

## Consumer Complaints Process

February 23, 2016  
Commissioner Gladys M. Brown

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## About the PUC

- Created by General Assembly in 1937 and duties given by the statute – Public Utility Code, 66 Purdon's
- 2013-14 Budget: Nearly \$69 Million
- Complement – 503 employees
- Funded by assessments on public utilities which generally recover costs from ratepayers
- Regulate approximately 8,000 entities

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## About the PUC, cont'd.

Mission Statement - The Pennsylvania Public Utility Commission:

1. **balances the needs of consumers and utilities;**
2. ensures safe and reliable utility service at reasonable rates;
3. protects the public interest; educates consumers to make independent and informed utility choices;
4. furthers economic development; and
5. fosters new technologies and competitive markets in an environmentally sound manner.

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## Utilities We Regulate

- Electricity
- Natural Gas
- Telephone
- Water/ Wastewater
- Transportation – rail & motor vehicles (trucks, cabs, limos, buses)

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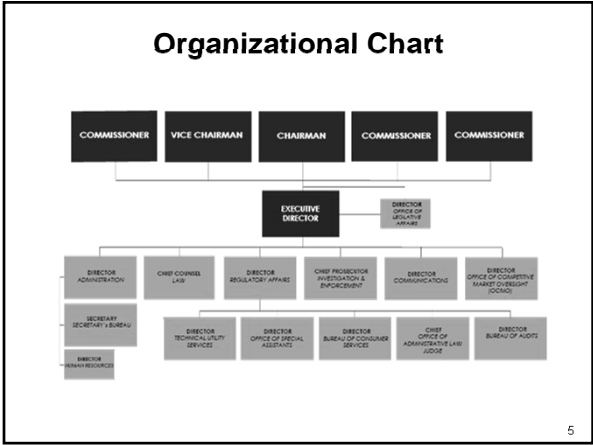
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## BCS Complaint Process

Bureau of Consumer Services  
Director Alexis Bechtel

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## Bureau of Consumer Services (BCS)

- **BCS Organization**
  - Policy Division
  - CACD – Customer Assistance and Complaints Division
- **Informal Complaints Process**

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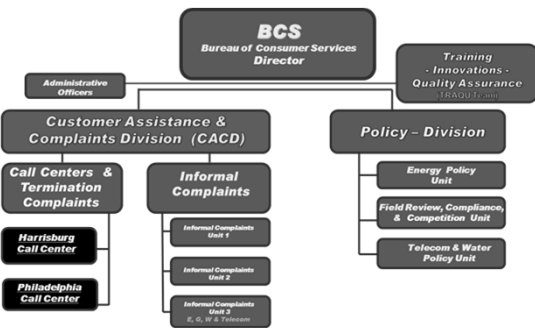
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## 2015 BCS Organizational Chart



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## Bureau of Consumer Services

*Policy Division  
Overview*

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## Policy Division

- **Functions**
  - Development of Customer Service Policy
  - Assessment of Universal Service Programs
  - Enforcement of Customer Service Regulations
  - Assessment of Energy Competition Practices
  - Advisory to the Commission

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## Reports and Publications

- Three annual reports covering
  - customer service programs and performance
  - utility complaint activity (UCARE), and
  - universal service programs and utility collections.
- One biennial quinquennial report provides status of Chapter 14 implementation.



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## Bureau of Consumer Services

*Customer Assistance and Complaints Division (CACD)  
Overview*

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## CACD General Overview

- **Customer Interface**
  - 20-40 Call Center staff (2 Centers)
    - Full-time permanent and temporary
  - 35-45 Investigative Staff
- **Annual Activity**
  - Approximately 200,000 Contacts
    - 235,000 in 2014
  - Approximately 70,000 - 80,000 Cases Investigated/adjudicated
    - 83,000 in 2014

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## Consumer Complaint Filing Process

- Consumer may file a Formal complaint directly, without going through the Informal Complaint Process.
  - Direct file through the Secretary's Bureau
  - E-filing from the PUC Website
  - Mail, and registered mail
  - **Secretary Chiavetta will talk about that process** and give you an idea of how many complainants go through the formal process.
- The majority of consumers contact **the PUC hotline (800-692-7380)** and file Informal Complaints with the Bureau of Consumer Services (**BCS**) Customer Assistance and Complaint Division (**CACD**), but they may also reach us via
  - Email or U.S. postal mail service,
  - PUC website, executive referral,
  - Faxes from other agencies, and by
  - Walk-in to our offices in Harrisburg, Pittsburgh, and Philadelphia. (Philadelphia gets the majority of walk-ins).

