HOUSE COMMITTEE ON POWER DEREGULATION WORK GROUP

April 3, 1997 Hearing Room E

1:00 P.M. Tapes 91 - 94

MEMBERS PRESENT:

Rep. Jim Welsh, Chair

STAFF PRESENT:

John Larson, Administrator

Lynda Sloan, Administrative Support

MEMBERS OF PUBLIC PRESENT:

Jim Anderson, PacifiCorp

Sarah Baker-Sifford, Oregon Rural Electric Cooperative Association

Gary Conkling, Oregon Energy Coalition

James Deason, Eugene Water and Electric Board

Karla Droste, Springfield Utility Board

Jay Dudley, Portland General Electric

Ron Eachus, Oregon Public Utility Commission

Jason Eisdorfer, Fair and Clean Energy Coalition

John Glascock, American Association of Retired Persons

Bruce Hellebuyck, Pacific Power and Light

Denise McPhail, Portland General Electric

Jim Payne, PacifiCorp

John Savage, Office of Energy

James Tarpey, Regulatory Affairs for Enron Capital and Trade Resources

Brad VanCleve, Oregon Energy Coalition

Steven Weiss, Fair and Clean Energy Coalition

Paul Wielgus, Enron

MEASURE/ISSUES HEARD:

Development of Consensus on 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 91, A		
005	Chair Welsh	Opens meeting at 1:15 p.m. Should we allow for recovery of stranded costs in the bill?
020	Chair Welsh	We are just discussing this. Vote 4-1 for a point of deliberation.
033	Chair Welsh	Question before us is consumer-owned versus investor-owned utilities.
036	Sarah Baker-Sifford	Oregon Rural Electric Cooperative Association (ORECA), discusses Public Utility Regulatory Policies Act of 1978 (PURPA) contracts issue for their utilities * approved by a previous public utility commission * high costs * cooperative required to take on contract * could force costs up * suggests PURPA contracts place to start with stranded costs recovery
059	Jason Eisdorfer	Fair and Clean Energy Coalition (FCEC), disagrees with that. Need to begin by deciding who makes the stranded costs decisions for utilities.
067	Jim Anderson	PacifiCorp, suggests dividing between regulatory and generation. Discuss one or the other.
072	Denise McPhail	Portland General Electric (PGE), discusses how to define the two.
077	Chair Welsh	Suggests regulatory stranded costs.
084	Steven Weiss	Fair and Clean Energy Coalition (FCEC), difficulty of defining which assets are regulatory * mixed assets * conservation expenditures * difficult to know how much of any asset is regulatory
113	McPhail	States cost effectiveness test subject to review by commission.

126	Work group	Discusses regulatory assets * pay for bad decisions * gain for good decisions * reason for possibly not allowing cost recovery * small customer might not gain from cost recovery * need for benefits to both customers and utilities * sharing stranded costs
180	McPhail	Asks what the benefit is to utilities to open service territory to choice and keep cities whole when their shareholders getting 50% of what they now have? Does not see opportunity with either the 0% or 50% scenario.
190	Eisdorfer	Have generated assets of which fixed costs are paid off * open market with no cap * make money * do not have to direct assets to customers
197	Jay Dudley	Portland General Electric (PGE), assets already paid off * benefits to customers * legal necessity * no solution other than 100% of stranded costs is acceptable * unconstitutional taking of property without just compensation
223	Weiss	Discusses assets * rules change * assets not worth what they were or can grow in value * Enron example * market share, reputation, and expertise have tremendous value in deregulated market
251	Dudley	Everything goes to the value of assets. Value needs to be put on assets in order to decide stranded costs.
		Discusses valuation of stranded costs

257	Work group	* legal implications * equity of sharing * if assets increase in value, share with ratepayer * must be evaluation * sharing * paying for bad decisions
310	Brad VanCleve	Oregon Energy Coalition (OEC), New Hampshire allowed 60% stranded cost recovery. The timing of implementation should allow court tests before implementation.
332	Chair Welsh	Notes much time has been spent on this issue * ALEC bill * stay with 100% stranded cost recovery * legislature develop policy * customer should be priority at all class levels
355	Ron Eachus	Oregon Public Utility Commission (OPUC), offers some perspective * no economic theory says utility should get 100% * fairness and equity * not fair to get 0% * not fair for arbitrary 50%/50% * 100% may not be fair * not guaranteed 100% against market or technological changes
405	Eachus	Continues discussing stranded costs * open previously unopened markets * Settling on determination and recovery policy does two things: requires mitigation before stranded costs are allowed and opens market with a difference between market costs and utility costs.
TAPE 92, A		
		Continues discussing stranded costs

