of type of aggregation that might come under rules
350	Work Group	Continues discussing aggregation * definitions of aggregators * third party marketers * market incentives/disincentives for smaller customer
406	Work Group	Continues discussing aggregation.
<b>Tape 58, A</b>		
001	Eachus	Continues discussing aggregation * need to define when customer aggregating own load and when aggregator aggregating many customers' load, thus becoming third party marketer * rules to apply except when specific waiver granted * whether threshold creates disincentive for marketer to sell to small businesses or residential customers
031	Larson	Suggests moving on with section and revisit later if necessary.
032	Eachus	Discusses issues rules need to encompass * electric service metering requirements; billing services and bill disclosure; credit practices and redlining; unfair trade and marketing practices; unauthorized change of electricity service supplier; dispute resolution * Section 9 of amendment: issues related to environmental impact; claims about resource mix; renewable resources; definitions of terms; truth in labeling <b>(EXHIBIT A, page 6)</b> * Office of Energy would incorporate into rule requirements
071	Work Group	Discusses * truth in labeling sources of power * investigative process for issues * customer information for making choices
119	Work	Discusses * handling claims being made about power sources

	Group	* disclosure rules that apply to everyone * authority to enforce
172	Eisdorfer	Says last sentence in 9 should read "shall". Asks for clarification on page 6 (a), retail customer's right to electricity service.
180	Work Group	Discusses page 6, amendment 8 (a) <b>(EXHIBIT A, page 6)</b> * possible need for rules governing power shut-off
225	Work Group	Continues discussing amendment 8 (a).
275	Work Group	Continues discussing amendment 8 (a). * need for rules governing partial payment of bill to power marketer * public utility may set own rules for distribution company * responsibility of power marketer
309	Larson	Asks what on list needs to be included, and what should be included that is not on list.
314	Eachus	Says some things may already be covered in statute.
317	Larson	Asks if he is suggesting complete walk through of section without worrying about whether wording exact at this time.
333	Work Group	Discusses * rule making with regard to distribution company * third party energy suppliers
383	O'Connor	Notes that some issues are consumer oriented issues, some deal with relationship between distribution company and supplier, and asks what these rules are intended to address.
407	Eachus	Says rules are intended to address what a third party power marketer must abide by, and that if there are rules that are more appropriate for distribution company to establish, it ought to be able to establish those; says PUC would do that for the 80 percent load. Says trying to avoid having many different sets of rules for power marketers to abide by.
<b>Tape 57, B</b>		
001	Eachus	Continues discussing rules related to power marketers.
050	Eachus	Says he feels it is easier for third party marketers to operate if there is one set of rules everywhere that have been defined by an independent party because it is a competitive issue.
067	Paul Murphy	Says conceptually it makes sense as far a consumer protection is concerned. Says non-delivery issues would be more appropriately handled as contractual issues between distribution utility and supplier, with a forum for disputes.

090	Work Group	Discusses need for rule making.
129	Eachus	Discusses 28.2 of Strawman bill ( <b>EXHIBIT B, page 31</b> ), safety and reliability rules * moved to Section 28.6, reflects language previously approved * Section 28.3, marketers serving residential customers; deleted
152	Jim Tarpey	Asks reason Strawman proposal should not be followed.
157	Eachus	Says it expanded context of list of rules to include areas that were more than just price related.
183	Eachus	Discusses Section 28.4, intervenor funding * rest of bill can stand with or without it * controversial issue * Section 28.5, complaint process, OEC and PUC deleted because already in Section 23.
216	Eachus	Discusses Section 19, registration procedures for certain electricity service providers; added to section 28 and included some different provisions * no need to certify PUDs, municipals, cooperatives in their own territories * waiver of registration process * small fee for registration and certification * authority to assess fines or revoke certificates for failure to obey * rules to ensure compliance with registration procedure * criteria for certification, which is included in Section 1 * waiver of certification for existing utilities entering third-party market
275	Eisdorfer	Asks how state will maintain connection for collecting public purposes, stranded costs, or franchise fees.
300	Work Group	Discusses maintenance of state connection * budgetary effects on Office of Energy * whether to set threshold or certify all providers, regardless of who serving * simple provision in statute; allow Commission to create rules that make sense