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## Informal Investigation

### General Rules - Company

- An utility customer must contact the company first before filing an informal complaint with the BCS
- Company must investigate the dispute
- Company cannot issue a termination notice based on the disputed subject matter
- Company must respond to the customer within 30 days
- Company must advise the customer of his right to contact the PUC (toll-free PUC number, written, web, etc.)

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## Alternative Programs

- Alternative Dispute Resolution (ADR)
  - Partnership between BCS and the Mediation Unit of the OALJ (Office of Administrative Law Judges)
  - A referral program by BCS intake or investigative staff for consumers that are not eligible for the informal process to **OALJ's Mediation Unit for small business customers.**
- Warm Transfer
  - (2009) A program started for Verizon service complaints where complainants are offered an opportunity to be transferred directly to company representatives who attempt expedited resolution of their issues.
  - (2014) Warm transfer was expanded to Electric, Gas, and Water companies in September of 2014.

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## Executive and Legislative Referrals

- **Contact PUC Legislative Affairs**
  - June Perry, Director 717-787-3256
  - Tom Beene, Assistant Director 717-772-0399
- BCS management and specially trained staff
  - Attempted expedited case-handling.
    - mediation and resolution via direct contact with consumers and utility management.
  - Generally handled outside of the Informal Complaint process (system).

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## Questions



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**Filing with the Secretary**  
*How to get involved in a case  
before the PUC*

Secretary Rosemary Chiavetta

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**General Description of the  
Role of Secretary's Bureau**

- Secretary Rosemary Chiavetta is the Commission's official point-of-contact between the agency and the public
- All official Commission actions and decisions are issued over the Secretary's signature
- All correspondence and filings are properly addressed to the Secretary
- The Secretary is the Commission's Right-to-Know Officer

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**2012-15 Tracking Statistics  
Secretary's Bureau**

| 2012  | 2013  | 2014  | 2015  |
|---|---|---|---|
| <ul style="list-style-type: none"> <li>• 24,722 Filings <ul style="list-style-type: none"> <li>• 16,597 paper</li> <li>• 8,125 efiled</li> </ul> </li> </ul>  | <ul style="list-style-type: none"> <li>• 23,699 Filings <ul style="list-style-type: none"> <li>• 14,787 paper</li> <li>• 8,912 efiled</li> </ul> </li> </ul>  | <ul style="list-style-type: none"> <li>• 28,251 Filings <ul style="list-style-type: none"> <li>• 15,280 paper</li> <li>• 12,971 efiled</li> </ul> </li> </ul>   | <ul style="list-style-type: none"> <li>• 24,932 Filings <ul style="list-style-type: none"> <li>• 13,144 paper</li> <li>• 11,788 efiled</li> </ul> </li> </ul>   |
| <ul style="list-style-type: none"> <li>• 12,414 Served Documents <ul style="list-style-type: none"> <li>• 1,825 Orders and Final Orders</li> <li>• 764 Initial &amp; Recommended Decisions</li> <li>• 7,387 Secretarial Letters &amp; Other Documents</li> <li>• 2,438 Formal Complaints <ul style="list-style-type: none"> <li>• 1,918 consumers</li> <li>• 520 staff initiated</li> </ul> </li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• 10,754 Served Documents <ul style="list-style-type: none"> <li>• 1,547 Orders and Final Orders</li> <li>• 567 Initial &amp; Recommended Decisions</li> <li>• 6,521 Secretarial Letters &amp; Other Documents <ul style="list-style-type: none"> <li>• 2,119 Formal Complaints <ul style="list-style-type: none"> <li>• 1,719 consumers</li> <li>• 390 staff initiated</li> </ul> </li> </ul> </li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• 12,626 Served Documents <ul style="list-style-type: none"> <li>• 1,533 Orders and Final Orders</li> <li>• 548 Initial &amp; Recommended Decisions</li> <li>• 7,159 Secretarial Letters &amp; Other Documents <ul style="list-style-type: none"> <li>• 3,406 Formal Complaints <ul style="list-style-type: none"> <li>• 2,608 consumers</li> <li>• 798 staff initiated</li> </ul> </li> </ul> </li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• 12,006 Served Documents <ul style="list-style-type: none"> <li>• 1,279 Orders and Final Orders</li> <li>• 620 Initial &amp; Recommended Decisions</li> <li>• 2,807 Secretarial Letters &amp; Other Documents <ul style="list-style-type: none"> <li>• 2,210 Formal Complaints <ul style="list-style-type: none"> <li>• 1,748 consumers</li> <li>• 462 staff initiated</li> </ul> </li> </ul> </li> </ul> </li> </ul> |
| <ul style="list-style-type: none"> <li>• 132 Right-to-Know Requests</li> </ul>  | <ul style="list-style-type: none"> <li>• 104 Right-to-Know Requests</li> </ul>  | <ul style="list-style-type: none"> <li>• 149 Right-to-Know Requests</li> </ul>  | <ul style="list-style-type: none"> <li>• 124 Right-to-Know Requests</li> </ul>  |

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### What Do You Want to File?

Ask Consumer – how do you want to proceed?

- Informal Complaint before BCS
- BCS Decision is appealable - 52 Pa Code 56.172 - file a Formal Complaint
- File a Formal Complaint without informal complaint process
- Formal Rate Complaint or Protest/Intervention
- File Opposition or Comments

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### Appeal from BCS Decision

- BCS Decision with cover letter and "Notice to Appeal" form attached
- Time to file the Notice to Appeal form with the Secretary is established
- Notice to Appeal must be timely filed
- If not timely – BCS decision stands
- Complainant can still file a formal complaint with Secretary

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### Appeal - What Happens Next?

- Appeal form is pended with Secretary
- Secretary staff sends out formal complaint form
- New time period established to file formal complaint
- If filed timely – Secretary processes and serves it on Respondent company
- Gets an F docket prefix if appeal
- Gets a C docket prefix if filed without appeal

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## Who is Who? The Players

- **Complainant** - the person or company filing the formal complaint
- **Respondent** – the person or company defending the formal complaint
- Whether it's an appeal from a BCS decision or a new formal complaint – Secretary serves it on the **Respondent Company**

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## Next Step - Service

- The formal complaint is served (by certified mail or eService) by the Secretary of the Commission on the Respondent
- The Respondent has 20 calendar days from the date the Secretary serves the complaint to file an Answer to the complaint
- The Respondent can ask the Secretary for an extension of time to file an Answer

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## Other Filings

- Proposed Rate Increase
- Tariff Supplement or Change
- Applications such as:
  - Mergers
  - Transmission Line Cases
  - Pipeline Cases
  - New Companies wanting to begin Service

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### **How Does a Person Get Involved?**

- Depends how involved you want to be
- Rate Case
  - file a Formal Rate Complaint (active party)
  - Or Opposition to Rate Increase Proposal
- Application
  - Protest (active party)
  - Intervention (active party)
  - or Comments

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### **What it Means to be an Active Party**

- Keep your address updated with the Commission and all other parties to case
- Complainant or Protestant is responsible to actively participate in case
- Keep copies of all documents especially those that come from the Office of Administrative Law Judge

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### **Formal Process Moves Forward**

- The complaint is served and answer filed
- Goes to Office of Administrative Law Judge

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**Office of Administrative Law Judge  
Hearing Process**

