

*Part of an On-Going Series on the Utility Negotiation Process*

## Negotiating with Utilities— Procedures and Techniques

*Paul Cunningham, P.E.  
President, The Altus Group*

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Here are the key elements you should use  
in the negotiation process.

### MANAGEMENT SUPPORT IS VITAL

The foundation of your success most likely will rest on the support of management at all levels in your organization. Many will want to continue looking to the past and the old way of doing business. Others may be suspicious of change.

### **Get Buy-In with Extensive Communication**

One of the most critical elements to the success of negotiations for a new package with your utility companies is the strong, continuing understanding and support from upper management. Most are not familiar with the involved process that is required to put together a “win-win” agreement. Often there is a fear, because deregulation is perceived to lead your company into “uncharted waters.”

The key tool is communications—early, often and in the detail necessary to give comfort on the direction of the negotiations.

### **Prepare Management for Long Negotiations**

Like most Americans, your management may tend to be impatient. Utilities, however, are different—usually, they have little to gain from

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This article was abstracted from Paul Cunningham’s new book *Guide to Purchasing Electricity and Gas*. 6×9, 162 pp., Illus. Hard cover, \$82.00 The Fairmont Press, Atlanta, GA.

moving quickly. Because they tend to move very slowly, an industrial company may take the position that a smaller gain is preferable to the longer wait.

Keep the “long” view. Let management know on a regular basis that the negotiations will take an extended period of time, and that long-term sacrifices should not be made for short-term gain.

### **Alert Management to the Merits of Your “Chain of Command”**

Some utility companies may wish to deal directly with your upper management. This is a double loser because you sharply diminish the authority of the chief negotiator, and eliminate a valuable negotiating tool—that of the chief negotiator to later “appeal to higher authority” (upper management.)

## NEGOTIATING PROCEDURES

### **Develop Your Negotiating Team**

There are some very distinct roles to be played in the negotiating process. Do not try to combine roles, or let these players confuse their functions.

#### *Higher Authority*

A senior person who normally stays remote from the negotiations. He will be the person to whom all major decisions will be referred. He can be particularly effective in being able to take reinforcing or countering positions (thought that I could talk him into it, but he is firm on this point) to that of the Chief Negotiator.

#### *Chief Negotiator (Clearly appointed)*

The Chief Negotiator (sometimes with an outside consultant) must be clearly anointed with the mantle of authority for the negotiations. Sometimes the other side will challenge his leadership, but the Higher Authority must strongly back him up.

#### *Technical Expert*

One or more separate Technical Experts, such as a knowledgeable electrical engineer, computer programmer for specialized modeling, or

financial expert are very handy to refer to and to use as a justification of some of the positions taken by the Chief Negotiator.

### *Legal Expert*

Keep both sides of the negotiating process on firm ground by referring complex legal questions to your Legal Expert. Limited participation for this person is probably best because lawyers tend to be more confrontational than good negotiators.

### *Identify the Decision-Makers and Work with Them*

Work as high as possible in your organization, probably at the vice president level. Be sure to identify the decision maker. Be willing to go directly to that person if you become dissatisfied with any part of the negotiations. The utility's negotiators must have decisionmaking ability, or you will waste your time.

### *Determine What They Want*

There has to be some candy in the sack for everyone. The utility companies will have some definite goals, and a number of things that they want to achieve. Draw them out, over a period of time, and incorporate their "wish list" into the negotiations as much as possible. Some suggestions include:

- Long term contracts
- Not too sharp a drop in prices
- Protection from retail wheeling
- Load management
- Assistance with a subsidiary

When you know what they want and what you want, you are in the best position to develop a negotiating strategy. Be open with them, but do not volunteer a lot of information.

### *Set Common Goals Early*

Try to get some consensus as to the direction of the negotiations, and the boundaries set for each side. It is surprising how important this step proves to be in cutting down on delays, frustrations and recriminations later in the negotiations.

