

SB 165 -
WICS
SB 996 - PH & WKS

SENATE LEGISLATIVE COMMITTEE
ON TRADE AND ECONOMIC DEVELOPMENT

April 01, 1991 Hearing Room 343
3:00 P.M. State Capitol
 Salem, OR

Tapes 58 - 59

Foreign Trade Office
Electric Power Generation at Ports

MEMBERS PRESENT: SEN. WAYNE FAWBUSH, CHAIR
 SEN. SCOTT DUFF
 SEN. JEANNETTE HAMBY
 SEN. JIM HILL
 SEN. PEG JOLIN
 SEN. EUGENE TIMMS

MEMBERS EXCUSED:

STAFF PRESENT: JOSEPH CORTRIGHT, EXECUTIVE OFFICER
 TAMIRA MILLER, POLICY ANALYST
 JERI CHASE, OFFICE MANAGER
 HOLLY BROWN, COMMITTEE ASSISTANT

WITNESSES: DORIS PENWELL, EXECUTIVE ASSISTANT, ECONOMIC
DEVELOPMENT DEPARTMENT

GARY NEIL, GENERAL MANAGER, PORT OF MORROW
LARRY HITTLE, ATTORNEY, PORT OF MORROW
GEORGE RICHARDSON, NORTHWEST NATURAL GAS
LEE BEAUDRY, CASCADE NATURAL GAS
BILL WARREN, ADMINISTRATOR, PUBLIC UTILITY DIVISION

NOTE: These minutes contain materials which paraphrases and/or summarizes statements made during this meeting. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 58, SIDE A

000 CHAIR FAWBUSH convenes the meeting at 3:16 p.m.

010 CHAIR FAWBUSH: Presents Lottery Allocation Meeting Announcement (EXHIBIT A).

SB 165 (Duties of Foreign Trade Officers) - Public Hearing and Work Session

040 TAMI MILLER: Presents Staff Measure Summary on SB 165 (EXHIBIT B)

045 CHAIR FAWBUSH: If a foreign trade officer wants to part of the PERS can they opt into it?

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056 DORIS PENWELL: This bill was written so that it could go either way. They will be unclassified

employees and the director will set the salary. The PERS provision says that they are not covered under

PERS unless they were a PERS employee directly before we sent them to one of the foreign trade offices.

065 CHAIR FAWBUSH: You could deny them but you could also negotiate?

077 PENWELL: Yes, this does not keep us from hiring special services, it provides some flexibility.

086 SEN. JOLIN: There was some discussion about the people who work in the university system. Have we addressed that?

095 PENWELL: Yes, the university did not want to be included in this bill.

099 MOTION: SEN. HAMBY moves the -2 amendments (EXHIBIT C), dated 3/27/91, to SB 165

be adopted.

MOTION: The CHAIR moves a friendly amendment to include an emergency clause in the

-2 amendments.

VOTE: Being no objection the friendly amendment in adopted to the -2

amendments.

VOTE: Being no objections the -2 amendments, dated 3/27/91, to SB 165 are adopted.

110 MOTION: SEN HAMBY moves SB 165, as amended, to the floor with a Do Pass recommendation.

a Do Pass

VOTE: By roll call vote (6-0) SB 165, as amended, passes to the floor with recommendation. Voting AYE: SENATORS DUFF, HAMBY, HILL, JOLIN, TIMMS and FAWBUSH.

SB 996 (Electric Power Generation at Ports) - Public Hearing and Work Session

129 MILLER: Presents Staff Measure Summary on SB 996 (EXHIBIT D). We need to resolve the problem with the natural gas company.

153 CHAIR FAWBUSH: The concern is selling gas to the Port of Morrow and then turning it into another energy form and reselling it. We are in agreement with the -1 amendments (EXHIBIT E).

165 MOTION: The CHAIR moves to adopt the -1 amendments (EXHIBIT E).

VOTE: Being no objections the -1 amendments are adopted.

183 GARY NEIL: The intent of the legislation was to allow the port to sell power. Not to get into the power retail business.

203 LARRY HITTLE: We perhaps got wordy when we added related fuel facilities and steam distribution facilities. We thought that would be clarifying. We think the port probably already has the ability to sell steam. When we sell steam to an existing industry we displace a gas company's business. If we lose the ability to sell to any market we lose industrial development to the port. The argument is should we be
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limited in our ability to buy natural gas to supply a major facility.

261 CHAIR FAWBUSH: There is no problem with letting you buy the gas the problem is that you are

reselling energy that was gas. In order to get the best price you don't want to be restricted on having

to guarantee that if you are displacing somebodies gas that you would make up for that as part of your

gas purchase. How much difference is there in pricing? We will want to know that.

