

Memorandum

To: Utilities Division Staff

From: Deb Scott
Director, Utilities Division

Date: February 12, 2001

Re: COMMISSION SETTLEMENT POLICY

At the Open Meeting held on Thursday, February 8th, the Commissioners developed a settlement policy for the Utilities Division. The Commissioners agreed upon the following policy: once Staff is approached by a Company to discuss settlement, before any settlement discussions can be initiated, Staff must file notice of proposed settlement discussions in Docket Control with a copy sent to all parties. This notice must be filed at least three working days before any settlement negotiations takes place between the Staff and the party requesting these discussions. This notice should: 1) identify the party who requested settlement discussions; and 2) identify the initial participants in the settlement process.

Notification of settlement discussions must be filed in all rate and merger cases except for Class D and Class E water cases.

If during the course of settlement discussions, additional participants join, the Staff should file an update in the docket that identifies the additional participants in the settlement process. Where it is appropriate, there may be a discussion of issues in the notification document. For instance, if new issues arise that may be of immediate concern to the Commissioners (e.g., they may be getting inquiries from the press or constituents) it is at the Director's discretion as to whether such information such be included in the notice.

Staff and Legal are developing a template for settlement agreements which states that:

- It is a proposed settlement;
- Staff is an independent party in the case; and
- Without the Commission's approval, the proposed settlement is void.

It is also important to remember that under the Rules of Civil Procedure, negotiation discussions are confidential and the content of discussion cannot be admitted in evidence in any subsequent litigation.

If you have any questions or concerns, please feel free to contact me, Barb Wytaske or Steve Olea.

DRS:mi