		* universal registry
350	Work Group	Continues discussion of maintenance of state connection * three different groups being dealt with: utility serving its own load; power marketer coming in; and existing utility going into third party marketing * certification of new entity created by existing utility to enter power market
<b>Tape 58, B</b>		
001	O'Connor	Asks about requirements that already exist in statute, what they are, how they would interface, and role of Attorney General's (AG) office.
012	Eachus	Says PUC has had experience with similar issue in telecommunications. Notes that in many cases enforcement of rules is with AG's office in Fair Trade Practice aspects. Says not usual to declare that a market exists; therefore, rules need to be established, but enforcement could be with AG's office.
068	Work Group	Discusses example of how PGE as a utility, without having formed a separate entity, could go out and browse in Pacific and EWEB and others' territories and not be considered an energy supplier. * They are deemed to have certificate if they certify they are complying with reciprocity provisions and conforming to the rules and standards. * They could continue as functionally bundled utility, and any cross-subsidization would be dealt with under existing law and statutes.
118	Work Group	Continues to discuss example * If utilities go out into market, uniform rules and standards would apply, but within their own service territories utilities' rules apply.
170	Work Group	Continues to discuss rules * Two sets of rules would apply only when new marketers come into existing territories. * Need to clarify how to deal with customer complaints.
225	Work Group	Continues discussing customer complaint issues.
257	Murphy	Says section 23 and 25 cover same issues, with some overlap. Says Section 23 allows complaints only by retail electric customers on abuse of market power, and Section 25 gives broader authority to regulate and deal with complaints of abuse of market power. Important end use customers and marketers have same ability to initiate complaints.
300	Eachus	Discusses Section 20, reliability and quality of service * used language of previous meeting, reflected in revised proposal, and moved it to Section 28.5

316	Eachus	<p>Discusses full itemized disclosure</p> <p>* retained Subsection 2 with modifications of Section 28.7 (<b>EXHIBIT A, page 4</b>), which changed it to read "have right to request and receive"</p> <p>* added "if a retail electric customer does not request separate bills, the electric utility shall . . ." and took out "with the permission of"</p> <p>* Subsection 1.c from Section 21 language included in Subsection 2, which related to certificates</p>
370	Eachus	<p>Continues discussing changes</p> <p>* Section 21, items 1.a and b, which say "every bill will contain a complete and accurate list . . . and rates and amount of state and local taxes and fees" was not included because they assumed it would be covered in list of rule making.</p> <p>* Says he has no objection to including Section 21.1.a and b of Strawman Bill in rule making</p>
412	McPhail	Asks if Subsection 7 makes the distribution company responsible for billing if customer does not elect to have separate bills.
<b>Tape 59, A</b>		
001	Work Group	<p>Discusses billing issues</p> <p>* consolidated billing to minimize customer confusion</p> <p>* outsourcing billing</p> <p>* customer choice for new billing source</p>
050	Work Group	<p>Continues discussing billing issues</p> <p>* Consumer Owned Utility responsibility</p>
100	Work Group	Continues discussing billing issues.
150	Work Group	<p>Continues discussing billing issues</p> <p>* itemize franchise fees and taxes</p> <p>* appropriate function for rule making body</p>
218	Eachus	Says Section 28 will be done by rule making and will retain that language as statutory language.
235	Anderson	Asks where Sections 21.a and b were being moved.
236	Eachus	Says it has not been decided where to include it.
239	Anderson	Says they need to decide which fees are going to be covered by rule making.

