THREE TYPES OF CASES TO BE DISCUSSED

- Complaints
- Utility Filings
- Transportation Cases
WHO IS A GATEKEEPER?
SECRETARY’S BUREAU – THE PUC BOTTLENECK

- Compliance & Assignment (C&A) – The Gate Swings In
  - where all filings - paper and electronic - arrive and are processed – includes docketing, service of complaints, appeals from BCS informal decisions, tariffs, etc. Includes the Front Desk – the first point of contact

- Order/Entry (OE) – The Gate Swings Out
  - where all Orders, ALJ decisions, Secretarial Letters and other documents issued by the Commission are served on the Parties of Record and the public

- Record Retention – when a case is closed and no longer appealable – the historical files
WHAT THE SECRETARY’S STAFF LOOKS FOR

- If efiled – cannot contain anything confidential or proprietary! Efilings automatically get published to the website – filer’s responsibility to mark the filing (subject to RTK request)
- If sent overnight, certified or priority mail – received in the afternoon after security scan is completed
- Secretary’s staff examines the filing – what is it? New (starts a new case) or existing (docket number; comments)?
- Cover letter – tell us what you want us to do with your filing!
- Expedited treatment? Tell us up front!
- Verification – 52 Pa. Code Section 1.36 – tell us if not required
- Jurisdiction – Complaint names unregulated respondent
“LARGE” FILINGS/RATE PROPOSAL/APPLICATIONS

- If the filing is large – 250 pages or more – we request: electronic version and ONE paper original (loose leaf and unbound)
- CDs or Flash Drive – upload your files in a searchable PDF format
- Each file should be 10 megabytes or less in size
- Each should be saved with a title/naming convention consistent with the filing
- CONSOLIDATE as many exhibits/attachments/tables/graphs/etc. as possible – as long as each file is 10 mbs or less
WHAT HAPPENS NEXT?

- Filing is processed; properties added; Parties of Record; filing is titled; if paper filing – prepped and scanned
- Secretary’s staff has internal procedures manual depicting approximately 200 types of filings
- Assigned to responsible PUC Bureau or Office depending on what the filing is, such as:
  - Complaints served on Respondent and after Answer is filed – go to OALJ
  - Rate cases go to TUS
  - Petitions for the most part go to LAW
  - Exceptions and Filings asking for post order relief go to OSA
PUBLIC MEETING/SECRETARIAL LETTERS

- When the Commission adopts, modifies, or rejects a matter at Public Meeting
  - Order Entry prepares the Public Meeting agenda
  - Responsible for the Minutes/Postponements to next Meeting
  - Serves the Orders or sets timetable for the Rewrite from responsible Bureau
  - Secretarial letters that have the effect
  - Order/Entry serves Recommended Initial Decisions for OALJ

Thanks to John Watson 09-06-2006
SURE YOU CAN HAVE YOUR LAWYER PRESENT ...
HE’S RIGHT BEHIND YOU
ALEXIS BECHTEL
DIRECTOR, BUREAU OF CONSUMER SERVICES
The Bureau of Consumer Services shall:

- Investigate and issue final determinations on all informal consumer complaints
- Shall advise the commission as to the need for formal commission action on any matters brought to its attention by complaints.
  - Any party may appeal a final determination issued by the Bureau of Consumer Services and seek review by an administrative law judge or
  - Special agent subject to the procedures in section 335 (relating to initial decisions).
- Shall on behalf of the commission keep records of all complaints received, the matter complained of, the utility involved, and the disposition thereof and
- Shall at least annually report to the commission on such matters.
  - The commission may take official notice of all complaints and the nature thereof in any proceeding before the commission in which the utility is a party
  - The commission shall adopt, publish and generally make available rules by which a consumer may make informal complaints.
- The bureau shall also assist and advise the commission on matters of safety compliance by public utilities.
**BUREAU OF CONSUMER SERVICES**  
**BCS — FURTHER DEFINED**