### *Include Some Throwaways*

Negotiation is a process of “give and take.” Know that the utility will want you to make some concessions at some time during the sessions. At the beginning, select some items that you would be willing to give up and emphasize them during the discussions. Then, give ground on them—but not hastily. Just know that they will be doing the same thing.

### *Go for a Bilateral Contract*

In the past, all customers of utility companies have had only a small range of choices for rates, from a group of tariffs approved by the state regulatory agency. Currently, the trend is toward a bilateral contract that involves both the utility company and the customer in a joint effort. This gives the customer the greatest flexibility to design a rate structure to fit his particular requirements. It is often easier to get the utility company to agree to something, if they know that a precedent is not being set for all customers.

### *Do Not Be Intimidated*

The utility company has been a “big brother” whose position and value to the plant has been unchallenged for many years. Their roles have been “experts” in the power field. Some customers tend to be somewhat intimidated by this history and expertise. The result can be a loss of effectiveness in the negotiating process.

### *Do Not Be Afraid of Hurting Their Feelings*

Some customers are concerned about making the utility company mad. Customers fear that they are in a vulnerable position and that the utility company may take revenge. This is just business with the utility, and they respect a strong (but fair) position.

### *Do Not Be Adversarial*

Conversely, the old adage, “*You can’t catch flies with vinegar*” still fits in negotiating with utility companies. Many of them have been attacked and are super-sensitive. They are humans, too. Listen to them and let them vent their frustrations periodically. Most people are more willing to be reasonable with someone who is not being unreasonable.

### *Go for a “Win-Win” Deal*

Spend time developing the basis for a “win-win” deal. Determine the benefits that you can provide for the utility company. Show them that you are not just trying to *get* something without *giving* something in return. You will get a much better package with this approach. Also, it just makes good sense to develop a strong partnership arrangement with your utility company, if you can get the proper terms.

### *Have Patience, but Set Deadlines They Should Meet*

The negotiating team, too, must not get so impatient that major concessions are made in the name of progress. A standard negotiating technique is to delay action and refer to their “higher authority” for decisions. Be prepared.

One of the best counter-tactics is to continue to set and discuss deadlines for each step of the negotiations. This can subtly keep the pressure on to meet the deadlines that the utility has set.

### *Be Prepared for Setbacks*

Negotiating a utility contract is much like a roller coaster ride—many ups and downs before you reach your destination. It is easy to get too encouraged, and then get your hopes dashed by a setback.

Have a long-range view that sees beyond these problems to the goals that you have set. A steady negotiating posture lets everyone know that you cannot be unduly influenced by the day-to-day situations. The more statesmanlike approach will definitely be to your benefit.

### **Hang Tough—Know When to Hold and When to Fold**

That definitely does not mean that a smooth demeanor is the only way to go. Controlled anger, judiciously applied, can be a powerful weapon in bringing things back into perspective.

Similarly, be persistent and ask the same questions multiple times. “Why can’t we do it this way?” “I don’t understand why you must have *that*.” “Why wouldn’t this be better?” “How would that provide the protection we need?”

Consider limited amounts of your own stonewalling at times to test their limits. Be a bulldog and do not give up easily. Be politely, calmly, intelligently persistent. Look for solutions. Look for reasonable compromises.

*Don't Give Anything Without Getting Something in Return*

A key negotiating procedure is not to concede anything without getting something in return. Establish this precedent early in the negotiations, and it will reduce the amount of “nibbling” that the other side will do. You will also get some interesting concessions.

*Put Everything The Utility Says in Writing*

Take good notes, and date them at each meeting or conversation with key players in the negotiations. Things may develop to the point that some have poor memories, or the complexities of the discussions overtake them. Have some solid ground from which to work. It might be helpful to share your meeting notes. This will emphasize the importance of consistency.

Check all key pieces of information to be sure that there is no misunderstanding or miscommunication. Letting the other side know that you are verifying important information helps keep everyone aligned.

*Follow-up. Follow-up. Follow-up*

Leave nothing to chance. Leave nothing for someone on the other team to do properly.

