



PaPUC Hearing Process and Informal Dispute Settlements

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Office of the Administrative Law Judge



Purpose



The Office of Administrative Law Judge (OALJ) fulfills a “judicial” role within the Commission by:

- 1) Hearing cases
- 2) Mediating cases through an alternative dispute resolution (ADR) process
- 3) Issuing decisions



Organization



- Headed by the Chief Administrative Law Judge
- Employs 18 Administrative Law Judges (ALJs) in four regional offices and two mediators
- Employs Legal and Administrative Support Staff





Work Assignments



- All assignments to OALJ are received from the Secretary's Bureau
 - 1) Complaint Cases
 - 2) Rate Cases
 - 3) Investigations
 - 4) Ability to Pay/Billing Disputes
 - 5) Application Cases
- All assignments reviewed and sent to mediation staff or to ALJ or Special Agent for hearing



Work Process



- Cases are resolved in one of two ways:

- Parties resolve dispute by using mediation or otherwise agreeing to settle case



- ALJ hears the case and decides all issues in the case by issuing a Recommended or Initial Decision



Mediation



- Assignment is received and reviewed to determine whether it is suitable for mediation. If yes,
 - 1) Interim Order under Chief ALJ signature directing parties to attempt to resolve dispute
 - 2) If parties are unable to resolve dispute, mediator will set up a mediation session
 - 3) If unsuccessful, case goes to an ALJ for hearing



Scheduling Hearings



- Case is sent to a Scheduler in OALJ for assignment of either an Administrative Law Judge or Special Agent (ability to pay cases)
- Scheduler issues a Hearing Notice to the parties which identifies the ALJ or Special Agent, and sets the date, time and location of the hearing



Hearings



- Hearings can be in person, telephonic or, in limited circumstances, by video conference
- A Pre-hearing Order may be issued by ALJ or Special Agent that provides parties with information regarding all preliminary matters and notice that a failure to appear could result in an adverse ruling. Pre-hearing Order will also encourage settlement discussions among the parties
- Hearings will be recorded by either a court reporter or they will be taped



Hearings cont'd.



- ALJ or Special Agent conduct the hearings and will administer oaths or affirmations.
- The presiding officer is authorized to receive evidence, issue subpoenas, and make any necessary rulings during the course of the proceeding. 66 Pa.C.S. §331(d)
- If additional hearings are needed, ALJ or Special Agent will set the case for further hearings.
- In some cases, parties may be required to file legal briefs.
- ALJ or Special Agent will close the record.



Ethics and Ex Parte



- All Commissioners and ALJs are bound by the Code of Ethics contained in the Public Utility Code at 66 Pa.C.S. §319, which addresses a number of matters including, but not limited to the following:
 - 1) Avoiding impropriety and appearance of impropriety in all activities.
 - 2) Perform all duties impartially and diligently.
 - 3) Avoid all ex parte communications prohibited by the Public Utility Code. 66 Pa.C.S. §334.



Ex Parte, cont'd.



- Under the Ex Parte Communications prohibition, ALJs may not engage in any off-the-record communications regarding the merits or any fact in issue in any matter pending before an ALJ or the Commission in any contested on-the-record proceeding.
- This rule applies to members of the public, PUC employees and Commissioners. It is intended to protect the parties' right to receive an impartial decision based on facts developed at the hearing. Discussion on procedural matters may be discussed off-the-record with the ALJ.



OALJ Decisions



- Decisions are made based upon record evidence, legal precedent and policy.
 - 1) Initial Decisions – an Initial Decision can become a final order of the Commission if no Commissioners request review or if no Exceptions to the decision are filed by the parties.
 - 2) Recommended Decisions – a Recommended Decision must be placed on the Public Meeting Agenda. All rate cases and rail crossing cases are issued as Recommended Decisions.
 - 3) Certification of Record – If the Commission requests it, the record is certified up to the Commission without an ALJ decision.



