
**Technology, Energy &
Communications Committee**

HB 1800

Brief Description: Requiring the utilities and transportation commission's adjudicative proceedings be open.

Sponsors: Representatives Kilmer, Crouse and Chase.

Brief Summary of Bill

- Prohibits the Washington Utilities and Transportation Commission staff from participating in a settlement conference without prior notification to other parties of record.
- Prohibits the Washington Utilities and Transportation Commission from denying nonsettling parties their procedural rights by dismissing them as parties or restricting their participation in the proceeding.

Hearing Date: 2/17/05

Staff: Kara Durbin (786-7133).

Background:

The Washington Utilities and Transportation Commission (WUTC) is a three-member board who, along with a staff of over 150 people, regulate the rates, services, and practices of privately owned utilities and transportation companies. These companies include electric, telephone, natural gas distribution, private water, solid waste collection, commercial ferries, and low-level radioactive waste disposal.

Commissioners are appointed by the Governor and confirmed by the Senate for six-year terms. Commission staff includes accountants, auditors, economists, engineers, consumer complaint specialists, enforcement officers, and investigators. The staff is organized into three main divisions: regulatory, advisory, and administrative services. The WUTC is primarily an economic regulator with some public safety responsibility for in-state pipelines and railroads.

In a rate case proceeding before the WUTC, the WUTC acts as a quasi-judicial fact finding tribunal to hear and decide cases. These hearings are formal legal proceedings. The main parties in most rate cases are Commission staff, the company, and ratepayers, who are represented by the

Public Counsel Section of the Attorney General's Office. Other groups may intervene if they can demonstrate an interest in the case.

The WUTC supports parties' informal efforts to resolve disputes through alternative dispute resolution (ADR), so long as doing so is lawful and consistent with the public interest. The WUTC may invite or direct the parties to confer among themselves, or with a designated person. Settlement conferences must be informal and without prejudice to the rights of the parties. Any resulting settlement or stipulation must be submitted to the WUTC in writing and is subject to approval by the Commission.

In conducting a settlement negotiation, the parties determine the ground rules governing the negotiation. Commission staff is authorized to participate fully in any settlement negotiations. No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the WUTC without the consent of the participants. Parties may agree that information exchanged exclusively within the context of settlement negotiations will be treated as confidential. In addition, participants in a commission-sanctioned ADR process must periodically advise any nonparticipating parties and the WUTC of any substantial progress made towards settlement.

Summary of Bill:

Notice

Commission staff of the Washington Utilities and Transportation Commission (WUTC) must notify the administrative law judge (ALJ) and all parties on the master service list of a proposed settlement conference 10 days prior to holding a settlement conference. Commission staff must also file notice of the impending negotiation with the secretary. If a pre-hearing conference has not yet been held in the case, Commission staff must send notice to all persons who regularly appear before the WUTC in similar adjudicative proceedings. The notice shall contain a general description of the issues and certification that all appropriate persons and parties are being notified.

The ALJ must review the notice to ensure that all the appropriate persons have been notified. The ALJ may also take any action necessary to protect the rights of persons participating or desiring to participate. In addition, the ALJ must report the results of the procedural review to the commission.

Any party who has received notice under this section may attend a settlement conference. Additional notice of continuing settlement conferences involving the same issue need only be provided to the parties attending the initial conference, or to those who have requested continuing notice.

Nonunanimous Settlements

If a nonunanimous settlement or stipulation is presented to the WUTC, the WUTC may not dismiss the nonsettling parties as parties to the case or otherwise restrict their participation in the case. The WUTC also may not deny the nonsettling parties the right to conduct discovery, present evidence, hold a hearing, cross-examine witnesses, and present arguments on all disputed material issues of fact and law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.