## NEGOTIATING TECHNIQUES

**Study the Personalities of Negotiators**

Be observant. Do not get so submerged in the negotiating process that you become oblivious and totally unaware of the human side. Some negotiators may need to be liked, some need to be disliked, or need to be needed. Despite their outward appearances, underneath it all, they have personalities like everyone else. You need to understand these human factors and the needs of different personality types. It can be an invaluable tool in successful interaction with key players in the negotiating process.

**Make It Work for You**

The key to successfully working with different people is not to put them in one category or the other, but to learn to see the total person. In most instances, you will find they are a blend of several different personality types.<sup>1</sup> In addition, you should remember to:

- Recognize and acknowledge the expertise of others.
- Look at the whole picture. You are a part of a whole. Everyone has strong points and weak points. You may be good at one thing, and lousy at another. The same holds true for everyone.
- Evaluate and build on the strengths of people with whom you are negotiating. Recognize their weaknesses. Let the knowledge of both work for you.

### **Recognize Diverse Personalities**

To better understand the different personality styles that follow, refer to Table 1.

- 1) *Captain*—Needs to control
- 2) *Logical*— Needs assurance, certainty
- 3) *Entertainer*— Needs recognition
- 4) *Attacker*— Needs respect
- 5) *Evader*— Needs security
- 6) *Wanderer*— Needs freedom
- 7) *Accommodator*— Needs to be loved and accepted
- 8) *Attainer*— Needs and requires competency

### **Don't Get Impatient**

At the latter end of negotiations, it is very easy to get anxious to conclude the negotiations so that you can show the great results of your efforts to the rest of the world. This is a dangerous time in the negotiating process. Be careful of items that have been postponed until the last moment.

### **Volunteer to Write First Draft of the Contract**

Make the contract fit your needs. It is easy to let the utility company prepare the first drafts of all sections of the contract. This is probably acceptable, except for key paragraphs. The first author has a decided opportunity to start with his version. So, always volunteer to write the first draft and make it to your advantage. Then the utility company will have to argue from the written text. This is harder to do.

**Table 1**

Style	Decision Method	Reaction to Feedback	Making It Work for You
<b>CAPTAIN</b> Abrupt/aloof/cold Poor delegator Confident/assertive Sense of urgency Solid eye contact Domineering/structured Perfectionists	Do it my way—NOW!	Turn the tables	Be organized, clear, and concise, listen Show how your idea will create order, increase control and enhance results Be very direct; bottom line first Offer alternatives
<i>Their strong point:</i> The ability to implement			
<b>LOGICAL</b> Precise/diligent Detail oriented Poor eye contact Monotone Wants to know how/why Not creative Over-analyzes everything	Avoids Re-analyzes	Ask for examples Then they will tell you their reasons	Be factual and provide technical content and details Provide written process with all details Give them time to think it over Be specific; show them you too respect details Be prepared - you will have to answer questions Show how each fact builds on another
<i>Their strong point:</i> Analytical ability			
<b>ENTERTAINER</b> Flashy Usually fun to be with Status conscious Loves center-stage	Sell - Sell - Sell Whatever will make self a star	Will blame others Deny any fault Rationalize	Be factual and provide technical content Focus on concept, not details Clarify facts Use storytelling to get their attention

<i>Style</i>	<i>How They Act</i>	<i>How They React</i>	<i>Making It Work for You</i>
Talkative/loud/jovial Self-promoters Over committed Always in a hurry			Entertain Stroke their ego
<i>Their strong point:</i> Goods, sales, presentation skills			
<b>ATTACKER</b> Hostile/angry Grouchy/argumentative Demoralizing Intimidating/nasty Looks for fault in others	Nasty Just do it!	Interpret as personal abuse	Don't take it personally; continue to show respect Be consistently responsive, not reactive Stick to the facts Prepare for lots of questions - do your homework
<i>Their strong point:</i> Ability to find loopholes			
<b>EVADER</b> Reserved/cautious/quiet Poor eye contact Superficial conversation Thinks paying attention to something will make it worse Fear of risk/no initiative	Delay They love to use com- mittees	Silence Face registers nothing	Show how your idea will insulate and protect them Try to make them feel safe, calm Relate new ideas to "known" ideas Don't expect decisiveness or initiative
<i>Their strong point:</i> Ability to follow instructions			
<b>WANDERER</b> Free spirited/easy going Disorganized/impulsive Chaotic/confusing Seem distant/ambiguous Change subject often	Who cares?	Change subject Won't listen Become distracted Give short, compact assignments	Focus on fun; provide incentives Don't pressure or constrain Be casual, indirect, and relaxed