001	Eachus	* positive or negative stranded costs * anything less than stranded costs may be unconstitutional * rate relief, 100% recovery * sharing, not 100% recovery * case by case studies
063	Karla Droste	Springfield Utility Board (SUB), suggests cost benefit analysis be performed.
071	John Glascock	American Association of Retired Persons (AARP), states ratepayers are not interested in stranded cost recovery. Stranded cost recovery exists in regulatory requirements. It is time for ratepayers to have some benefit.
086	Chair Welsh	Says stranded costs will be subjected to tests.
096	Glascock	It would not be 100% of decisions management made over the years. The ratepayers have already paid for it.
104	Eisdorfer	Comments on management decisions * ratepayers should not be charged for management decisions * details not resolved go to commission * sharing should be legislative decision
130	Jim Deason	Eugene Water and Electric Board (EWEB), says most people when they talk about 100% recovery are talking about investor owned utilities. Wonders if they could have general understanding of where they are going.
148	Chair Welsh	Moves to Transition Charge and the Strawman.
160	Eachus	Talks about consumer owned utilities (COU) and the investor owned utilities (IOU) process * Bonneville Power Administration (BPA) has only real stranded cost if publics do not open up territory * policy which creates IOU's cannot create inequities * equity among utilities needs to be kept in mind
192	Paul Wielgus	Enron, responds to Eachus. * ideas must include PURPA * decisions made by utility management * how is utility making decisions in order to be more efficient * look at all assets to find overall costs

		* customers already pay stranded costs
242	Chair Welsh	Responds to Wielgus. Cannot understand why utilities want to hang on to stranded cost argument. Competition will take over.
264	Eisdorfer	Need to think about where we are going * government edicts argue for not recovering 100% of stranded costs * create new opportunities * utilities will do fine in competition
293	Eachus	Gets back to concept of balance * transition charges * no guarantees of 100% * need policy guidelines * sharing should not necessarily be either prohibited or required * competitive service markets need facilitation
343	Eachus	Continues discussion on stranded cost recovery * no unreasonable financial impacts on utilities * utility can decide if an unconstitutional taking * should not punish stockholders for prudent decisions * justifiable stranded costs
393	Eachus	Continues discussion on stranded cost recovery * PURPA contracts and conservation * guidelines for determining sharing * no unreasonable impacts on customer rates * adopt standards for mitigation * may have positive or negative stranded costs
445	Eachus	Continues discussion on stranded cost recovery * key to alternative approach
TAPE 91, B		

001	Eachus	Continues discussion on stranded cost recovery * authority for PUC to determine stranded costs * key establishing guidelines for PUC to determine stranded costs * incentives for sharing or not sharing * time period affects costs
037	Eisdorfer	The math does not add up very well * could end up with rate increases * rate freeze or decrease can extend length of time for recovery
049	Weiss	Explains why 50/50 is used as suggestion for fair recovery loss or gain.
071	Anderson	Asks for clarification on regulatory versus other stranded costs and the extended period of time.
078	Eachus	Explains regulatory stranded costs * generation investments * distinguishes between regulatory and non-regulatory * some costs recovered over longer period of time than others * level of sharing or not sharing may be different
101	Dudley	Reminds the group of mitigation and dealing with stranded costs. Gives caution about rate freeze.
123	Eachus	Suggests a rate cap instead of a rate freeze. Discusses the legislative element in other states. It may be difficult to do any type of balancing. There is a relationship between a rate formula, mitigation, and stranded costs.
156	Eisdorfer	Discusses mitigation in a regulatory sense. It is difficult to oversee. Perhaps utilities should get an incentive to mitigate.
174	Anderson	This is the carrot and stick without the stick. The traditional approach punishes the utility. Perhaps give the utilities bonuses if they accomplish goals instead.
186	Eisdorfer	Disagrees. Says the ability to get into the market and make a killing is incentive.
192	Dudley	There is no basis for sharing if there is the thought that you will make it big.
206	Eachus	Talks about valuation and divesting * difficult * without divestiture, must decide how much to true up or not true up

		* short term factors: 100% stranded costs and valuation done elsewhere * show rate payers rate decrease, adopt sharing formula or have PUC determine
245	Chair Welsh	Wants to start with considerations and go through section by section.
252	McPhail	Asks what mitigation means in terms of stranded costs.
259	Eachus	Explains mitigation. A utility that has gone a long time in between rate changes may have already reduced costs. * expectations and rewards * where a difference exists affects determination * end product * unreasonable financial impact on utility * facilitates competitive market
296	Chair Welsh	Section 18, Strawman issues that address recovery and sharing. Reviews Strawman to determine where it addresses stranded cost recovery. * section 3, Sharing * section 1, Recovery Period * section 4, COU's
324	John Savage	Office of Energy, section 12 deals with an obligation to mitigate.
326	Work Group	Discusses different sections of the bill.
364	Chair Welsh	Suggests looking at section 12: The Obligation to Mitigate.
378	John Larson	Administrator, reads section 12 of the Strawman.
393	Chair Welsh	The COU's will take on this issue themselves.
398	Deason	Asks if this only pertains to IOU's.
401	Chair Welsh	No. It applies to all elections.
403	Deason	Recommends amendment to be consistent with the rest of the bill.
416	Gary Conkling	Oregon Energy Coaltion (OEC), says he does not understand what would be changed.
424	Chair Welsh	There would be a governing body for all utilities.
TAPE 92, B		
001	Larson	Rereads section to include everyone.
011	Eisdorfer	Asks if there is a three year gap.
019	Deason	That is assumed for the purposes of discussion.

026	Weiss	There is another issues which deals with renewable resources * suggest adding commitments by Oregon's utilities to the bill * recovering costs
039	Savage	Question about conservation programs.
041	Weiss	In many cases, renewables are above market costs.
049	Dudley	Suggests deleting sentence in section 12. No utility company can make an investment.
062	McPhail	We are under federal mandate to sign contracts that are above market.
068	VanCleve	The intent of the section is that a utility not go out and incur new stranded costs.
073	McPhail	Asks how to deal with a PURPA contract that cannot be recovered in any way.
082	VanCleve	May need to treat PURPA separately. Want to prevent new economic generation contracts from forming and passing costs onto customers.
088	Dudley	Everything must still satisfy prudence
091	McPhail	Says page 10 throws out all conservation.
098	Eachus	Talks about economic conservation assets.
110	Dudley	Upgrades put utilities at risk because someone could say the upgrades are uneconomic and the utility could not collect.
114	Weiss	This applies to generating plants and not distribution.
119	VanCleve	Regulation is not cost based. The prudence test will not be part of the calculation.
126	Weiss	The issue is utilities are required to fulfill the least cost plans. * renewables take time * regardless of utilities' actions, nothing will matter * need to come up with date and definition * finite set of resources
149	Eachus	There are time limits on uneconomic investments. The timing is off. We are prohibiting investments after 1997.
165	Jim Payne	PacifiCorp, we must determine how to handle investments in transition period. How are we going to assure recovery of renewable investment during the transition period?
179	Weiss	States a circle can be put around a specific set. Those are obligations of the distribution company. Can identify allowable recovery.
191	Eachus	Suggests taking sentence out of section 12.
196	VanCleve	Asks if we want to prohibit investments during the transition date. Can take

		the sentence out but address it in terms of broader policy concerns.
206	Weiss	Suggests working with Ron on this issue.
211	Larson	Reads section 12 amended.
220	Payne	Do we have an obligation to mitigate or to attempt to mitigate any uneconomic costs?
233	Dudley	States they are in the same situation. There is an obligation to attempt in good faith to mitigate.
246	VanCleve	Says this leaves it up to the commission to establish rules to define what is an attempt in good faith.
253	Conkling	Can recognize what is an attempt without weakening the policy statement. The rules can be written in a way to validate an attempt.
278	Payne	It is a duty to mitigate. Talks about the consequences of failing to meet standards. There is a duty to reduce all costs.
307	Eachus	The rules and standards would take into account factors that would prohibit a facility from actually mitigating. The rules need to address this.
325	VanCleve	Mitigation is a standard part of a contract. It is a duty to mitigate.
334	Dudley	Take the standard of mitigation as a part of a non-breaching contract.
340	Deason	In contracts it is a duty to mitigate. A balance is struck with a reasonable attempt to mitigate.
354	Chair Welsh	Suggests placing "reduce to greatest extent possible" in the place of "to mitigate." Suggests talking to Legislative Counsel or other legal resource for language. Will have John Larson check on this.
398	Vote	5-0 to include reasonably mitigate.
TAPE 93, A		
001	Sen. Rod Johnson	Former State Senator, District 23, discusses PURPA contracts * costs prudently occurred * suggests language addition * utilities that signed them should be able to recover those stranded costs * constitutional prescription against retroactive abrogation of contracts * mitigation
056	Larson	Reads section 18 * five year limitation of recovery * concept of limited period for recovery * need to deal with terms in section