242	Eachus	Says could leave in statute and refer to section on rule making. Says if billing can only be done by distribution company, rules for open market will not apply and will have to be separate statute that doesn't reference rule making.
277	Work Group	Discusses waiver of certificate if serving 1 megawatt or more * whether everyone would start out being certified * assumption PUC would be able to waive requirement
300	Murphy	Says rules necessary for small consumers may be different from rules for supplier for large consumer. Says should be certification for all electric suppliers in state.
311	Eachus	Suggests third option. * Include as is, but allow PUC to impose certification requirement at later time if in public interest to do so. * Waive in statute with ability to impose later.
329	Work Group	Discusses proposals regarding certification * whether certification necessary * leave proposal as is, with waiver of certification based on 1 megawatt for individual large customer
367	Eachus	Suggests voting on waiver of certification requirement based on 1 megawatt for individual customers.
375	Work Group	Discusses the question.
399	<b>Vote</b>	<b>NO</b> on leaving proposal in.
402	Eachus	Proposes vote on question, "Should it be required of everybody to be registered and certified?"
404	Murphy	Asks who "everybody" includes.
406	Eachus	Responds all suppliers, but not utilities in their own territories.
407	Murphy	Asks why it does not include utilities in their own territories.
408	Cowan	Says because in three-fourths of service territory customers may attend to governing board meetings where governing issues are decided.
415	Eachus	Says they are already certified and should not have to file and pay fees again for territories they are already allocated.
<b>Tape 60, A</b>		
003	O'Connor	Explains why they voted against leaving proposal in. Asks for clarification.
		Discusses certification waiver * absolute exemption for any supplier who does not serve anyone below a megawatt from being certified and regulated



010	Work Group	<ul style="list-style-type: none"> <li>* assumes consumer is informed enough to protect its own interests</li> <li>* who collects taxes and franchise fees</li> <li>* universal obligations</li> </ul>
060	Work Group	Continues discussing certification waiver.
079	McPhail	Notes that in franchise fee discussion question arose regarding ability to impose taxes on out of state provider for services that use common carriers. Says suggested solution was requiring registered business presence in Oregon. Suggests a provision be included to shore up <i>nexus</i> question to assure ability to remit to state public purposes fund.
097	Work Group	<p>Discusses certification issues</p> <ul style="list-style-type: none"> <li>* many questions to answer about privilege tax issues, such as what they relate to, what limitations subject to, and categories they fall into</li> </ul>
146	Murphy	<p>Says he has three questions</p> <ul style="list-style-type: none"> <li>* whether electric suppliers register in any form in the state</li> <li>* whether there is financial responsibility requirement in statute that applies only for certain types of sales</li> <li>* scope of the rules</li> </ul> <p>Says question of providing notice to state that a business is operating is different from meeting financial responsibility requirements for small customers.</p>
161	Eachus	Says there was no discussion of the differentiation between a provider giving notice of serving in Oregon and requiring providers to be certified to serve in Oregon.
180	Work Group	Discusses certification issues.
195	Eachus	Proposes new option: the exemption stays in, but Commission has authority to waive exemption and require certification if necessary or in public interest to do so. Says he sees four issues and suggests vote on each one.
206	Work Group	<p>Discusses options</p> <ul style="list-style-type: none"> <li>* whether default needs to be that everyone is certified</li> <li>* registration for everyone with waiver for those serving one customer in excess of 1 megawatt</li> <li>* whether waiving means no registration or notice of being in Oregon at all</li> </ul>
266	Eisdorfer	Says it is not just notifying, but rather it is giving state recourse to ensure supplier is fulfilling statewide obligations.