- **Director’s Office**
  - Administrative functions
  - TRAQ Unit (Training, Quality, Systems Support, and Innovations)

- **Customer Assistance and Complaints Division (CACD)**
  - Receives and responds to consumer complaints, payment arrangement requests and inquiries involving electric, natural gas, telephone, steam heat, water, sewage companies and competitive energy suppliers.
  - Investigates and issues binding decisions
  - Provides utility-related information to consumers
  - Responsibilities Include: Enforcement, Field Audits, Advisory, Prosecutory
  - **BCS encourages**
    - Ensure Informal Complaint reports (ICR) to BCS are complete and address all concerns noted in the complaint
    - Provide copies of your original dispute report(s) and ICR to the complainant(s) - §56.151(5)(i)
    - Use of the CURE process (Customer and Utility Resolution Effort) wherever possible

- **Policy Division**
  - Tracks trends in complaint activity, utility customer service performance, and low income related programs and issues annual activity reports.
  - Advises the Commission regarding issues of interest and concern to utility consumers.
  - Works with utilities to ensure that utilities comply with customer service regulations including regulations pertaining to low income programs.
  - Responsibilities Include: Enforcement, Field Audits, Advisory, Prosecutory
BCS REPORTS AND PUBLICATIONS

Three annual reports and one quinquennial report.

- Customer Service Performance Report
- Utility Consumer Activity Report and Evaluation (UCARE)
- Universal Service Programs and Collections Performance
- Quinquennial report provides status of utility performance relative to Chapter 14 implementation.
BUREAU OF CONSUMER SERVICES’ CACD FUNCTIONS

- **Average Annual Informal Complaint Activity**
  for electric, gas, water, telephone:
  - Avg. No. Investigated Complaints 70,000
  - Avg. Resolved on First Contact 30,000
  - AVERAGE LOGGED ACTIVITY 100,000
  - AVERAGE INBOUND CONTACTS 185,000

(Includes inbound phone calls resolved on first contact, fax, mail, and email/web complaints)

**NOTE:** Does not include FORMAL COMPLAINT activity – which averages 2000 cases/year.
INTENT TO APPEAL BCS DECISION
(FORM INCLUDED WITH EACH BCS DECISION)

Request for Formal Complaint Forms
(Notification of Intent to Appeal)

Notice to Customer:

If you sign and return this form, you are telling the Public Utility Commission that you want to appeal this decision. Do not return this form unless you want to appeal this decision.

If you want to appeal, you must return this form within 20 days of BCS MAIL DATE. The Commission will send you formal complaint forms if you return this form.

You must comply with this decision until the Public Utility Commission completes the formal complaint process. You must make all of the required payments or the utility company may shut off your service.

Sincerely,
Pennsylvania Public Utility Commission

Yes, I want to appeal this decision. Please send formal complaint forms to me at the following address:

Customer name and address:
(Please correct any mistakes)

COMPLAINANT NAME
and
MAILING ADDRESS

(Area Code) Telephone Number
BCS: CASE NUMBER
Company: COMPANY NAME

Mail this completed form to:

Signature
Date of Mailing:

Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120
PAUL DISKIN
DIRECTOR, TECHNICAL UTILITY SERVICES
TECHNICAL UTILITY SERVICES

