

Representative David Ure proposes to substitute the following bill:

UTILITY REGULATION AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

AN ACT RELATING TO PUBLIC UTILITIES; MODIFYING PROCEDURES FOR THE
INFORMAL RESOLUTION OF MATTERS BEFORE THE PUBLIC SERVICE COMMISSION;
AND SPECIFYING THE TEST YEARS THE PUBLIC SERVICE COMMISSION MAY USE
IN DETERMINING JUST AND REASONABLE RATES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

54-4-4, as last amended by Chapter 166, Laws of Utah 1975

54-7-1, as last amended by Chapter 161, Laws of Utah 1987

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **54-4-4** is amended to read:

54-4-4. Classification and fixing of rates after hearing.

(1) Whenever the commission shall find after a hearing that the rates, fares, tolls, rentals, charges or classifications, or any of them demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices or contracts, or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in anywise in violation of any provisions of law, or that such rates, fares, tolls, rentals, charges, or classifications are insufficient, the commission shall determine the just, reasonable, or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

26 (2) The commission shall have power to investigate a single rate, fare, toll, rental, charge,
27 classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule
28 or schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts and
29 practices, or any number thereof, of any public utility, and to establish, after hearing, new rates,
30 fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices, or schedule
31 or schedules in lieu thereof.

32 (3) (a) [The commission, in] In its determination of just and reasonable rates, [may
33 consider recent changes in the utility's financial condition or changes reasonably expected, but not
34 speculative, in the utility's revenues, expenses or investments and may adopt an appropriate future
35 test period, not exceeding twelve] if the commission uses a test period, it shall select a test period
36 that is demonstrated by the evidence to best reflect conditions that the public utility will encounter
37 during the period when the rates will be in effect.

38 (b) In establishing the test period, the commission may use:

39 (i) a future test period based on projected data not exceeding 20 months from the date of
40 filing[, including projections or projections together with a period of actual operations in
41 determining the utility's test year for rate-making purposes.];

42 (ii) a test period based on historic data that are adjusted for known and measurable
43 changes; or

44 (iii) a combination of future projections and historic data.

45 (c) If the test period is not based exclusively on future projections, the commission shall
46 consider recent changes outside the test period which are known in nature and measurable in
47 amount.

48 Section 2. Section **54-7-1** is amended to read:

49 **54-7-1. Settlement -- Limitation of issues.**

50 (1) Informal resolution, by agreement of the parties, of matters before the commission is
51 encouraged[;-] as a means to:

52 (a) resolve disputes while minimizing time and expense to public utilities, the state, and
53 consumers;

54 (b) enhance administrative efficiency; and

55 (c) enhance the regulatory process by allowing the commission to concentrate on those
56 issues which adverse parties cannot otherwise resolve.

57 ~~[(2) The commission may approve any agreement after considering the interests of the~~
58 ~~public and other affected persons.]~~

59 (2) The commission may use settlement proposals to resolve disputed matters, while
60 reserving to the parties the right to maintain confidentiality in the negotiation process.

61 (3) (a) At any time before or during ~~[a hearing or]~~ an adjudicative proceeding before the
62 commission, the parties, between themselves or with the commission or a commissioner, may
63 engage in settlement conferences and negotiations.

64 (b) The commission may adopt ~~[any settlement proposal of the parties and may enter an~~
65 ~~order based upon the proposal.]~~ settlement proposals entered into by one or more of the parties,
66 including all parties initiating a proceeding and all parties against whom a proceeding is initiated.

67 (c) The commission shall notify all parties to the proceeding of the terms of any proposed
68 settlement.

69 (d) The commission **h** **MUST CONSIDER THE SIGNIFICANT AND MATERIAL FACTS**
69a **RELATED TO THE CASE AND** **h** may adopt settlement proposals provided **h** **[there is sufficient**
69b **relevant] THAT THE** **h**
70 evidence, enumerated in the record, **h** **[to support] SUPPORTS** **h** a finding that the settlement is just
70a and reasonable

71 in result and the commission finds the settlement is just and reasonable in result. If the
72 commission finds that the settlement is just and reasonable in result, the commission **h** **[need not]**
72a **MAY DETERMINE IF THE NEED EXISTS TO** **h**
73 inquire into:

74 (i) each party's rational for supporting the settlement; or

75 (ii) each party's position regarding the individual components or aspects of the case or
76 settlement.

77 (e) The commission may adopt a settlement proposal after conducting any hearing required
78 by statute. However, the commission shall conduct a hearing if requested by the party initiating
79 the proceeding or the party against whom the proceeding is initiated.

80 (f) The commission may order a hearing at the request of an intervening party.

81 (g) The commission shall accept or reject settlement proposals within a reasonable time.

82 (4) In cases or procedures involving rate increases as defined in Section 54-7-12, the
83 commission may limit the factors and issues to be considered in its determination of just and
84 reasonable rates.