

**MINUTES OF THE
UTILITIES IN HIGHWAY RIGHTS-OF-WAY TASK FORCE**

Tuesday, September 14, 1999 - 9:00 a.m. - 405 State Capitol

Members Present:

Sen. Leonard M. Blackham,
Senate Chair
Rep. Thomas Hatch,
House Chair
Sen. Ron Allen
Sen. Mike Dmitrich
Sen. Peter C. Knudson
Sen. Michael G. Waddoups
Rep. Craig W. Buttars
Rep. Fred J. Fife III
Rep. Neil A. Hansen
Rep. Brad King
Rep. Marlon O. Snow
Mr. Wesley R. Curtis
Mr. Jerry Fenn
Mr. Jeff Fox
Mr. Ruland J. Gill, Jr.
Mr. Jerold G. Oldroyd
Mr. James E. Thomas
Mr. Thomas R. Warne

Members Absent:

Rep. Marda Dillree

Members Excused:

Mr. Ivan W. Flint

Staff Present:

Mr. Benjamin N. Christensen,
Research Analyst
Mr. Dee S Larsen,
Associate General Counsel
Ms. Junie G. Anderson,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Task Force Business - Chair Blackham called the meeting to order at 9:14 a.m. Mr. Warne distributed a handout titled "Permitting Related Fees - Longitudinal Access Interstate Highway Rights-of-Way."

MOTION: Rep. Hansen moved to approve the minutes of the August 17, 1999 meeting. The motion passed unanimously with Rep. Buttars absent for the vote.

2. Relocation of Utilities in Highway Rights-of-Way - Mr. Frank Long, U.S. Department of Transportation, Federal Highway Administration, distributed a letter addressed to Sen. Blackham, Rep. Hatch, and Members of the Task Force, subject "Federal-aid Law and Regulation of Utility Relocation on Highway Rights-of-Way." The letter contained three attachments titled:

1. Interstate Construction - Status: Continuing Program
2. Memorandum of Law - Office of the Chief Counsel - Federal Highway Administration
3. Transportation Infrastructure - Impacts of Utility Relocations on Highway and Bridge Projects - Summary of States' Responses to GAO's Questionnaire

Mr. Long pointed out that reimbursements for relocation of utilities was funded by the Federal Highway Administration (FHWA) until interstate construction ended in 1992. Today, relocation costs are an eligible expense for use of federal highway monies if allowed by state law. Because of the recent state district court decision, the FHWA cannot reimburse UDOT for relocation without a change in state law.

Mr. Mike Ritchie, FHWA, answered questions regarding the federal law and to what extent reimbursement can be authorized under that law.

Mr. Ruland Gill, Questar, distributed a copy of Section 72-6-116 of the Utah Code. He also distributed Section 6 - Duties – Interim reports of S.B. 150, Utilities in Highway Rights-of-Way and a chart displaying: States' responses regarding percentages of Federal-Aid Projects involving utility relocations that were delayed, Fiscal Years 1997-98. He reminded task force members that their duty is to study the issues involved with relocation of rights-of-way and to recommend necessary solutions.

Mr. Gill summarized existing law and explained the difficulties and costs involved in relocating utility facilities. He noted that some of the utilities have been inconsistent in responding to invitations by the Utah Department of Transportation (UDOT) to be involved in the process. He indicated that many relocation projects are not well engineered and it takes more time to get the projects done because of the problems between UDOT and the utility companies.

Mr. Gill proposed a 50/50 split between UDOT and utilities for utility relocation costs on all state highway projects. He also recommended that UDOT continue to pay 100% of reimbursements for relocations involving city and county service districts and 100% for pre-existing rights. He said 100% of the costs of "betterments" (upgrading lines) should be paid for by the utility.

Mr. Gill distributed a memorandum, subject "Coordination with Utility Companies," and discussed the proposals as outlined in the memorandum. He also distributed a handout titled "Transportation Infrastructure - Impacts of Utility Relocations on Highway and Bridge Projects." He asked task force members to carefully consider these public policy issues.

Mr. James Thomas, US West, and Mr. Don Christensen, Utah Power, expressed support for the changes as discussed by Mr. Gill.

Mr. Warne responded that if UDOT is required to pay for utility relocations, fewer other projects will be completed. He expressed concern over adding state funded projects to the ones in which UDOT would have to pay a share for utility relocations. He acknowledged that this is a policy decision of the Legislature.

Mr. Clinton Topham, UDOT, discussed available funding for UDOT to complete interstate projects and the difference in funding issues during the time periods of 1960-1987, 1987-1991, and 1992 until in the present. He discussed 'proportional reimbursement' and said that since 1991, UDOT no longer receives proportional reimbursements for relocation of utilities and it should not be required to pay for relocation under current state law. He also said that the state program has grown enormously because of the Centennial Fund.

Mr. Ben Christensen distributed a handout titled "Utility Relocation Costs on Federal Highway Projects."

Mr. Roger Ball, Committee of Consumer Services, discussed the difference between people as 'taxpayers,' and people as 'utility rate payers.' He noted that the Telecommunications Act of 1995 stated that implicit subsidies should be eliminated, and if there are to be subsidies, they should be explicit.

Mr. Sid Young, Questar, said that reimbursements are less expensive to both parties when they are included within a highway bid.

MOTION: Rep. Snow moved that:

(1) UDOT and the utility industry work together to establish a plan that requires all parties to coordinate its relocation efforts for all state roads at the concept phase in order to avoid unnecessary costs, and share in the long-term responsibility for the costs of relocations on all state roads;

(2) the chairs appoint an Ad Hoc working group to study these coordination and shared fiscal responsibility policies, and the use of a 50/50 split as a starting point for negotiating; and

(3) the working group report back to the task force at its October meeting.

The motion passed with Mr. Warne voting in opposition to the motion.

3. Compensation for Telecommunications Access in Interstate Highway Rights-of-Way - Chair Blackham distributed and discussed a handout titled "Telecommunication Access to the Utah Interstate System (Compensation Policy)."

4. Other Task Force Business - Chair Blackham announced that the next meetings are scheduled on October 19, November 3, and, if necessary, November 16.

5. Adjourn -

MOTION: Sen. Waddoups moved to adjourn the meeting. The motion passed unanimously at 11:43 a.m.