291 GEORGE RICHARDSON: I am not here in opposition to the Port of Morrow project but the way

this bill relates to other ports in Oregon. If a port is going to utilize natural gas and take the steam that

is the result of that and deliver to a customer who is already generating steam from an existing gas load,

that has an adverse affect on the natural gas company which has been authorized to distribute natural

gas in that service territory. First of all that company has investment in facilities that could be

abandoned and in addition to that you have the remaining customers that stay on the line that will have

to pick up that cost. Presents Northwest Natural Gas Amendments (EXHIBIT F).

331 CHAIR FAWBUSH: There are 2 options. One, is paying transportation pipeline charges for moving

somebodies gas or the direct purchase itself. Are there exclusive

franchises for gas dealerships? If so

who has that franchise on the Port of Morrow property?

342 LEE BEAUDRY: Cascade has the service for that area at this time. We also have transportation rates

in place that allow us to transport gas for customers that wish to buy their own.

350 SEN. DUFF: So you have the exclusive right of sell on the Port of Morrow property.

358 BEAUDRY: Yes.

360 HITTLE: It is more intricate than that. For direct service off of a pipeline or across the borders of

the country is essential an unregulated right of the purchaser of the gas. If you have the economic clout

to build a pipeline to Canada you have the right to do that. The purchaser has taken a risk in that

facility. The local distribution companies have gotten into this type of purchase as well. The local

distribution utility can end up with a transportation rate that is very competitive with what you could do

by financing that line yourself. If you don't have the ability to make the threat of building the line then

a lot of times that rate does not get very competitive. The project has to sell its capabilities to utilities

at competitive rates.

412 CHAIR FAWBUSH: So Cascade has the line onto the port now, but that doesn't mean that either the

port or a large industrial user couldn't buy their own pipeline.

418 BEAUDRY: Yes they can build the pipeline without the law. We are opposed to the law authorizing

them that this is the proper thing to do, when we are serving the area.

432 CHAIR FAWBUSH: You could not service them without a new line?

440 BEAUDRY: We could run a parallel 8 inch line or 10 inch line in our right of way that we currently

have.

445 HITTLE: In my experience with other co-generation projects that is essential what happened. I

think that is fine but if you take away the ability of the port to make

them get to the table and compete

you may well lose the opportunity to develop the project.

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TAPE 59, SIDE A

018 SEN. DUFF: Are we allowed to add this restriction? It appears that we would have problems with

federal law if we do that.

022 RICHARDSON: I think there is a separate issue in the bypass issue, in the issue of being able to sell

steam and displace gas fired steam. We do not oppose bypass, that is federal law. We are concerned

about the port. Is it good public policy to let a tax exempt organization enter into a joint venture with

the private sector and take advantage of the tax break and then do what is being proposed in this bill?

And, not only at the Port of Morrow but it has other implications around the state.

029 CHAIR FAWBUSH: So they can get tax free bonds to build the project and then provide that energy

at a competitive advantage.

030 RICHARDSON: Yes, or displace it totally.

036 MILLER: Are the bonds that you intend to use for this project tax exempt? As I understand they are

not.

040 NEIL: It is not that simple. If a municipal corporation and the ports are part of this project that facility could potential be tax exempt. It is not subject to the cap, but it is a fairly small probability that

this will end up happening.

048 SEN. DUFF: You will pay property taxes on this facility?

050 NEIL: Yes.

052 CHAIR FAWBUSH: Bill Warren could you give us an introduction to gas regulation in the state of

Oregon? If I were a port and I were interested in doing this what kind of constraints would I have on

finding a supply of gas and what role would the Public Utility Division play in it?

055 BILL WARREN: When a large customer can find the economics to bypass the gas utility system, then

that customer will turn to the serving utility and see what kind of rate offering that utility can make that

is competitive with the economics of the bypass situation. We view that situation favorably in terms of

allowing the gas utility to compete. I would guess the situation at this port would be similar to others

we have had. We would look at a rate offering from Cascade Natural that was competitive with that

direct bypass favorably as long as the economics justified it.

112 HITTLE: To make a project of this size work you have to have a large steam host. The food

processing plants are a good example of that. There are limited possibilities, not as many as are implied

here.

138 RICHARDSON: There is another Senate Bill that would allow other ports to go into the pipeline

natural gas business. In the system that we serve there are the are a lot of ports, all of which have some

substantial industry in that system. The implications of this bill goes beyond just what the Port of Morrow is doing.

152 WARREN: It seems a lot would depend on the distribution of the industries involved. We are

sympathetic with the problems involved with the reduction of load by the utilities because it turns around

and results in higher rates for the other customers eventually.

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166 SEN. DUFF: This would improve the competitive advantage of the food processors in the Port of Morrow area, correct?

