

Senate

JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

APRIL 11, 1967

A meeting of the Judiciary Committee was held at 3:09 P.M., Tuesday, April 11, 1967 in Committee Room 56, State Capitol, Chairman Monroe presiding.

Members present: Warren L. Monroe, Chairman
 Vernon E. Bunker
 M. J. Christensen
 Carl F. Dodge
 Procter R. Hug
 Coe Swobe
 C. Clifton Young

Also present: C. E. Cord, KCRL TV, Reno; Jerry Higgins and Guy Farmer, KCRL; S. I. Renshaw, Manager, Yerington-Fallon TV; George T. Plunkett, Manager, TV Pix, Elko; William Brazeal, TV Pix, Denver; Homer Peterson, TV Pix, Salt Lake City; Madison Graves, legal counsel for H & B Community Antenna in Reno; Ron Southerland, Manager, Community Antenna, Reno; Les Carlson, Public Service Commission; Bill Mooney, Secretary, Public Service Commission; Wally arren, Public Relations man; Zel Lowman, Assemblyman; Joe Jackson, Reno Newspapers, Inc.

A.B. 438 "Provides for issuance of certificates of public convenience and necessity to community antenna television companies."

Chairman Monroe announced that there would be a hearing on A.B. 438, with proponents of the bill being heard first. C. E. Cord, owner of KCRL TV in Reno, spoke first, saying he was in favor of the bill, he feels the need for control.

Senator Dodge asked whether there had ever been such a hearing in the Assembly and was told there had not.

Les Carlson of the Public Service Commission spoke. He was not a proponent he said, but was looking for direction. He said he would like to know what the objections are all about. He discussed some of their problems with CATV, saying they are basically in the

refusal to extend into little areas of communities but will serve saturated areas. Some problems consist of people being served by crossing someone else's back yard without permission, etc. In 1967 he received a letter with 67 signatures from Elko, a letter from JC's in Elko - out of customers contacted, got 600 letters from dissatisfied customers. He said they are looking to the Legislature to clarify the act. Discussion of their charging different rates for different towns. In Elko it costs \$6.35 a month, and five dollars or so in Carson City. The Commission finds itself in a spot concerning jurisdiction, it is being disputed; 3 judges decided case which, they are appealing to the United States Supreme Court.

Bill Mooney, Public Service Commission, recapped history of the legislation. Chapter 407.020 was amended. Gave regulatory powers to Commission. They didn't ask about it. In 1965 there was some agitation to withdraw (recall) this law. It did not meet with the pleasure of the legislators. For all technical purposes, the bill is in effect now. The purpose of AB 438 is to get some specific instructions that the Commission can follow. FCC does not care to become involved in local problems. The bill just spells out and gives instructions on a law that is legally in effect now. Chairman Monroe asked if they weren't enjoined by the courts from putting the bill into effect. Mr. Mooney said they are. Senator Dodge asked if there was an injunction. Mr. Mooney said they were acting on advice of the Attorney General, not really an injunction.

Assemblyman Lowman - ~~Pro~~ponent. He prepared the bill and had it introduced by the Judiciary Committee on the Assembly side. He feels this is a public utility and should have regulation as a public utility. Senator Young asked if any other states have regulatory power. Mr. Lowman said not.

Opponents of the bill were led by George McMillan, Attorney for TV Pix, Salt Lake City. He spoke of steps being taken on the Federal level to integrate, and said they would like to have the Committee consider two objections to this bill. The first had to do with the timeliness of the legislation. He felt it was not fair to them or the State of Nevada to pass the bill at this time in view of the fact that a case is pending in the U. S. Supreme Court to determine if state public

utility. The second is that he does not believe that the State has the power to take over Community Antenna operations so the bill will achieve the result they want it to achieve. He said the Community Antenna systems have been determined by the FCC to constitute interstate commerce. Discussion of licensing, regulation of common carriers. CATV is regarded as interstate communication. He brought up a case in Idaho. When the 1963 act was passed by the Legislature here, he said the Company didn't know about the bill. When they learned of it, they spent substantial time trying to convince that CATV was engaged in interstate commerce. Because they were interstate, they felt the state did not have jurisdiction but were unsuccessful in trying to convince the state agency they were right on this point so they filed a case in the district court here asking them to determine that the company was engaged in interstate commerce and as a matter of law the state did not have the power to regulate them. The case was filed merely to get a ruling. They feel that if the state has constitutional power to regulate there would be certain advantages to them in the bill that is before the Committee, but by comparison to the bill that is on the books, insofar as choice, they are not going to quarrel with it and feel this wouldn't be a better bill. They feel that passage at this time would defer their efforts to get a ruling on the constitutional question and they will have to start all over again after all the time and money already spent. If law is now changed he is afraid the Supreme Court will say their case is moot and require them to start over so they will have lost 1 1/2 years. Signals transmitted 225 miles, in hands of common carrier licensed by the Commission. The State cannot do anything about it, it is solely under federal jurisdiction. He said TV Pix had to separate from the microwave common carrier. They have many facets solely under control of federal agency. He spoke of fact programs (network) cannot be duplicated. The State Agency would be telling the subscriber that it could regulate the rates but not have jurisdiction over conduct of programs. Senator Dodge asked if they are up on the constitutional question on whether the State or FCC has authority or up on the '63 law that was enacted. McMillan said he believed they were up on the FCC question. Senator Dodge said in this case we could pass anything here and the constitutional question will still remain. Senator Dodge asked if they are regulated as to rates and Mr. McMillan said not. Power to regulate rate-wise would have to be granted by federal government. Senator Young said he thought if an act were passed, it might encourage the Supreme Court to take action. Chairman Monroe asked if we passed the act, if they would assume jurisdiction right away. Les Carlson said he assumed they would not

take any action until the Court had ruled. Senator Young asked if it would not be simpler if the bill were passed and the CATV started another suit. On duplication of programs, Mr. McMillan said there is now a bill pending to amend the copyright laws.

Madison Graves, attorney for Community Antenna in Reno, spoke. He said they have 99,000 subscribers, rates in Reno are \$10.00 for installation and \$4.95 a month. Mr. Sutherland, manager of Community Antenna in Reno, said he felt also that this is not the time for passage of the bill because of the federal question. Mr. Carlson said it is the 600 people in Elko he is concerned about, but in no case do they plan to usurp local thing and be involved.

Meeting adjourned at 4:15 P.M. with Chairman Monroe announcing a 9:00 A.M. Meeting April 12.