289	Conkling	Comments on Eisdorfer's suggestion.
316	Eachus	Asks how many are okay with proposals. Determines that group prefers everyone to be certified with PUC having authority to waive certification when appropriate.
373	Bill Warren	Says no compelling reason to require large suppliers to register.
385	Work Group	Discusses certification issues.
420	Eachus	Asks for straw vote on exemption for everyone with PUC authority to revoke waiver and on everyone certified with PUC authority to grant waiver. There was no consensus on either issue.
<b>Tape 59, B</b>		
001	Work Group	Continues discussing certification issues. * whether one of the options imposes delay on industrial customers that could void a deal * possibility of using blanket waiver * enforcement
053	Larson	Discusses agenda of Monday's meeting.
062	Murphy	Asks what policy issues need discussion.
063	Larson	States policy issues * timing of implementation * stranded costs * public purposes
070	Work Group	Discusses language on second option. * linkage of franchise fees, taxes, and public purposes charges * State <i>nexus</i> to obligate supplier in Section 1 * potentially adding additional disincentive for serving smaller customer in Section 2
116	Larson	Asks if they want to discuss intervenor funding.
121	Eachus	Discusses provision in Fair and Clean Energy Coalition bill for funding for intervenors. Notes it is in Section 10 of PUC amendments ( <b>EXHIBIT A, page 7</b> ). * applies to PUC intervention * PUC determines assessments

		* intervenor funding allowed as rate making expense and chargeable to class of customers represented by intervenor
172	Work Group	Discusses intervenor funding issues. * level of technical and administrative assistance * determinations made at PUC discretion
228	Work Group	Continues discussing intervenor funding issues. * demonstration of need * reason for effective date April 1, 1998
280	Work Group	* Continues discussing intervenor funding issues.
293	Eisdorfer	Notes areas PUC will need to decide that are directly affected by the bill * stranded costs * least cost planning * unbundling * possibly public purposes * consumer protection, including green power certification fees  Expresses concern that it is a large number of issues to give over to another process where an entire customer class does not have an equal voice in front of the decision makers. Notes that about 75 percent of states have a state-funded consumer council, and that some of these issues need to be decided within the group forum in order to maintain a level playing field on decisions that are critical to the bill. Recommends December 1, 1997 effective date because participation by all customer classes is necessary from inception.
337	McPhail	Notes that this issue has been debated for a number of years and has not become law due to the statutory charge to the PUC to act in the consumer's interest. Says that PUC has resources to hire experts and charge for the experts, whose charges are included in rates, and facilities have resisted paying additional fees for a process that is already in place for consumer protection.
358	Eisdorfer	Says PUC mandate is not only protection of consumer but also to ensure equal opportunities for providers.
395	McPhail	Asks why consumers of public utilities not equally protected and have opportunity to be paid for helping in their board and commission decisions.
410	Eisdorfer	Says the idea in public power is that if consumers don't like their decisions, they can vote out the boards or commissions, and that kind of linkage with the PUC does not exist.

<b>Tape 60 B</b>		
001	Work Group	Continues to discuss intervenor funding issues * types of issues that might be brought to PUC by intervenor
050	Work Group	Continues to discuss intervenor funding issues. * PUC expects related costs to be reasonable. * PUC expects that when intervention occurs, customer should end up better off by having intervention than not, and fees would be absorbed in savings to customer.
081	VanCleve	Asks if PUC considers environmental issues appropriate for funding and what class of customers would benefit.
084	Eachus	Says this issue was included because it was previously supported, but is a complicated issue when not involving rates and it is difficult to determine which class benefits.
099	John Glascock	Representing American Association of Retired Persons comments on lack of representation that he feels his constituency receives with regard to intervenor services. Says this is just trying to make an even playing field.
121	O'Connor	Says he will vote to abstain because of involvement with PUC. Says would prefer another method of consumer protection such as using combined expertise of state agencies, a consumer representative, industry representative, or similar combination.
149	Eisdorfer	Responds to O'Connor's suggestion, noting that a consumer council would be much more expensive than the present proposal.
168	Larson	Calls for vote on proposal.
174	<b>Vote</b>	<b>2/2/1</b> on proposal.
180	Larson	Discusses schedule for next few days. Adjourns meeting at 5:10 p.m.

Submitted By, Reviewed By,

Lynda Sloan, John Larson,

Administrative Support Administrator

### **EXHIBIT SUMMARY**

**A - HB 2821, proposed amendments, Eachus, 7 pp.**

**B - HB 2821, proposed amendments, Staff, 47 pp.**