Chief Administrative Law Judge Charles Rainey

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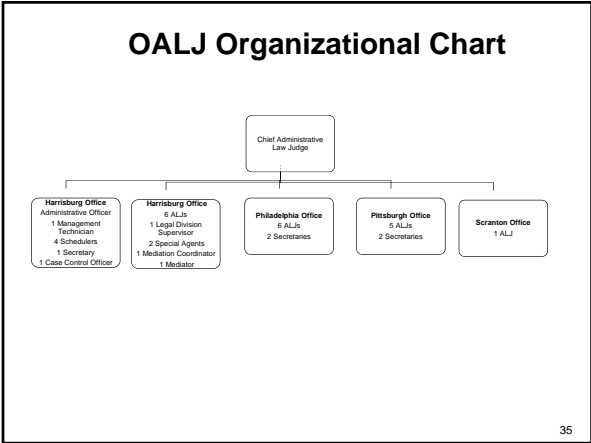
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**Function and Mission**

- The Office of Administrative Law Judge fulfills the judicial function within the PUC.
- OALJ's mission is to timely adjudicate or help settle cases in a fair and impartial manner.
- ALJs have the authority to regulate the course of a proceeding so as to ensure the fair and efficient administration of justice.

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## Cases

In calendar year 2015 approximately:

- 2000 cases came into OALJ
- 125 cases settled through use of the mediation program
- 1500 cases were scheduled for hearing
- 610 decisions were issued (567 initial decisions and 43 recommended decisions)

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## Types of Cases

- OALJ handles cases involving gas, electric, water/wastewater, telephone, and transportation.
- The majority of cases that OALJ handles are consumer complaint cases.
- The cases may involve billing and/or service disputes.
- Some of the consumer complaint cases that OALJ handles include allegations of "high bills," requests for payment arrangements, and foreign load.

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## The PUC Does Not Have Jurisdiction Over

- Cell phone providers
- Cable companies
- Internet service providers
- Long-distance telephone rates
- School buses
- Municipalities
- Bottled water
- Rural Electric Cooperatives
- Heating Oil
- Propane

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## Pleadings

- **Complaint.** Any person may complain to the Commission about any manner over which the Commission has jurisdiction.
- **Answer.** An Answer to the complaint is due within 20 days after service of the complaint. The Answer must admit or specifically deny the allegations in the complaint. An Answer may include New Matter which raise affirmative defenses.

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## Preliminary Objections

- Filed with answer but in a separate document
- Filed for one of three purposes:
  1. To stop litigation where complainant cannot win (saving cost and time for all)
  2. To clarify the claims set forth in the complaint
  3. To define issues which can be litigated

KEY: Only facts alleged by the complainant may be used to evaluate the Preliminary Objections (not New Matter)

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## Motions for Judgment on the Pleadings and Summary Judgment

The Commission's regulations provide that after the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for judgment on the pleadings or summary judgment.

The Commission's regulations also provide that the presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.

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### **OALJ Action on Preliminary Objections and Motions**

The Chief ALJ after recommendations from the Mediation Coordinator and Legal Division Supervisor, decides whether a preliminary objection or motion should go to a motion judge or hearing judge for ruling.

It is sometimes decided that a case may be suitable for mediation after ruling by a motion judge.

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### **Mediation**

Mediation is an informal, non-adjudicatory process. The mediator does not give advice, represent any party, evaluate or make a decision. Instead the mediator serves as an impartial facilitator who helps the parties resolve their disputes. The Commission's policy statement and guidelines in regard to mediation is found at 52 Pa. Code §§ 69.391 – 69.397.

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### **Settlement Judge Conferences**

- Parties may request that the presiding officer participate in the settlement conferences or that an additional presiding officer be designated to participate in the settlement conferences. 52 Pa. Code § 5.231.
- The ALJ is encouraged to be assertive in the settlement process in cases which the ALJ believes should settle. The ALJ will be an active participant in bringing the interested parties towards a reasonable compromise. 52 Pa. Code § 69.405(e).

