

PUBLIC SERVICE COMMISSION

SETTLEMENT GUIDELINES

POLICY 4-01-95 (0)

JANUARY 4, 1995

A. PURPOSE

The purpose of this policy is to set out guidelines for staff when considering the possible settlement of all or part of a contested case in which staff has an advocacy role. This policy is not intended to cover situations where staff has only an advisory role and the only litigants are non-staff parties.

B. POLICY

TYPES OF CASES

Settlement is a potential outcome in all cases in which staff advocates a particular position. Such cases include audits, rate and other applications and complaints.

NOTICES

A settlement may not preclude the issuance of a notice of hearing or notice of opportunity where one would otherwise be required. Notices should be issued in the normal course of business even if settlement is being discussed.

In addition to the usual notice required in a particular case, an appropriate notice should be issued informing parties of record that settlement discussions will take place, if such discussions are contemplated or have been requested. All parties of record are to be included in settlement discussions with staff unless they choose not to take part.

If a settlement is reached and filed with the Commission, the appropriate notice should be issued informing interested parties and the public that a settlement proposal is under the Commission's consideration.

STAFF PRESENTATION

Staff is expected to present its position in all cases in which it takes an advocacy role. This may be in the form of formal testimony or in the form of an informal written statement. The presentation should include identification and description of all issues, analysis of all issues, relevant Commission and known policy considerations.

In the event that staff has reached settlement or agreement on any issue, the presentation should also identify the issues on which there is agreement (and to what extent there is agreement if there are multiple parties) and include a discussion of why the settlement is reasonable and is in the public interest. Staff is also required to identify issues that establish new precedent.

CONTESTED SETTLEMENTS

When it appears that a settlement is contested, the Commission will schedule a hearing, oral arguments, or an informal hearing to hear the arguments of the parties for and against the settlement, as is appropriate.

LAW AND RULES

All procedural laws and rules apply to the settlement process as well as the formal case proceeding. This includes the constitutional and statutory due process requirements and the prohibition against ex parte communications. Specific procedure for filing and serving stipulations and admissions can be found in the Commission's procedural rules, North Dakota Administrative Code Section Chapters 69-02-03 and 69-02-05.

REFERENCES

- (0) PSC Minutes, January 4, 1995