170 NEIL: Yes.

178 SEN. DUFF: These people are exporting down through Portland?

180 NEIL: Yes.

186 SEN. DUFF: There are three alternative suppliers?

191 BEAUDRY: We just tap in to one pipeline. We could compete no matter which supplier was available provided we had the facilities in the ground.

199 SEN. DUFF: You would be competing with what the Port of Morrow could obtain out of the pipeline

directly or with what the PEUC rate would provide.

203 BEAUDRY: Right, it would be dependent on what the PEUC rate allowed us to do.

210 CHAIR FAWBUSH: We have no control over FIRC deregulating the pipelines and allowing someone

who is big enough to buy a piece of the pipeline if they want. Suppliers are afraid the port will displace

some of their customers. How much are you providing to the port now?

232 BEAUDRY: The large majority of our business with the port would be replaced by their steam generation.

233 CHAIR FAWBUSH: You can build a pipeline, you understand that before you couldn't sell electricity to a utility.

248 RICHARDSON: In focusing in only what the Port of Morrow can do you need to remember this applies to all the other ports.

259 SEN. TIMMS: Are there any projects now that are providing power to tax exempt entities or consumers?

268 NEIL: Yes.

270 HITTLE: In this region this is a relatively new thing.

288 SEN. TIMMS: Are we looking at getting more into co-generation?

292 WARREN: Yes.

302 SEN. TIMMS: What is the price of this power going to be?

305 HITTLE: It would be competitive in price.

313 SEN. HAMBY: If we were to accept your amendments you would no longer be competitive?

315 NEIL: Absolutely correct.

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316 HITTLE: Until you have a negotiation with the other party you can hardly say whether you are going

to be competitive or not, but you don't want to give up your ability to do a project because you can't

be competitive. There is no question that the port would work with Cascade to see if they can be

competitive.

336 BEAUDRY: He doesn't want to be preempted from making the least cost option in building his plant.

By the same token Cascade doesn't want to be preempted from negotiating with a customer in an open

fashion to serve that plant. If this bill gives the port the authority to bypass Cascade then I fail to see

how we can negotiate openly with the port, they can put their own facilities in.

350 CHAIR FAWBUSH: They can bypass you now.

357 RICHARDSON: There are 2 things they can't do: 1) They cannot sell electricity and 2) They cannot

sell the steam and displace existing loads of natural gas generated steam already available. You would

be setting statewide energy policy on how electricity will be created.

379 SEN. DUFF: This would not restrict your ability to compete for business?

391 RICHARDSON: Yes, it might constrict it. We would no longer have the industrial customers to serve.

412 NEIL: The industrial customer today has a choice on what kind of power they want to use.

420 RICHARDSON: We do not think it is good public policy to allow the ports to get into the business

of supplying energy in direct competition with a public utility which has been authorized to service that particular area.

TAPE 58, SIDE B

038 SEN. HILL: Is this going to meet some sort of need that is not being met?

042 WARREN: It boils down to the displacement of the natural gas utility load.

051 SEN. DUFF: This is economic development at its best. This is going to provide power and steam at a competitive price and I don't see what is wrong with that.

079 CHAIR FAWBUSH: You could go into a partnership with the energy facility. We have a question of

should you allow a port to act as a private entity and partnership and share the cost of producing

power?

090 SEN. HILL: I think this does have economic development implications but it should be referred to the

Energy Committee as well.

120 SEN. HILL: We are not just talking about the Port of Morrow here we are talking about throughout

the state. I think it is a major change and the fact that it is a governmental entity makes it even more complex.

133 CHAIR FAWBUSH: It is a major change in port policy not energy policy. Port policy is established

by the Trade Committee.

137 SEN. HILL: We are talking about raising the rates of the other users, that is not a major implication?

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140 CHAIR FAWBUSH: It could lead to higher rates if Cascade is not successful in securing the contract.

But if Cascade is a successful partner in this operation then they increase their capacity to expand their service.

157 BEAUDRY: Most of the co generation contracts that Cascade has been involved with are private businesses.

163 HITTLE: SB 94 allows the state to get into the business of producing energy for resale. The state of Washington is going to be in the co-generation business on all the state owned facilities.

186 RICHARDSON: With a port becoming involved in this type of activity they will not be under the scrutiny of the public utility commission, they are tax exempt, and there is also the broader issue of

avoided cost in the production of energy. I agree that this is economic development but there are some very broad energy issues that are related to energy policy statewide.

201 CHAIR FAWBUSH: The avoided cost would go up for somebody if we sell more gas in block?

204 WARREN: The avoided cost for an electric utilitiq is set by the alternative resources facing the utility.

If an endeavor such as this one could come in at a price below that avoided cost and sell to the utility

then the utility and its customers are better off to buy the output from that facility. But the risk is on

the developers of a co-generational facility as to whether or not they can bring that project in at a cost

that is attractive to utilities in the regions.

216 MILLER: Mr. Richardson what exactly is your amendment?

235 RICHARDSON: Presents EXHIBIT F

259 MILLER: Doesn't Section 4 limit the right they already have under federal law?

264 RICHARDSON: No, if you look at the total bill they do not have the right to provide steam or electricity.

269 CHAIR FAWBUSH: There is a different interpretation on the steam part, because steam is not regulated.

273 WARREN: There is a unique feature in our statutes that regulate "energy", pertaining to steam heating districts.

300 MILLER: Can other public entities engage in co-generation?

305 HITTLE: Yes, the city of Eugene does this.

313 WARREN: The cities are not regulated by the Public Utility Commission.

319 MILLER: Has anyone done an analysis on what the rate impact might be of this facility?

324 HITTLE: We haven't negotiated with any of these parties to the point of having a price.

334 WARREN: There really would be no real effect on the electric utility customers. We don't approve competitive rates unless there is a competitive situation. When you discount rates down to meet
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competition you are suffering a revenue loss which other customers have to pick up and there is no real reason to do that unless there is a competitive situation.

350 RICHARDSON: Even if an analysis was done on the Port of Morrow it would need to be done for all ports.

358 CHAIR FAWBUSH: There wouldn't be any adverse affect if you had to go right down to the bottom line with the Port of Morrow because that is between you and your contract with the natural gas supplier.

373 BEAUDRY: There are 2 components to the gas supply system. One is the transportation through the LDCs system and the other is the transportation through the pipeline plus the cost of the gas itself. The cost of gas is an independent decision.

399 SEN. DUFF: Doesn't volume have anything to do with your business?

403 BEAUDRY: Yes, it does on a transportation rate but on the supply side it is a straight pass through of whatever the cost is.

424 CHAIR FAWBUSH: We need to decide whether or not the ports should be involved in this. The side issue to that is how much of an energy question this is and whether or not there should be a subsequent referral?

TAPE 59, SIDE B

014 CHAIR FAWBUSH: On the amendments from Northwest Natural Gas (EXHIBIT E;), if we were to accept them when it came time to negotiate, the Port of Morrow would go to Cascade and try to strike a deal. If no deal were forthcoming then they could go ahead and build their pipeline but they would have to purchase an equivalent amount that was used by the other 2 industries, that would be displaced, and pay transmission costs.

028 RICHARDSON: I am not reading that into it.

035 CHAIR FAWBUSH: What percentage of the gas, that is now going to the port and those 2 industries, would that be of your total project?

040 HITTLE: About 20%.

042 CHAIR FAWBUSH: If we accepted this amendment you would be stuck with a minimum of being obligated to Cascade for 20% of your supply at their price.

046 RICHARDSON: It is 100%.

050 CHAIR FAWBUSH: When a port gets into this business they have to keep whole the level of activity that was there before, that would be 20%, that is one option. The other option would be doing it all with the local supplier which would be more restricting than current law.

056 HITTLE: The real question is the competitiveness of the rate you can get from the local distributor.

To lose the ability to have a competitive rate on that line would be a distinct disadvantage to the project.

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076 RICHARDSON: I believe that the term competitive rate should not be confused with a fair rate, determined by the public utility commissioner.

128 MILLER: Assuming that the committee gave the ports the authority to generate and sell electricity to utilities and use the steam for their own industrial customers, when we get down to the restrictions for natural gas transporting and bypassing, what prevails, statute or federal law?

134 WARREN: Federal law.

150 MILLER: Submits -3 amendments to SB 165 (EXHIBIT G).

201 CHAIR FAWBUSH adjourns the meeting at 4:58 pm.

Submitted by,
Jeri Chase
Office Manager

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EXHIBIT SUMMARY

EXHIBIT A - Lottery Allocation Meeting announcement, submitted by Chair Wayne Fawbush, pas. 1.

EXHIBIT B - Staff Measure Summary on SB 16S, submitted by Tamil Miller, pas. 2.

EXHIBIT C - -2 amendments on SB 165, submitted by Tami Miller, pas. 8.

EXHIBIT D - Staff Measure Summary on SB 996, submitted by Tami Miller, pas. 2.

EXHIBIT E - -1 amendments on SB 996, submitted by Chair Wayne Fawbush, pas. 1.

EXHIBIT F - Northwest Natural Gas Amendments, submitted by George Richardson, pas. 1.

EXHIBIT G - -3 amendments on SB 165, submitted by Tami Miller, pas. 8.