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## Scheduling of Hearings

The hearing process begins in OALJ when a consumer complaint against a utility company arrives from the Secretary's Bureau. OALJ holds/pends the complaint waiting for the Answer. An Answer is due within 20 days after service of the complaint. When the Answer arrives, a proceeding is initiated. Our schedulers will then schedule the case to be heard within 90 days pursuant to statute. 66 Pa.C.S. § 332(g).

Our schedulers use an electronic hearing scheduling system (Hearing Room Scheduler or HRS) in scheduling cases for hearing. HRS places an available judge in an available hearing room with the utility's attorney and the complainant on a particular day and time.

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## Factors in determining whether Hearing is In-Person or Telephonic

- All of our ability to pay cases (payment arrangement cases under Chapter 14 of the Public Utility Code) are telephonic.
- The complainant may request that the hearing be in-person or telephonic.
- If the complainant lives a distance away from the nearest building where we have hearing rooms, we may schedule the hearing to be telephonic.
- If the case is complex, the hearing may be scheduled to be in-person.

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## Representation in Cases

- Individuals may represent themselves. 52 Pa. Code § 1.21(a).
- All other entities must be represented by an attorney in adversarial proceedings. 52 Pa. Code § 1.21(b).
- Eligible indigent individuals who live in Dauphin, Cumberland, Perry, Juniata, Northumberland, Schuylkill, Lancaster or York County may seek legal representation from the Widener Harrisburg Law School Civil Law Clinic.

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### Requests for a Continuance of the Hearing

- Commission regulations provide that “Only for good cause shown will requests for continuances be considered. The requests for a continuance should be filed at least 5 days prior to the hearing date.” 52 Pa. Code § 1.15.

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### Ex Parte Communications

The parties must refrain from attempting to engage the presiding officer in a discussion of the merits of the case outside of the presence of the other party. 66 Pa.C.S. § 334(c).

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### Discovery

The parties should complete discovery prior to the hearing date. A party should ask the other party for any documents in the possession of the other party that is necessary in the presentation of the asking party’s case. The parties are to work cooperatively in regard to discovery. The Commission’s discovery rules are found at 52 Pa. Code §§ 5.321 – 5.372.

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### Prior to the Hearing

- The Hearing Notice sent to the parties by OALJ provides that "You may lose the case if you do not come to this hearing and present facts on the issues raised." See, 52 Pa. Code § 5.245.
- Copies of any documents for use as exhibits must be brought to the hearing. A copy of the exhibits must be presented to the ALJ and the other party. Two copies are to be presented to the court reporter.
- If it is a telephonic hearing, 3 copies must be sent to the ALJ and 1 copy to the other party at least 5 business days before the hearing.

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### At the Hearing

- The parties are required to behave in a civil manner toward each other and the presiding officer.
- The complainant usually has the burden of proving that the utility violated the Public Utility Code, a Commission regulation, or a Commission order. 66 Pa.C.S. § 332.
- The standard of evidence is a preponderance of evidence. The evidence presented is weighed by the presiding officer.

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### At the Hearing (cont.)

- The parties may engage in direct and cross-examination of witnesses. 52 Pa. Code § 5.243.
- The presiding officer may ask questions during the hearing in order to develop a sufficient hearing record upon which to write a decision.

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## Decisions

- The ALJ will write a Recommended Decision in cases involving rate determinations or rail/highway crossings, or other specialized cases requiring Commission action at Public Meeting. In all other cases the ALJ will write an Initial Decision.
- After the conclusion of the hearing the ALJ will close the record. In transcribed hearings the record usually closes within 30 days after the hearing to allow the ALJ to receive the transcript of the hearing from the court reporter.
- The ALJ may sustain or dismiss the complaint. Or the ALJ may sustain part of the complaint and dismiss the other part. The ALJ may order the respondent utility company to pay a penalty for violation of Pennsylvania public utility law.
- Decisions are usually due to be issued within 90 days after the close of the record pursuant to Section 332(g) of the Public Utility Code.