- Filing receives a docket number and is assigned by Secretary’s Bureau to TUS.
- Assignments are made by industry specific TUS Supervisors to their respective staff.
- Staff reviews submission and may issue data requests for missing/unclear information.
- If application/submission is uncontested, there is no restriction in discussions with utility and TUS staff.
- After review of the filing information and any additional submissions, staff will prepare recommendation for public meeting.
- The recommendation will go through TUS managerial review as well as Law Bureau review prior to submission for public meeting.
<table>
<thead>
<tr>
<th>VARIOUS TYPES OF APPLICATIONS FILED</th>
<th>UTILITIES</th>
<th>FINAL DISPOSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application to extend service territory</td>
<td>All fixed utilities excluding telecommunication companies</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Application to abandon service territory</td>
<td>All fixed utilities excluding telecommunication companies</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Rate Increase request</td>
<td>All fixed utilities excluding telecommunication companies</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Tariff Supplement effective on 60 days notice</td>
<td>All fixed utilities</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Long Term Infrastructure Improvement Plan</td>
<td>All fixed utilities excluding steam and telecommunication companies</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Securities Certificates</td>
<td>All fixed utilities</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Supplier licenses</td>
<td>Electric and Natural Gas Distribution suppliers</td>
<td>Commission Order</td>
</tr>
<tr>
<td>Price Stability Index</td>
<td>Telecommunication companies</td>
<td>Commission Order</td>
</tr>
</tbody>
</table>

There is also another method on how an application/filing can be decided. TUS staff also has delegated authority on specific applications like transportation applications, affiliated interest agreements and transfers of control. In those proceedings, the process is very similar with a Secretarial letter being issued communicating the staff recommendation.
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<td>Motor Carrier and Household Goods applications</td>
<td>Transportation utilities</td>
<td>Delegated Authority</td>
</tr>
<tr>
<td>Transfers of control under Chapter 11</td>
<td>All fixed utilities</td>
<td>Delegated Authority</td>
</tr>
<tr>
<td>Transportation rate increase request</td>
<td>Transportation utilities</td>
<td>Delegated Authority</td>
</tr>
<tr>
<td>Affiliated Interest Agreements under Chapter 20</td>
<td>All fixed utilities excluding telecommunication companies</td>
<td>Delegated Authority</td>
</tr>
<tr>
<td>Tariff Supplement effective on less than 60 days notice</td>
<td>All fixed utilities</td>
<td>Delegated Authority</td>
</tr>
</tbody>
</table>
KELLY MONAGHAN
BUREAU OF AUDITS

We REALLY, REALLY like your documentation!
Don’t FEAR the Audit
RESPONSIBILITIES

- Audit Pennsylvania’s fixed utilities
  - Financial – 1307(e) and special assignments
  - Management audits: performance/compliance

- Review adjustment clause rate filings and reconciliation statements

- Provide other audit-type services on entities under the PUC’s jurisdiction

- All Audit Reports publicly released since April 2001 can be found on the Commission’s website at www.puc.pa.gov
AUTOMATIC ADJUSTMENT CLAUSES

- Utility petitions to implement an automatic adjustment clause & files a tariff supplement with applicable rider

- May specify rate adjustment filings

- May require reconciliation and audit

- If not subject to reconciliation or rate adjustment, then BOA typically has no role
AUTOMATIC ADJUSTMENT CLAUSES – RATE ADJUSTMENTS

- Charges are typically based on a reimbursement of incurred expenses

- May or may not include interest

- The utilities make adjustments to the rate to either:
  - refund over-collected amounts to customers
  - collect under-collected amounts from customers
RATE ADJUSTMENT FILINGS

- BOA reviews within 10 days of the effective date

- BOA approves or disapproves the filing

- If approved, BOA issues a Secretarial letter discussing approval but does not waive the right to further review and audit nor prevent a party from challenging

- If the filing is not approved, the utility could file a complaint. BOA would be a witness
1307(E) RECONCILIATION STATEMENT FILINGS

- Filed w/in 30 days of the end of the reporting period

- Review for accuracy & compliance with tariff provisions

- 30-day wait for other parties to challenge
  - If challenged, then BOA is a witness and presents its review as evidence

- Issue Secretarial letter
FINANCIAL AUDIT GOALS

- Verify that the proper rates are being charged
- Ensure that only allowable costs are being recovered
- Ensure the correct amounts are being refunded to/collected from customers
- Ensure reporting to the Commission is accurate, complete and in compliance
1307(E) AUDITS

- Audits generally last 3-6 months

- Include correspondence, meetings, information requests, data analysis and other procedures

- Results are communicated in a report that says whether or not the filings are fairly stated and includes any findings/observations

- BOA typically interacts w/ utility legal staff on material findings

- The utility can challenge an audit finding by filing a complaint
**MANAGEMENT AUDITS (MAS)**

- Examination a utility’s management effectiveness and operating efficiency and are used to determine to what extent the utility has:
  - Contained costs
  - Developed reasonable long- and short-term plans for continued operation and maintenance
  - Maintained proper service to its customers

- Conducted every 5-8 years for fixed utilities w/ plant-in-service of $10+ million

- Management Efficiency Investigations (MEI) occur 2-3 years after audit to determine utility’s progress in implementing recommendations
MANAGEMENT AUDITS – FUNCTIONAL AREAS

- Corporate Governance
- Executive Management and Organizational Structure
- Financial Management
- Affiliated Interests and Cost Allocations
- Customer Service
- Materials Management
- Fleet Management
- Information Technology
- Operations – Water/Gas/Electric
- Emergency Preparedness
- Human Resources/Diversity
TYPICAL INTERACTIONS - OUTSIDE COUNSEL & COMMISSION ATTORNEYS

- Audit scope
- Confidentiality/nondisclosure agreements
- Data requests and access to information
- Findings
- Interviews and meetings
HOW NOT TO GET ALONG WITH THE AUDITORS...

Keep smiling - maybe the auditor will forget about those reports she asked for yesterday.
THE EASIEST WAY TO GET ALONG WITH THE AUDITORS
BUCK PANKIW
CHIEF COUNSEL, LAW BUREAU
MATTERS ASSIGNED TO LAW BUREAU

Petitions

- Petitions for Declaratory Order
- Petitions for Ex Parte Emergency Relief
- Petitions for Waiver of Regulations
- Petitions (generally, if not already assigned to another technical bureau)
- Petitions for Reconsideration (if order was prepared by LAW)
- Other Petitions for Post-order Relief (to OSA)
MATTERS ASSIGNED TO LAW BUREAU (CONT.)

Appeals

- Appeals to Commonwealth Court and PA Supreme Ct.
- Federal Complaints Against PUC
- Appeals to Office of Open Records
- Original jurisdiction matters in state/federal courts
MATTERS ASSIGNED TO LAW BUREAU (CONT.)

- PUC Rulemakings and Policy Statements
- Emergency Orders
- Comments to FERC and FCC Rulemakings and Proceedings
- Chief Counsel Opinion Letters
- Legislative Analysis of Bills Affecting PUC
- Implementation Orders re New Legislation
- Subpoenas for Witnesses and Documents
MATTERS ASSIGNED TO LAW BUREAU (CONT.)

Misc. Matters

- EGS/NGS Bond Claims
- Bankruptcy Claims
- Contract Issues, RFP, Sole Source, etc.
- RTKL legal support (Secretary’s Bureau)
- Legal support for technical bureaus (TUS, BCS, Audits)
- Liaison with other state agencies (PEMA, DEP, 911 Board, etc.)
JUDGE DAVID A. SALAPA
OFFICE OF ADMINISTRATIVE LAW JUDGE
A. CONSUMER COMPLAINTS
B. HEARING PROCESS AND DECISION
C. UTILITY FILING
D. TRANSPORTATION FILINGS

1. MOTOR CARRIER
2. RAIL
HISTORY

1977 – Office of Special Assistants Created

The Office of Special Assistants was established by the Commission in January, 1977, to help implement the provisions of Acts 215 and 216 (now codified as 66 Pa. C.S. 308 (Law Bureau duties), 315-317 (burden of proof, effect of Commission action, etc.), 319 (code of ethics) and 331-335 (powers of Commission and OALJ procedures, Initial Decisions and Exceptions), which, inter alia, established the Law Bureau’s specific prosecutorial function and prohibited the staff attorneys and other Commission employees from performing in both a prosecutory and advisory capacity in the same case or a factually related case.