<i>Style</i>	<i>How They Act</i>	<i>How They React</i>	<i>Making It Work for You</i>
No follow-up/closure Imaginative/improvisers Hate rules/facts/structure	Provide variety		
<i>Their strong point:</i> Creative and imaginative			
<b>ACCOMMODATOR</b> Nice/kind/agreeable Reassuring/sympathetic Give in easily Thinks of everyone else first Need everyone to agree Hates conflict Won't confront problems Phobia about anger	How to do "x" and keep your regard	Act hurt and cry Pretend to agree	Take a personal interest in them Show how your idea will help and please everyone Provide references and guarantees Reassure regularly Spend time with their associates, who will also be affected by your ideas
<i>Their strong point:</i> Great people skills			
<b>ATTAINER</b> Peaceful/happy/serene Self-directed Fulfilled Enjoy selves and others High self-esteem Interested in others Honest/effective	Driven by effectiveness and based on research	Thank you!	Be yourself They will adapt to you
<i>Their strong point:</i> All of the above	They are in charge of their own behavior		
	Tell me more!		

### Watch The Language Very Carefully

It will be easy to agree in principle on an item and then, on careful examination, find that the text does not fit what was agreed upon. Similarly, the usual boiler plate found in most utility contracts may have some "land mines" that require firm action on your part.

At this point a utility lawyer can really come in handy. Give him a chance to review the text of the contract, and give him specific instructions as to what his role should be. This way you will get the maximum effectiveness from him at the least cost.

### SUMMARY

The wheels of deregulation are swiftly turning as the federal government, state legislatures, public utility commissions and energy consumers debate issues concerning the last major monopoly power in the United States—the electric utility industry. The changes will be complex, and solutions may be difficult. As the utilities cope with deregulation during the next few years, there may be some unsettling times. Questions concerning stranded costs, system management, reliability, and access will all have to be answered. However, in the end, electricity providers will learn to more efficiently supply their customers in a competing environment. Negotiations between industrials and their suppliers will become a major force in keeping costs down and profits up.

At an *Energy User News* conference, "Buying Electricity: New Deals in Power," Gordon Hauck from Ford Motor Company briefly summarized requirements of industrials for customer satisfaction in obtaining their power supplies. "We spend too much time and too many of our valuable resources fighting each other in the regulatory arena," he said. "Instead we need to work together to build a better future for the electricity business."<sup>2</sup>

### References

<sup>1</sup>*Control for the Process Industries*; Putnam Publications; "How to Get Your Project Approved: Know Your Boss," September 1996.

<sup>2</sup>*Energy User News*; Chilton Business News Magazine; "Buying Electricity; New Deals in Power"; Vol. 21, No. 9; September 1996.

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#### ABOUT THE AUTHOR

**Paul Cunningham, P.E.**, has more than 30 years' experience as a consulting engineer and utility executive. He has performed more than 100 studies of engineering, financial, managerial and political feasibility for a variety of projects.

In the area of planning and organizing, he developed studies to establish a unique joint electrical utility for four cities with a 10-year capital improvement plan of \$1.7 billion, including a 400 MW lignite generating plant, participation in a nuclear plant, and related transmission facilities.

Mr. Cunningham supervised financing totaling \$60 million and preliminary work on another \$150 million while coordinating with rating services, bankers and others in the financial community.

He is a registered Professional Engineer in Texas, Colorado and Louisiana.

*Paul Cunningham, P.E., President, The Altus Group, 2407 North Cooper St., Arlington, TX 76006 (817) 265-8822; fax (817) 795-8718.*