

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~~] If the commission [~~shall find~~] finds after a hearing that the rates, fares, tolls, rentals, charges₂ or classifications[~~, or any of them~~] demanded, observed, charged₂ or collected by any public utility for, or in connection with, any service [or]₂ product₂ or commodity, [~~or in connection therewith,~~] including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices₂ or contracts[~~, or any of them,~~] affecting [~~such~~] the rates, fares, tolls, rentals, charges₂ or classifications[~~, or any of them,~~] are unjust, unreasonable, discriminatory [or]₂ preferential, or [~~in anywise~~] otherwise in violation of any provisions of law, or that [~~such~~] the rates, fares, tolls, rentals, charges₂ or classifications are insufficient, the commission shall determine the just, reasonable₂ or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices₂ or contracts to be thereafter observed and in force, and shall fix the same

26 by order as [hereinafter] provided in this section.

27 (2) The commission [shall have power to] may:

28 (a) investigate [a single rate, fare, toll, rental, charge, classification, rule, regulation,
29 contract or practice, or any number thereof, or the entire schedule or];

30 (i) one or more rates, fares, tolls, rentals, charges, classifications, rules, regulations,
31 contracts, or practices of any public utility; or

32 (ii) one or more schedules of rates, fares, tolls, rentals, charges, classifications, rules,
33 regulations, contracts [and], or practices[, or any number thereof,] of any public utility[, and to];
34 and

35 (b) establish, after hearing, new rates, fares, tolls, rentals, charges, classifications, rules,
36 regulations, contracts [or], practices, or [schedule or] schedules in lieu [thereof] of them.

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

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

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

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

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

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

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

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

55 (1) Informal resolution, by agreement of the parties, of matters before the commission is
56 encouraged[.] as a means to:

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

59 (b) enhance administrative efficiency; and

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

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

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

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

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

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

74 (d) The commission shall consider the significant and material facts related to the case and
75 may adopt settlement proposals provided that the evidence, enumerated in the record, supports a
76 finding that the settlement is just and reasonable in result and the commission finds that the
77 settlement is just and reasonable in result. If the commission finds that the settlement is just and
78 reasonable in result, the commission may determine if the need exists to inquire into:

79 (i) each party's rationale for supporting the settlement; or

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

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

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

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

87 (4) In cases or procedures involving rate increases as defined in Section 54-7-12, the

88 commission may limit the factors and issues to be considered in its determination of just and
89 reasonable rates.