

PUC - 77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

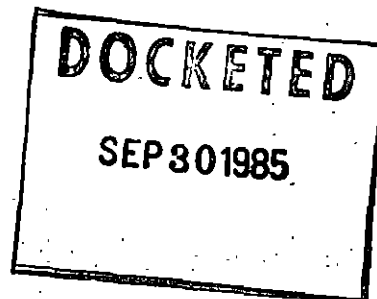
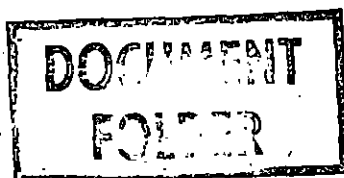
1. <u>REPORT DATE:</u> August 9, 1985	2. <u>BUREAU AGENDA NO.:</u>
3. <u>BUREAU:</u> Law	SEP-85-L-11
4. <u>SECTION(S):</u> Office of Counsel	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>	September 19, 1985
Director: Hoffman 7-5000 Supervisor: Delaney 3-3190	
7. <u>MONITOR:</u>	
8. <u>PERSON IN CHARGE:</u> Cocheres 3-3190	
9. <u>DOCKET NO.:</u> L-840097	

10. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**

(a) Procedural Regulations for Preliminary Injunction and/or other Interim Relief.

(b) The Law Bureau recommends that the Commission approve the order which directs the initial publication for comment of the Commission's procedural regulations (Annex A) for preliminary injunctions and/or other relief.

(c) The new regulations set forth rules which allow Administrative Law Judges to issue preliminary injunctions expeditiously. The Law Bureau recommends that the Commission adopt the order which directs the initial publication of the rules for comment.



11. **MOTION BY:** Commissioner Chm. Taliaferro Commissioner Fischl - Yes
 Commissioner
SECONDED: Commissioner Shane Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 19, 1985

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Amendment of the Commission's Regulations
52 Pa. Code, Chapter 3, Subchapter A,
Special Commission Actions, Emergency
Relief

L-840097

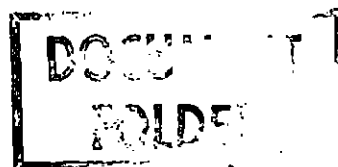
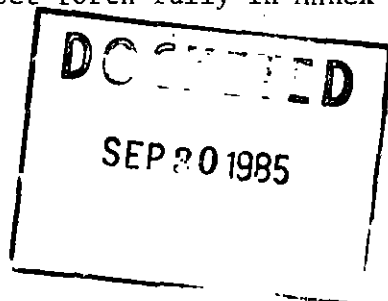
O R D E R

BY THE COMMISSION:

At public meeting held on August 27, 1984, at docket number L-840097 this Commission finally adopted comprehensive rules of Practice and Procedure. 52 Pa. Code Chapters 1, 3 and 5. Since that time we have noted that a party may suffer severe prejudice by the passage of time during the pendency of a proceeding. We now propose to amend our regulations to provide an orderly procedure for Administrative Law Judges or Presiding Officers to use to reduce or avoid emergency problems by preserving the status quo or preventing irreparable injury to parties during the pendency of a Commission proceeding.

Presently the rules provide for reactions to crises only when the parties are on the brink of disaster. