

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

SENATE COMMITTEE ON
TELECOMMUNICATIONS AND CONSUMER AFFAIRS

March 14, 1991Hearing Room B
1:00 p.m.Tapes 27 - 28

MEMBERS PRESENT:Senator Jolin, Chair
 Senator Otto, Vice-Chair
 Senator Kennemer
 Senator Bunn
 Senator Shoemaker

STAFF PRESENT: Cherie Copeland, Committee Administrator
 Apryl Poff, Committee Assistant

MEASURES HEARD: SB 557 Deregulation of small companies PUB.

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

PUBLIC HEARING.

TAPE 27, SIDE A

005 CHAIR JOLIN: Calls the meeting to order at 1:06 p.m.

006 SB 557 DEREGULATION OF SMALL COMPANIES, PUB.

Witnesses: Senator Tricia Smith.
 Maurice Astley, Oregon Independent Telephone Association.
 John Dillard, Monroe Telephone Company.
 Ken Sandner, Stayton Cooperative Telephone Company.
 Mike Katz, Joan Smith, and Ron Eachus, Public Utilities Commission.
 Kimberly Webster, Citizens Utility Board.
 Pat Hickey, AT&T.
 Ed Morrison and Mike Kane, Public Utilities Commission.

009 SENATOR TRICIA SMITH: Submits and summarizes written testimony in opposition to SB 557 (EXHIBIT A). SB 557 is contrary to the public interest because it abandons essential consumer protections and jeopardizes important telephone services throughout the state. SB 557 takes away fundamental protections which safeguard customers' access to basic telephone service. The following are just a few reasons why this bill shouldn't be passed.

>A local monopoly company having less than 15,000 lines could charge a service deposit in any amount it wished and withhold service until it's paid.
>It could discriminate and deny service to anyone who couldn't afford to pay this charge.
>It could disconnect phone service without adequate notice and without informing the customer of his or her rights. The bill would leave the consumer with no practical remedy for abuses because it removes the customer's ability to appeal an unreasonable action to the PUC. Under SB 557 any one of the small companies could refuse to provide Extended Area Service or could refuse to give customers their choice of how to pay for it--flat rates or measured rates. If legislation is needed to address specific problems, then specific legislation should be considered. I urge you to reject SB 557.

017 Senator Kennemer arrives at 1:08 p.m.

069 MAUREY ASTLEY: Submits and summarizes written testimony in favor to SB 557 (EXHIBIT

B). I am asking for your help in clarifying that small telephone companies are deregulated. In 1987 we took the approach of eliminating the small companies under 15,000 customers from many sections of the regulatory statutes. Another choice would have been to eliminate all regulations for small companies. We didn't do that because we wanted to give assurance that consumers were protected. We also agreed to make available a financial statement, easily available for public review. Public Utilities Commission requests for reports and data have increased both in number and depth of information required. We expected less day-to-day management, audits and approvals being required. There has been a proliferation of rules that applied to small and large companies. The commission has done in-depth audits of all activities of small companies and it micro-manages rates for Extended Area Service.

Staff at the PUC has said that if this bill passes they will abandon the toll pool if they can't regulate it. We would agree to amendments to the bill that solve these problems. The pool can be maintained to keep average toll rates for all customers and prevent the commission from eliminating the pool.

150 AT&T amendments that allow one of the parties to joint services to ask the PUC to resolve disputes; contracted agreements with US West with an audit of expenses by them or an independent auditor; and third, we agree to participate fully in Extended Area Service (EAS) areas. Commission staff's only suggestion is for us to ask for waivers for small companies. This week I was told that staff would support the waiver if we would withdraw SB 557. They will oppose it if we press forward.

185 Some of the rules we have opposed are:
>No deposits from unknown credit risks.
>No disconnect of local service when the toll bill isn't paid.
>Disconnect notices in six languages.
>Door hanger disconnect notices in resort and weekend home areas.
>9% interest on deposits.

207 We don't intend to withdraw from the toll pool or EAS areas. Since this bill has come out the PUC has threatened to disB and the toll pool, which would raise local rates. They have threatened to take away our local monopoly franchise. Local rates haven't increased in the four years since deregulation. The consumer is protected because the PUC can make rules for safety and quality of service. We have retained the ability of local consumers to petition the PUC to review rate increases. With Mr.Hickey,s amendments, AT&T, US West and other carries can petition the PUC for long distance cost disputes. If they carry out the threats they have made about the toll pool and the local franchise, they will have a much greater impact on local rates than any small company could contemplate.

233 We ask you:
>If the PUC can set our long distance, EAS and, by de facto means, local rates;
>If the PUC can require us to fill out a 50 page report, depreciation and 9-1-1 cost studies;
>If the PUC can tell us how much deposit to collect from someone with no credit history;
>If the PUC can tell us how to word a disconnect notice;
How can anyone say we achieved the meaningful deregulation which passed in 198 7 28-1 in the Senate and 57-2 in the House?

246 SENATOR SHOEMAKER: Will you give us a specific name of the person making threats?

254 MAURICE ASTLEY: Ed Morrison and Mike Kane of PUC staff.

296 JOHN DILLARD: Submits and summarizes written testimony in favor of SB 557 (EXHIBIT C).

The general concern the small telephone companies have with the Commission's many recent rulemaking proceedings is that they tend to concentrate largely on the operations of the large telephone companies operating in metropolitan centers but produce rules having general application to the entire state even though no need has been shown for such rules in the operations of the small companies. There are two recent Commission rulemaking proceedings that pose a problem to small telephone companies.

>The Commission's Division 21 rules govern our relations with our customers in service applications, deposits, billing dispute resolutions and similar matters.
>The Commission's rule requires all telephone companies, large and small, to break down past due bills into regulated and nonregulated portions so that customers having past due accounts can tell how much they have to pay to keep service.

These rules restrict rather than enhance our flexibility in meeting customers' needs. The easing of regulatory expenses created by these rules will help small companies keep their costs of service down and will help keep telephone service affordable for people in small communities. We want some sense of proportion and economy in regulations so that the small telephone companies operating in the state aren't required automatically to support rules and regulations which are needed and make sense only in metropolitan area operations of large telephone providers.

425 JOHN DILLARD: Submits and summarizes written testimony on behalf of William Dillard in support of SB 557 (EXHIBIT D). Any telecommunications utility for which an exemption from the application of any statute is provided pursuant to this section shall file with the Commission an annual report that includes copies of the income statement and balance sheet the telecommunications utility files with the Federal Communications Commission. Each such telecommunications utility shall notify customers that the income statement and balance sheet are one file with the Commission. Discusses index pages which list the required schedules and annual reports (See Exhibit D). The reasoning for changing the annual reporting requirements was to simplify and cut costs to both the companies and the Commission. I believe that the Commission could accept the Annual Report that borrowers of funds from the Rural Electrification Administration (REA) submit to REA as the annual report to the Commission. This would be cost effective as additional time required preparing the existing commission report would be eliminated.

TAPE 28 SIDE A

047 MAURICE ASTLEY: Refers to hand engrossed amendments (EXHIBIT B) on page 2 line 18 I have the consists of language but like to have deleted on line 18 from "the commission" to line 19 "the Federal Communications Commission".

056 KEN SANDNER: Submits and summarizes written testimony in favor of SB 557 (EXHIBIT E). I don't believe that the intent of the deregulation law was to regulate Extended Area Service between cooperatives, yet the Public Utilities Commission ruled that we must change our method of charging for that service. They turned down a waiver request by our company even after we provided evidence that our customers voted for the charges and method of charging we have had in place for several years. I would suggest that the PUC might audit only if they have a request by interexchange carriers or from OECA to resolve a dispute. I think this was the intent of the dispute resolution section in the 1987 bill. We believe that our customers need a place to appeal if they feel that a management decision is unfair. When we were deregulated, we immediately set up an appeals board made up of customers and let our customers know that the process was available. To date, we have had no appeals.

113 CHAIR JOLIN: Gives Mike Kane and Ed Morrison a chance to respond to the allegations made by Maurice Astley.

118 MIKE KANE: I was present at both of the meetings with OITA. On both of these occasions we discussed what the impact of this bill would be and expressed our concerns.