Case Management



- All Initial Decisions and Recommended Decisions are reviewed for legal and technical sufficiency before they are issued.
- While an ALJ will make a decision based solely upon the record, the written product is subject to a quality review.
- Decisions are served by the Secretary's Office on all parties of Record.
- Cases are monitored throughout the OALJ process through various reports from the Secretary's Bureau and through internal processes.
- Internal and statutory deadlines control the timing of many decisions by an ALJ.



Case Closed



- If no Exceptions to an Initial Decision are filed by any party or the Commission has not asked for review of an Initial Decision, the Secretary will notify the OALJ. OALJ will draft the final order and send it to the Secretary, who will then close the case. The ALJ decision becomes the final Commission decision.
- All other Decisions, Recommended Decisions or Initial Decisions will go before the Commission and are closed subject to the direction of the Commission.



Public Hearings (Continued)



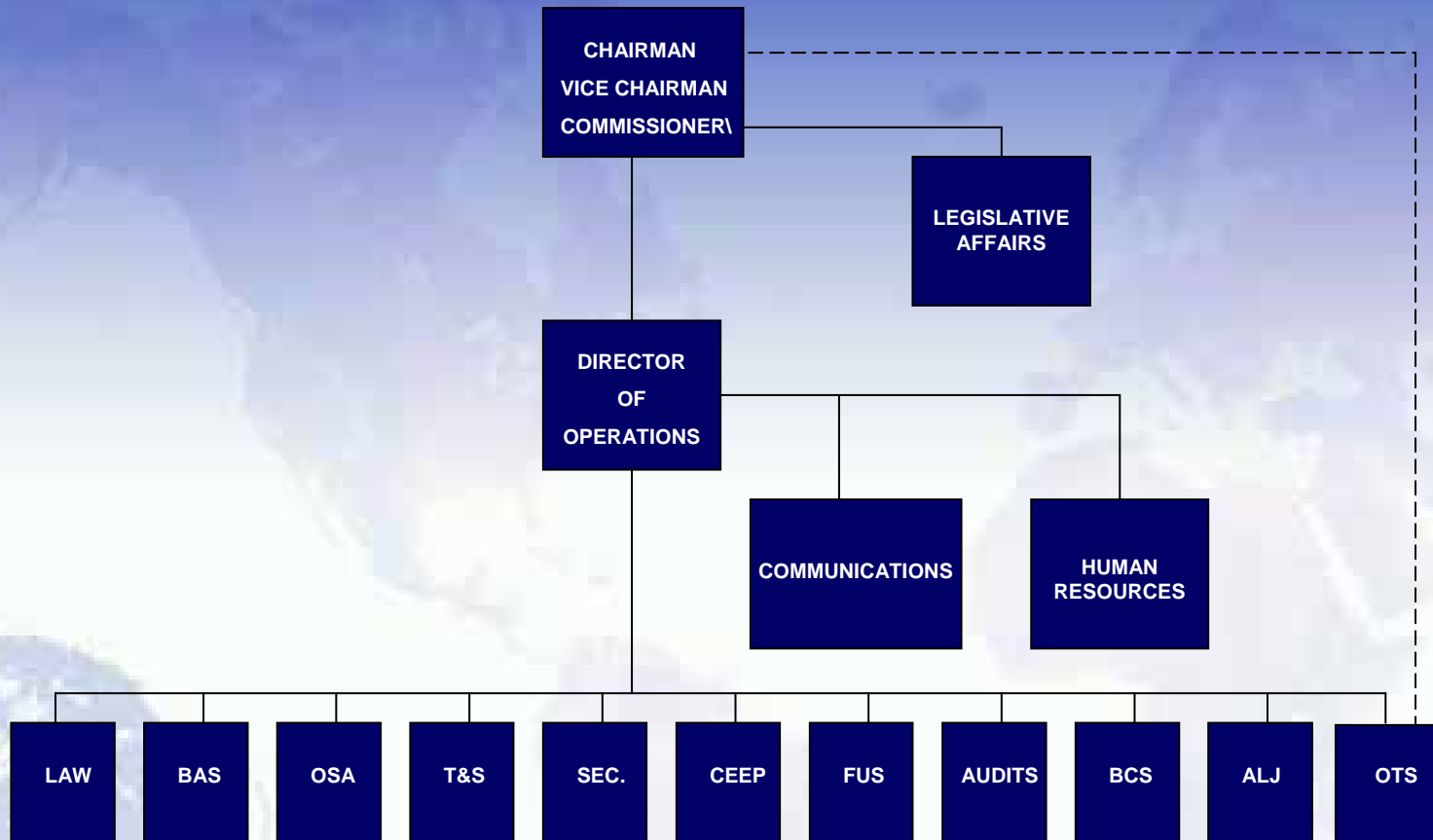
Advisory and Prosecutory Functions of the PUC