1986 – First Reorganization

- Act 114
- Prosecutory v. Advisory Duties Addition of All rates Advisory Functions (Technical and Legal)
- Tariffs, Securities, Energy, Water, wastewater, Telecommunications
- 1992 Addition of Policy and Planning Division from CEEP
HISTORY

- **1996** – KPMG Peat Marwick Reorganization
  - Creation of 2 Multi-Disciplinary Groups
  - Creation of Legal/Technical Divisions

- **2008** – Act 129
  - Discontinued OSA as a legislatively-mandated Office
  - Allowed the Commission with greater flexibility to organize the Commission to meet current responsibilities and future challenges (e.g. electric and gas restructuring, implementation of AEPS and Act 129, universal service, substantially changed regulation of telecommunications, Marcellus Shale, etc.)
OFFICE OF SPECIAL ASSISTANTS

- Key Advisory Bureau that assists the Commission in implementing provisions of the Public Utility Code
  - Review and advise on all challenges to Administrative Law Judges’ decisions or Commission Orders.
  - Draft Opinions and Orders advising the Commission on how to decide any type of issues involving every utility type for the Commission to vote on at Public Meetings.

- OSA Staff
  - Comprised of Attorneys, Rate Case Review Specialists and Administrative Support Staff
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).

- Rate Cases:
  - 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, CONT’D.

- Telephone Company Intercarrier Compensation and Access Charge Reform Issues
- Modernization (Improvement) of Telephone Networks in Exchange for Eased (Less) PUC Regulation
- Rate Increase Mitigation Proceedings
- 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, CONT’D.

- 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, CONT’D.

- Types of Issues on a much larger scale:

- Default Service Plans (Commission must approve plans filed by electric distributions companies for meeting their obligation to supply electricity to customers who do not shop for an electric supplier)
- Cases Involving Rate Cap Issues
- Cases Involving Alternative Energy Credits & Tariff Riders
- Act 129 Economic Efficiency and Conservation

- Telco Interconnection Agreements and Arbitrations (asking the Commission to approve of or resolve disagreements between telephone companies agreeing to connect their networks)
EXAMPLES OF MATTERS OSA HANDLES, CONT’D.

Other matters include:

- **Certified Questions/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)

- **Certification of the Record** (ALJ gathers evidence and forwards the record to the Commission for a decision)

- **Petition for Interim Emergency Orders**

- **Petitions for Reinstatement** (asking the Commission to reinstate a Certificate of Public Convenience canceled for non-compliance of specific Commission directives)

- Motions for Default Judgment

- **Petitions for Prosecutorial Staff Settlements**
EXAMPLES OF MATTERS OSA HANDLES, CONT’D.

- **Post-Final Order Relief**
  - 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 or Rescission (asking the Commission to take another look at the case because they feel something was overlooked)
  - Petitions for Stay or Supersedeas
  - Petitions for Modification/Clarification (asking the Commission to change an Order)
COMMISSIONER NORMAN J. KENNARD
BRAD GORTER
BUREAU OF INVESTIGATION & ENFORCEMENT
**ROLE OF I&E**

- I&E serves as an independent prosecutory bureau
  - Represents the public interest in Commission proceedings
  - Director is “Chief Prosecutor”

- I&E is obligated to balance:
  - The interest of customers
  - The interest of utilities
  - The welfare of the Commonwealth
ROLES

- Inspectors
  - Motor Carrier Enforcement
  - Safety Division

- Investigators
  - Technical Staff or Attorney-led
  - Tips or other information

- Litigating Party
  - Rates filings
  - Intervenors in Petitions, Complaints, Applications, etc.
  - Complainant
MATTERS BEFORE COMMISSION

- Referrals
  - Other Bureaus/Offices
  - Commission

- Internally Initiated
  - Technical Staff
  - Tips or other information

- Externally Initiated
  - Rates filings
  - Petitions, Complaints, Applications, etc.