070	Eachus	Suggests not to exceed five years but allow for adjustment if needed * five year limit in context of other parts of the bill * different nature of some stranded costs * extend the limit under certain circumstances
093	Deason	There needs to be the ability to vary in certain circumstances. Contracts with BPA could not be limited to five years.
112	Eisdorfer	Until we know what the pool of stranded costs will be, there may be a significant effect on rates for payers.
118	Dudley	Supports flexibility in times of need. Look at conservation bonding done by PGE.
132	Larson	Asks if we should deal with this question of flexibility within the five year period. Should we vote on this question?
142	Weiss	Says it could mean a rate increase. Suggests stranded costs could not make the standard. Until the issue of transition charge is resolved, we must wait and decide the number of years later.
163	McPhail	That would not be acceptable to us.
165	Larson	Set the question aside. Move to section 3. Reads section 3.
172	Workgroup	Discusses approach of the workgroup * going through the language word by word
195	Eisdorfer	Says there needs to be common ground.
198	Larson	Asks if someone will propose an issue to discuss.
199	Savage	Proposes the sharing criteria issue.
201	Anderson	Would this be an appropriate time to offer alternatives?
204	Larson	The issue is sharing. What is in front of the committee is a 50/50 sharing.
207	Anderson	Discusses alternatives to sharing 50/50 * limited duration * balancing of risks * concept of five year period of predetermined rates for generation * if customers choose to purchase from another supplier during this time there is a bill credit * transition costs in categories: generation and regulatory assets * after five years cannot collect stranded costs related to generation assets
		Continues alternatives discussion

255	Anderson	* transition change related only to regulatory assets for the life of the assets * after transition generation assets unregulated * provides mitigation incentive * good balance * definite duration
287	Weiss	States valuation is left out of concept * concept includes rate freeze * concept defines regulatory assets
312	Anderson	Responds that the competitive market will be tough. There is a lot of incentive to mitigate under this concept.
331	Weiss	No one knows what will happen in five years. Have a process to determine valuation.
351	Anderson	Asks what will happen if there is still a lot of stranded cost after five years.
368	Weiss	Offers alternative with 50% split of benefits and losses.
394	Anderson	States this concept would drag things out rather than get to the competitive market as soon as possible.
404	Weiss	Economists say we are in a surplus. Good chance that the surplus will be gone in seven years. It would be good to do a market valuation at the end of five years.
TAPE 94, A		
001	Anderson	Suggests to have ratepayers discuss what they think the market will do.
005	Eachus	Discusses five year transition. Not sure end result is what is being sought * not much competition * cost will be about the same
035	Anderson	Responds that the providers are on the hook not the customers after the five year period.
038	Eachus	States that committee is confusing market price with value of resource * value is not driven by short-term market price
066	Weiss	Proposes a five year rate freeze and then a valuation. The valuation determines the market value of assets to book value of assets.
081	McPhail	Asks if this is all assets or just generating assets.
082	Weiss	Has all assets there.
081	Eisdorfer	This proposal is fresh and has not been fully analyzed.

098	Anderson	Asks about the five-year rate freeze.
102	Weiss	States anything left at the end of the period is split 50/50. Explains the proposal * utility is collecting some stranded costs which will be allocated * determine stranded cost for customer leaving system * customer staying pays frozen rate * after five years, asset valuation or divestiture * split cost or benefit with customer
137	Anderson	We have separated the generation costs from the regulatory assets.
140	Weiss	Would like to see some numbers on it.
145	Workgroup	Discusses costs of regulation.
154	Payne	Discusses determining stranded costs * identify stranded costs as above market costs * not short-term costs * life of assets * potential or perceived gain or loss * equate book with market value
173	Weiss	Two ways to determine stranded costs: valuation and sharing.
177	Payne	Does the valuation process take into consideration incorporation of gain or loss?
182	Weiss	The rate freeze determines how much is collected in stranded costs now. A rate freeze over five years would have a gap that ratepayers are paying now.
198	Payne	Market value is driven by long run market assumptions.
206	Workgroup	Discusses market value and valuation.
216	Larson	Are we too far apart to get anywhere?
219	Dudley	Asks if the utility would have a duty to serve during this five year period.
220	Weiss	Yes, there is a duty. The rate cap is real.
225	Dudley	How would customers be treated at the end if the utility had to acquire additional assets?
230	Weiss	Would hope that no new stranded costs. Would hope that customers purchase on the market.
238	Eisdorfer	During the transition period people will leave and open slots for service.
		Shares concern about mitigation and sharing

