

authority is given up by the OPUC. If a contract is found to be inappropriate, whatever amount is found to be inappropriate will be disallowed at rate case time the same as is done now. I believe both the PUC and USWC are trying to find ways to simplify regulation. I'm suggesting that HB 2902, with no deletions, and the PUC's proposed new language compliment each other. If the goal is less red tape, then giving the Commission authority to waive filing requirements for larger dollar amounts makes sense as well for the public, the company, and the PUC.

095 SENATOR KENNEMER: Are you in agreement with the PUC amendments (EXHIBIT B)?

110 GARY WILHELMS: We agree with the additions of the bill but we don't agree with any of the deletions.

139 CHAIR JOLIN: The language in the HB 2902-1 (PUC) amendments allows for up to \$530,000. In the lines you wish to retain (26-27) and (40-41) you're dealing with a restrictive figure of \$100,000.

143 GARY WILHELMS: The PUC shall waive the requirement or this section wouldn't apply if it is \$100,000 or less. If the requirement was \$100,000- \$500,000 then this section wouldn't apply to contracts of \$100,000 or less. The PUC would have the discretion to waive the requirements of the section to those between \$100,000 and 530,000.

177 SENATOR BUNN: Does the PUC have the ability to waive those now?

180 GARY WILHELMS: It is my understanding that under the administrative rule they do have the ability to waive anything up to one tenth of one percent.

200 CHAIR JOLIN: If you both adopt the provisions on what is noted as Sub 4 in the -1, and you retain the language on page 1 line 26-27 and the language on page 2 as lines 40-41 including as what currently is noted as Sub 7, to me what you have is the bill as you proposed it.

216 GARY WILHELMS: I believe that it would be enhanced from our perspective.

234 RON EACHUS: Submits and summarizes written testimony in opposition to HB 2902 as drafted (EXHIBIT C). The Commission is opposed to HB 2902 for the following reasons:

- >HB 2902 is unnecessary.
- >HB 2902 removes consumer protection.
- >HB 2902 removes the incentive for telecommunications utilities to protect their own ratepayers against in appropriate affiliated interest transactions.

Recently, the Commission adopted an administrative rule that accomplishes the objective sought by US WEST. This rule is cited on page 1 of Attachment A. It allows waivers if an AI contract is less than .1 percent of the previous year's Oregon utility revenue and if it's not controversial. The significant difference between the Commission's waiver provision and HB 2902 is that the administrative rule gives the Commission discretion in waiving the filing requirements.

250 Under existing statutes, customers or other interested parties have an opportunity to participate in the Commission's review of AI contracts and to present their concerns to the Commission. By completely removing the Commission's authority to approve or disapprove the contracts in question, HB 290 2 effectively removes any incentive for the utility to make sure that the contracts are actually at arm's

length with its affiliates. Under the Commission's waiver rule, we intend to ask for only enough information from a utility to indicate that it has analyzed the proposed transaction and can support its appropriateness. If the utility hasn't done this analysis, then it's not really looking out for its ratepayers.

340 The Commission has very little opportunity to scrutinize every affiliate contract during a general rate case. There are too many major items to analyze during the time period allowed for review. A rate case may not occur until years after contracts are consummated. By that time, and under those circumstances, such reviews would be too little, too late. For the above reasons the Commission respectfully requests that you don't adopt HB 2902. It's premature in light of the administrative rule recently adopted by the Commission. This rule will provide the company with the workload relief it's seeking while not abandoning the interest of consumers. The Commission is willing to support legislation that addresses the utilities' concern without abandoning necessary ratepayer protections. The PUC's proposed amendments put the essence of our administrative rule in statute. The amendments would address US WEST's workload concerns without removing the Commission's ability to protect ratepayers when the circumstances warrant it. The Commission urges your adoption of its amendments (exhibit b) or rejection of the bill.

TAPE 62 SIDE A

055 SENATOR SHOEMAKER: Your rule states that you can waive the requirement with good cause. Is good cause defined somewhere in other parts of your rules or statutes? And what do you take that to mean?

060 RON EACHUS: Good cause isn't described in our rules or statutes. If we find something questionable in the basic information that we get or if the company itself hasn't justified it, then we can waive the requirement. If the company can show that it's in the public's best interest then there is no reason for us to spend the time on it. Generally the only way that we would waive the contract is if there is someone else who objects to the contract or when the Commission looks at the information provided and believes that there isn't sufficient justification or that there is a policy issue involved.

100 MIKE KANE: The reason that we are proposing these amendments is because it gives the Commission some security by virtue of it being codified that we wouldn't for some reason in the future remove that administrative rule.

115 RON EACHUS: This essentially puts into law what the rule states but there is no question over authority. The company is seeking an ability to not have to spend a lot of time on a lot of small contracts.

132 SENATOR BUNN: If we were to put in "may for good cause", is there reason not to say "shall for good cause"? If they show good cause, why should it be optional?

137 RON EACHUS: If you put "shall" you may want to address what we do in an instance where there is a competitor who objects to the contract.

149 MIKE KANE: If you put the word "shall" in there, there would be a lot of litigation of what good cause is. If you leave "may" then it's at the discretion of the Commission in terms of determining what's in the best interest of ratepayers.

160 SENATOR BUNN: What is the average cost of a Commission review?

169 MIKE KANE: I don't have those figures and how much time we spend on each contract.
Generally on the small contracts we don't spend very much time.

184 CHAIR JOLIN: The concern as I understand it when dealing with the issue of affiliated interest, is whether a company could utilize affiliated interest to spread its wealth. If we accepted the PUC amendments then there would be no up-front review for contracts up to \$100,000 dollars. US WEST's compromise approach is saying that they would agree to give the PUC the ability they already have but not to get involved in the first \$100,000.

220 RON EACHUS: Essentially that is correct. We are saying that we opposed HB 2902 in its original form because we feel it's unnecessary. We are suggesting an alternative of putting into statute our existing rule. There are usually no problems with most of the contracts.

240 CHAIR JOLIN: You're further suggesting that if we were to look at just one exception of \$100,000, that may not be very significant. But the cumulative effect could be a fiscal advantage.

250 RON EACHUS: That's correct. US WEST has told you that 35-45% of its contracts are under that level.

261 DAVE OVERSTREET: Submits and summarizes written testimony in favor of HB 2902 (EXHIBIT D). For many years GTE has been an advocate for revising the state's burdensome affiliated interest laws. If passed, HB 2902 will not have a major impact on GTE. We currently have 16 affiliated interest transactions in Oregon. Only four of those would fall under the \$100,000 annual threshold per affiliate included in this measure. It doesn't make sense to require the same level of regulatory oversight for insignificant affiliated interest transactions and larger, more expensive contracts. GTE believes the PUC should have the authority to regulate affiliate transactions. But, when the costs exceed the benefits to be derived from such regulation, we think the law should be changed to more appropriately reflect the increasingly competitive environment that we are in today.

300 SENATOR KENNEMER: How do you feel about the PUC amendments?

310 DAVE OVERSTREET: We would prefer the bill in its original form.

335 ESTHER NELSON: Discusses the process companies go through when researching a contract review. For even the smallest contracts you can very easily spend the amount the contract is worth. The smallest fee is usually thousands of dollars.

392 RON EACHUS: The utility should have most of the information they need already when dealing with an affiliated interest contract. We make an assumption that some things shouldn't be difficult because the company should have done most of the analysis already.

423 SENATOR BUNN: Unless you assume that the company's figures are inaccurate, you're still looking at a large amount of money spent on research for a contract that is under \$100,000.

440 RON EACHUS: The company is going to have to do some things regardless of whether there is a waiver.

450 SENATOR BUNN: What type of impact do you have on the utility's ability

to compete when
they're paying 25% just to go through the process?

455 RON EACHUS: If we grant the waiver it doesn't cause the utility any
difficult problems in their
ability to compete.

TAPE 61 SIDE B

030 SENATOR SHOEMAKER: The contracts that we're talking about aren't
one-shot contracts. If
the annual expense to the telecommunications company regarding that
contract is \$100,000 or less, it
would be exempt.

042 RON EACHUS: That is correct.

048 MIKE KANE: The figures that have been cited are figures that are
allocated to Oregon. The
contracts in question are seven times as large. When you look at the cost
versus the value of the contract
this only relates to Oregon's amount. US WEST looks at the total contract
which is allocated to the 14
states.

054 SENATOR BUNN: Is Oregon's proportion higher because we have the most
stringent requirements
of the 14 states?

060 RON EACHUS: I don't believe so. The percentage is based upon
Oregon's size for US WEST,
such as number of lines, customers, and ratios to other states.

092 CHAIR JOLIN: Some of the smaller companies are faced with a huge
amount of money.

105 SENATOR KENNEMER: Of the 14 states that US WEST serves, only two
have requirements
that affiliated interest contracts must be filed for review and approval.
Even with passage of this bill,
Oregon would still have the most strenuous affiliated interest law among
those states.

111 MIKE KANE: I would agree with this.

116 RON EACHUS: I believe that it's a good thing that we have the
affiliated interest review.

130 PAUL ROMAIN: MCI opposes HB 2902 for the same reasons as the PUC. We
also believe that
the waiver requirement put into place by the PUC seems to work well so far.

155 CHAIR JOLIN: Closes public hearing on HB 2902.

160 HB 2040-A PHONE ACCESS FOR DISABLED, PUBLIC HEARING.
Witnesses: Eugene Organ, Oregon Disabilities Commission.
Jack Cassell, Public Utility Commission.

167 EUGENE ORGAN: Submits and summarizes written testimony in favor of HB
2040 (EXHIBIT
E). The PUC has operated the Telecommunications for the Deaf Access
Program (DAC) for several
years. That program provides Telecommunication Devices for the Deaf
(TDD's) for persons with hearing
or speech impairments. The program also administers a contract to provide
telephone relay services for
persons with TDD's in Oregon. The Oregon Disabilities Commission (ODC)
noted that individuals with
disabilities other than speech or hearing impairments also need adaptive
telecommunication equipment.
For example, persons with limited use of their hands could use speaker
phones or receive additional
telephone equipment. HB 2040-A authorizes the PUC to determine which
adaptive equipment will be
provided for persons with disabilities. This legislation will provide
persons with physical disabilities

access to the state's telecommunications system by using existing sources of funding.

297 JACK CASSEL: There will be some funding impact for the advisory committee because of their traveling time incurred. The reason we have added one more to this committee is so that we have a balance of consumers for all the disabled individuals and we wanted more than 50% hearing and speech impaired individuals on the committee.

308 SENATOR SHOEMAKER: You're reducing by one the professionals rather than two. Will that lead to a cost savings?

321 JACK CASSELL: I believe the actual number is with replacement of the one professional.

325 VICE CHAIR OTTO: Adjourns hearing at 2:40 p.m.

Submitted by: Reviewed by:

Apryl Poff Cherie Copeland
Assistant Committee Administrator

EXHIBIT LOG:

- A - Written testimony submitted by Gary Wilhelms, 8 pages.
- B - HB 2902-1 hand-engrossed amendments submitted by staff, 2 pages.
- C - Written testimony submitted by Ron Eachus, 8 pages.
- D - Written testimony submitted by Dave Overstreet, 2 pages.
- E - Written testimony submitted by Eugene Organ, 2 pages.