



General Assembly

January Session, 2001

Raised Bill No. 6829

LCO No. 4128

Referred to Committee on Energy and Technology

Introduced by:
(ET)

***AN ACT CONCERNING EX PARTE COMMUNICATIONS WITH THE
DEPARTMENT OF PUBLIC UTILITY CONTROL.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-181 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) [Unless] Except as provided in subsection (e) of this section,
4 unless required for the disposition of ex parte matters authorized by
5 law, no hearing officer or member of an agency who, in a contested
6 case, is to render a final decision or to make a proposed final decision
7 shall communicate, directly or indirectly, in connection with any issue
8 of fact, with any person or party, or, in connection with any issue of
9 law, with any party or the party's representative, without notice and
10 opportunity for all parties to participate.

11 (b) Notwithstanding the provisions of subsection (a) of this section,
12 a member of a multimember agency may communicate with other
13 members of the agency regarding a matter pending before the agency,
14 and members of the agency or a hearing officer may receive the aid
15 and advice of members, employees, or agents of the agency if those

16 members, employees, or agents have not received communications
17 prohibited by subsection (a) of this section.

18 (c) [Unless] Except as provided in subsection (e) of this section,
19 unless required for the disposition of ex parte matters authorized by
20 law, no party or intervenor in a contested case, no other agency, and
21 no person who has a direct or indirect interest in the outcome of the
22 case, shall communicate, directly or indirectly, in connection with any
23 issue in that case, with a hearing officer or any member of the agency,
24 or with any employee or agent of the agency assigned to assist the
25 hearing officer or members of the agency in such case, without notice
26 and opportunity for all parties to participate in the communication.

27 (d) The provisions of this section apply from the date the matter
28 pending before the agency becomes a contested case to and including
29 the effective date of the final decision. Except as may be otherwise
30 provided by regulation, each contested case shall be deemed to have
31 commenced on the date designated by the agency for that case, but in
32 no event later than the date of hearing.

33 (e) Except as provided in subsection (h) of this section, (1) either a
34 hearing officer or a commissioner of the department who is to render a
35 decision or to make a proposed final decision in a contested case, or
36 (2) any employee or agent of the department who is assigned to assist
37 the hearing officer or commissioner, may communicate, in connection
38 with any issue in such case, with any party, representative of such
39 party, intervenor, agency, or person who has a direct or indirect
40 interest in the outcome of such case, without notice or opportunity for
41 all parties to the proceeding to participate in the communication,
42 provided the communication is disclosed, as provided in subsection (f)
43 or (g) of this section, as applicable.

44 (f) A person who makes a written ex parte communication pursuant
45 to subsection (e) of this section shall, no later than the next business
46 day after the communication, submit a copy of the communication to
47 the Department of Public Utility Control under separate cover for

48 inclusion in the public record of each docket to which the
49 communication relates. Such person shall attach a cover letter to such
50 communication that clearly identifies the proceeding to which the
51 communication relates, including the docket number, and identifies
52 the communication as an ex parte communication. A copy of any such
53 filing shall be served on each party and intervenor in such proceeding
54 as required for filings otherwise submitted in the proceeding.

55 (g) A person who makes an oral ex parte communication pursuant
56 to subsection (e) of this section shall, no later than the next business
57 day after the communication, submit a memorandum, under separate
58 cover, to the Department of Public Utility Control that (1) summarizes
59 the communication for inclusion in the public record of each docket to
60 which the communication relates that discusses the substance of the ex
61 parte communication and not merely list the subjects discussed, (2)
62 clearly identifies the proceeding to which the communication relates,
63 including the docket number, and (3) identifies the communication as
64 an ex parte communication. A copy of any such submission shall be
65 served on each party and intervenor in such proceeding as required for
66 filings otherwise submitted in the proceeding.

67 (h) If either a commissioner or hearing officer of the Department of
68 Public Utility Control assigned to a contested case determines that an
69 ex parte communication pursuant to subsection (e) of this section
70 would interfere with the ability of the department to conduct the
71 proceeding, the commissioner or hearing officer may issue an order
72 prohibiting ex parte communications. Notice of such order shall be
73 provided to all parties and intervenors of record in the proceeding.

74 Sec. 2. This act shall take effect from its passage.

Statement of Purpose:

To provide for ex parte communications between commissioners, hearing examiners and staff of the Department of Public Utility Control and parties, intervenors or interested parties before the

department in a manner similar to ex parte communications conducted in Federal Communications Commission proceedings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]