- Some bureaus are **advisory**: they give advice or recommendations to the Commission – i.e. Office of Special Assistants
- Some bureaus are **prosecutory**: they participate as parties in cases before the Commission and advocate certain positions – i.e. Office of Trial Staff
- Some bureaus have both **advisory** and **prosecutory** roles: they have staff who might be parties in a case before the Commission and other staff who will provide advice to the Commission in that case – i.e. Law Bureau



Organizational Chart





Role of Commissioners



- They are the final arbitrator of decisions and recommendations from within the Commission's various bureaus, such as OALJ, OSA, and the Law Bureau.
- They can hold hearings on:
 - Bi-weekly Public meetings
 - Investigations (Winter and Summer Reliability)
 - En banc Hearings (Global Telephone Hearings)



Role of Technical Staff

- The Office of Special Assistants (OSA) is one of the Commission's advisory support bureaus, with the key function of drafting Opinions and Orders containing recommendations for the Commission to vote on at Public Meetings.



- OSA is comprised of attorneys, rate case review specialists and administrative support staff, and provides both legal and technical advisory services to the Commissioners on all aspects of fixed utility and motor carrier regulation as required.

Examples of matters OSA handles



- *Exceptions to an ALJ Recommended or Initial Decision*
(asking the Commission to consider issues that a party believes the ALJ did not consider or did not consider accurately, to which other parties to the proceeding may then file Replies to those Exceptions)



- Rates and Ratemaking - Determining the revenue requirement of a utility by looking at its expenses (including depreciation and taxes), the value of its plant, and how much its investors are entitled to earn on their investments.
- Gas Cost Rates –reconciling the actual and projected costs of gas with the rates charged for gas



Examples of matters OSA handles, (continued)



- Contested Application Proceedings (a company opposes another company's request for a Certificate of Public Convenience to commence operations as a regulated utility, usually in electric, gas, telephone, water, wastewater, taxi cabs, limousines, household goods movers, etc.)
- Inability to Pay (customer asks the Commission to set a payment plan when they cannot pay their utility bills)



Examples of matters OSA handles, (continued)



- Service Complaints (a company or customer files a complaint against a utility for unreasonable or unauthorized service)
- Billing Disputes (a customer challenges the amount of their utility bill)
- Termination Disputes (a customer challenges the circumstances surrounding termination of their utility service)
- Safety Matters (a customer challenges the activities or facilities of a utility company as being unsafe)
- Rail Crossing Issues (the Commission has jurisdiction over rail/highway crossings, and whenever repairs to the crossing are necessary, the Commission must allocate costs amongst the rail utility, as well as other utilities with facilities in the area, and government entities)



Examples of matters OSA handles, (continued)



Other matters include:

- *Petitions for Interlocutory Review* (asking the Commission to look at a specific issue in a matter before the ALJ and deciding that specific issue prior to determining the disposition of the case in its entirety)
- *Petitions for Reinstatement* (asking the Commission to reinstate a Certificate of Public Convenience canceled for non-compliance of specific Commission directives)





Examples of matters OSA handles, (continued)



- *Post-Final Order Relief*

This includes:

- **Petitions for Extension of Time** (asking the Commission to extend a deadline, usually because circumstances arise precluding the parties from meeting the original deadline)
- **Petitions for Reconsideration** (asking the Commission to take another look at the case because they feel something was overlooked)
- **Petitions for Modification** (asking the Commission to change an Order)