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## Exceptions/Reply Exceptions and Commissioners Action at Public Meeting

- Appeals from the ALJ's decision are filed in the form of "Exceptions." Parties may respond to the Exceptions in the form of "Reply Exceptions." Usually any exceptions to the ALJ's decision are to be filed within 20 days after the issuance of the decision. Reply exceptions are usually due within 10 days after exceptions are filed. A Secretarial Letter from the Commission's Secretary that is issued with the ALJ's decision will provide the exceptions/reply exceptions period.
- If no exceptions are filed, the initial decision of the ALJ becomes final, without further Commission action, unless within 15 days after the decision is issued, two or more Commissioners request review of the decision. If exceptions are filed, or two or more Commissioners call-up an ALJ's decision, then the decision is addressed by the Commissioners at Public Meeting. The Commissioners by majority vote may adopt, modify or reverse an ALJ's decision. The Commissioners may also remand a case to OALJ to obtain additional evidence and/or to address additional issues.
- Recommended Decisions are always acted upon by the Commissioners at Public Meeting.

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## Appeal Process

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## Appeals

Exceptions – 52 Pa. Code § 5.533 - due within 20 days of ALJ Decision

Petition to Reopen – 52 Pa. Code § 5.571 – after ALJ closes record but prior to issuance of a final ALJ Decision

Petition for relief following the issuance of a final PUC Order – 52 Pa. Code § 5.572:

- Petition for Rehearing
- Petition for Reargument
- Petition for Reconsideration -due within 15 days
- Petition for Clarification
- Petition for Supersedeas/Stay
- Petition for Recission
- Petition for Amendment -may be filed at any time

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## PA PUC vs. Seder

- 106 A.3d 193; 2014 Pa. Commw. LEXIS 551
- **Background:** Public Utility Commission (PUC) sought review of determinations of the Office of Open Records (OOR) ordering disclosure to news agency of documents relating to PUC's informal investigation of electric utility and resulting settlement.
- Public Utility Code 66 Pa.C.S. § 335(d)
- PA Right to Know Law, 65 PA. Stat. Ann. § 67.305(a)(2)

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## PA PUC vs. Seder, cont.

- The Commonwealth Court, held that:
  - 1 PUC approval of settlement with electric utility fulfilled one prerequisite to disclosure of documents to news agency under statute requiring release of documents concerning investigations and hearings by PUC;
  - 2 PUC was not required to disclose documents that it did not rely upon in approving settlement;
  - 3 The tip letter that led to PUC's informal investigation was exempt from disclosure under noncriminal exception to Right-to-Know Law;
  - 4 Documents associated with investigation were exempt from disclosure under noncriminal exception to Right-to-Know Law; and
  - 5 Documents prepared by PUC's Bureau of Investigation and Enforcement (I & E) prosecuting attorney were exempt from disclosure under Public Utility Code and Right-to-Know Law.
- Order of the Open Records Office was reversed.
- Appeal granted by Pa PUC v. Seder, 2015 PA. LEXIS 1322 (Pa. June 17, 2015)

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## Hot Topics

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## FERC ORDER 745

- The PUC filed a joint brief in support of petitions for certiorari, together with Maryland and California, arguing that FERC had jurisdiction to regulate demand response in the energy markets.
- U.S. Supreme Court, in its January 25, 2016 opinion (6-2), ruled that: The Federal Power Act authorizes the Federal Energy Regulatory Commission to regulate "the sale of electric energy at wholesale in interstate commerce"
- The impact of a decision that did not give jurisdiction to FERC would have required states to regulate and decide how they wanted to handle Demand Response on the state level, which could have been costly and regionally inconsistent. With a consistent federal standard, demand response remains helpful to provide reliable energy on the electric grid.

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## Clean Power Plan

- The U.S. Supreme Court recently issued a stay (5-4) of the EPA's Clean Power Plan regulations.
- The stay is in effect until litigation by the states is completed, which could include any legal action by the U.S. Supreme Court.
- Case has been filed in D.C. Circuit Court with expected arguments to be in June 2016
- The impact of the stay:
  - Delay any state implication or requirement by EPA for states to file plans
  - Could go into a new Presidential Administration depending on the appeal process in federal court

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