246	Eachus	* mitigation or sharing up front so ratepayers will see benefits * stronger mitigation incentives means less sharing * figuring out stranded costs policy that is not unfair to utilities * benefits for customers up front
282	Bruce Hellebuyck	Pacific Power & Light (PPL), clarifies that customers need a rate decrease during transition. Cannot collect stranded costs if rates are frozen. Need to agree on not having much stranded costs or to go beyond the five years.
299	Eachus	At the end of five years there could be a rate decrease.
302	Hellebuyck	Relationship between stranded costs and what happens after the five year period.
315	Larson	What happens if we take off the time limit and allow for recovery.
320	Eachus	Discusses transition period and market * gradual transition may be more effective * difficult to put in statute a standard cost policy applicable to every utility
350	Jim Tarpey	Enron, clarifies not wanting stranded costs increase in the future. If assets need to be contracted out would there be higher stranded costs?
368	Weiss	Requiring the contract back would mean it would fetch less money. The price freeze is worth something. It is a safety net knowing rates will not increase.
386	Eisdorfer	Is the five year rate cap worth the reduced value?
390	Enron	The idea of postponing this for five years is politically tough.
396	Weiss	The idea is that the issue would be resolved and everyone would know what was going on.
400	Workgroup	Discusses the compromise and what is going on.
409	Eisdorfer	The chair mentioned a rate reduction and 100% recovery. This could increase stranded costs.
425	Workgroup	Discusses stranded costs issues * California * securitizing stranded costs * some savings * total recovery incentive
TAPE 93, B		
001	Workgroup	Continues discussing stranded costs issues.
		Asks if there are incentives for imposing a rate decrease together with total

013	Larson	recovery.
015	Weiss	Incentives can be created later.
018	Larson	Clarifies that if a utility decreases rates and recovers all stranded costs there should be an incentive.
024	Eisdorfer	There are no built in incentives but it does extend the recovery period.
028	Eachus	Discusses the rate decrease period * rate decrease provided incentive * is benefit when utilities can mitigate costs equal to or more than the rate decrease * length of rate decrease * for generation or whole time * 100% stranded costs do not encourage market * cautions against eliminating rate decrease
058	Larson	Discusses making the whole thing more profitable.
060	Conkling	Asks if intending to resolve stranded cost issue today. Potential for eliminating options and narrow focus of bill. Suggests vote to find out where the committee is at on issues.
078	Larson	Says a sub group may be needed.
081	Conkling	Does not know if sub group is needed.
084	Larson	Asks what Conkling would start with.
087	Hellebuyck	Has heard some things worth thinking about. Maybe subgroup is good idea.
090	Weiss	States the group may not get anywhere on guidelines either.
098	Conkling	Fertile ideas on the table. Does not want to discourage getting ideas and issues to a vote.
103	Larson	Heard ideas which are coming closer together.
107	Eachus	Suggests not revising stranded cost at Friday meeting. Postpone it until Monday to give time for more discussion and research.
131	Anderson	Agrees, need to talk with corporate people. Possibly have a sub group before meeting as a work group.
140	Conkling	Disagrees with the subgroup idea. Concerned about the committee deciding alternative. This is the path to get benefits to ratepayers. States there needs to be consensus in order to get the needed votes.
172	Workgroup	Discusses the sub group idea.
191	Chair Welsh	Asks what the sub group will discuss.
195	Eachus	States the group would try and get down to a prescriptive approach with enough consensus to get in a bill.

216	Chair Welsh	Asks if negative stranded costs will be discussed.
222	Eachus	States consumer protection could be discussed on Friday. Develop language to coincide with general ideas.
227	Chair Welsh	Lists topics to cover on consumer protection.
248	Eachus	Has developed language based on prior consumer protection talks.
264	Chair Welsh	Adjourns work session at 4:48 p.m.

Transcribed By, Reviewed By,

Gina Cross, John Larson,

Committee Clerk Administrator