I feel that in order to preserve the integrity of the toll pool you need Commission oversight. I did mention the fact that we do have waiver provisions that OITA feels are unrealistic. The Division 21 rules are meant to protect customers.

173 ED MORRISON: I spoke with Mr. Hollis, an attorney whom I believed to be representing OITA, yesterday and he told me that OITA was ready to compromise. I then spoke with Maurice Astley and he told me that he wanted the Commission to waive all Division 21 rules. I thought what Mr. Hollis was talking about was the language rules. That is where I left it.

210 SENATOR SHOEMAKER: Your understanding or version is just the opposite of Maurice Astley if I understand you correctly.

216 ED MORRISON: Their attorney contacted me first. I did not initiate any contact. The rules that OITA was talking about being waived were requests for waivers that I hadn't seen.

228 ED MORRISON: Staff is frequently in the position of making compromises between US West and OITA. I thought that I was in that same position. I made an error in assuming this and I apologize. Mr. Hollis and I both agreed that the smaller companies can't become a part of a combined provision of service unless they are directly regulated by the Commission. This is the position I was taking as far as the toll pool was concerned. I feel that it would be inappropriate for a monopoly to be totally de-regulated.

292 MIKE KANE: I don't think this whole situation is appropriate. Mr. Astley set the tone that staff was threatening. At the two meetings we were not threatening. We were very uncompromising because we feel very strongly about the protection of ratepayers. I mentioned several times at the meetings that staff was willing to sit down and work through some problems that they mentioned.

335 SENATOR BUNN: Was this a discussion about if the bill was pulled the waiver could be granted? And if the bill wasn't pulled the waiver wouldn't be granted?

344 ED MORRISON: There was a difference of opinion about which waiver we were talking about. There were two different waivers. One was a waiver of all Division 21 rules.

351 SENATOR BUNN: Was there a discussion that if the bill was pulled that even a part of the waiver would be granted?

356 ED MORRISON: Staff doesn't make these decisions. The commission makes the decisions.

458 SENATOR BUNN: Would the pulling of SB 557 have any potential difference on the outcome of the waiver?

467 ED MORRISON: I wouldn't be the staff that would make the recommendation on that waiver.

487 SENATOR BUNN: Did you understand the offer by the attorney to be an offer to pull the bill in exchange for a waiver?

492 ED MORRISON: No. That was not my understanding.

TAPE 27 SIDE B

040 SENATOR SHOEMAKER: Did Mr. Astley offer to pull the bill if you would grant the waiver?

050 ED MORRISON: No. Mr. Astley asked if we would be willing to grant a waiver for all of Division 21 rules.

055 SENATOR SHOEMAKER: Was this in the context of them not proceeding with the bill?

056 ED MORRISON: Yes.

059 SENATOR SHOEMAKER: Did you offer to grant any waiver if they would pull the bill?

062 ED MORRISON: No I didn't make this offer.

114 MIKE KATZ: Each company in Oregon small or large is a monopoly. It is natural for regulated monopolies to want to be deregulated. Our main concern about SB 557 is that it takes protection away from consumers.

167 RON EACHUS: I consider the testimony that has been presented by Maurice Astley to be some very serious charges against the PUC. I believe that these accusations are all false.

210 RON EACHUS: Submits and summarizes written testimony in opposition to SB 557 (EXHIBIT F). The Commission strongly opposes SB 557 for the following reasons:

>It harms customers of small telephone companies because it removes basic consumer protections.

>It is detrimental to all telephone customers in the state because of the harm it will do to Extended Area Service and toll (long-distance) services.

>It is contrary to the public interest because it inappropriately exposes customers in many parts of the state to significantly higher long-distance rates.

285 RON EACHUS: Refers to PUC rules (See exhibit F).

300 RON EACHUS: SB 557 promotes the interests of the small companies and their owners and takes away significant protections from customers of small companies and harms customers throughout the state.

345 The following are a few examples of the Commission's rules which safeguard customers' access to basic telephone service:

>Deposit protections. The PUC rules limit the amount of deposit a company may require from a customer.

>Disconnect protections. PUC rules require companies to give a minimum 5-day notice prior to disconnection of phone service.

>Medical certificates. PUC rules allow a customer with a serious health problem to obtain a medical certificate.

The following are highlights of the potential impacts of SB 557:

>SB 557 is an anti-consumer bill because it removes all consumer protections for customers of small companies. SB 557 would deny customers of small telephone companies the right to appeal to the PUC if he or she faces the loss of phone service without good reasons.

>SB 557 would disrupt long-distance rates in many communities throughout the state. This bill would prevent the Commission from establishing reasonable rates for long-distance calling throughout the state because it would prevent the Commission from establishing reasonable statewide access charges.

387 RON EACHUS: SB 557 would seriously jeopardize the establishment of new Extended Area Service calling areas in the Portland region and throughout the state. This bill will severely curtail the Commission's ability to establish EAS even if consumers petition for it. The Commission simply couldn't effectively establish new EAS areas and regions if some telephone companies weren't required to abide by the rules.

440 RON EACHUS: Senate Bill 557 would prevent the Commission from

providing options to unserved rural Oregonians if they reside in the exclusive territories of small companies. Attached to testimony are some reporting requirements. The purpose of these reports is to assure that there is an equitable division of revenues between companies in determining reasonable statewide access charges and EAS rates.

470 RON EACHUS: Refers to annual reporting requirements (page 16 Exhibit F).

TAPE 28 SIDE B

061 RON EACHUS: Still referring to reporting requirements.

124 SENATOR KENNEMER: I believe this situation needs to have some serious investigation.

150 RON EACHUS: I didn't intend to just blow this off as a misunderstanding. I hope that this is all it was. I intend to pursue this with OITA and with our staff.

184 SENATOR KENNEMER: Continues with discussion that he believes the accusations made are serious and should be investigated whether the PUC believes this is speculation or not.

206 RON EACHUS: I can assure you that there will be no linkage. Some people may interpret what we say as a threat but we are just stating our position.

248 PAT HICKEY: Submits and summarizes written testimony with amendments (EXHIBIT G). AT&T recommends an amendment to SB 557 which would make the bill acceptable from AT&T's point of view. This amendment amends line 28 of (5) on page 2 of the bill to read, "the Commission, upon petition of a party to the joint rate or serving arrangement, may arbitrate such dispute with the policies and standards of ORS 759.220". If this amendment is adopted, it would provide for AT&T and other purchasers of local telephone company provided interexchange access, safeguards at the Commission level.

264 KIMBERLY WEBSTER: Submits and summarizes written testimony in opposition to SB 557 (EXHIBIT H). The Citizens Utility Board (CUB) receives complaints from utility consumers which we handle in-house or refer back to the utilities and refer to the PUC Consumer Assistance Division. Most of the complaints are from customers of non-PUC regulated utilities. OITA wants you to give them the opportunity to relax their consumer protections, creating a situation for customers of small telephone companies much the same as that for customers of non-regulated energy and water utilities. Given Mr. Astley's opposition to stronger consumer protections on behalf of OITA, CUB looks upon this move to deregulate small telephone companies as a virtual guarantee that soon those consumers will suffer abuses from which they are currently protected.

316 CHAIR JOLIN: Adjourns hearing at 2:55 p.m.

Submitted by: Reviewed by:

Apryl Poff Cherie Copeland
Assistant Committee Administrator

EXHIBIT LOG:

- A - Written testimony submitted by Senator Tricia Smith, 4 pages.
- B - Written testimony and amendments submitted by Maurice Astley, 7 pages.
- C - Written testimony submitted by John Dillard, 4 pages.
- D - Written testimony and charts submitted by William Lee Dillard, 33

pages.

E - Written testimony submitted by Ken Sandner, 2 pages.

F - Written testimony and PUC rules and regulations submitted by Ron Eachus, 67 pages.

G - Written testimony and proposed amendments submitted by Pat Hickey, 1 page.

H - Written testimony submitted by Kimberly Webster, 2 pages.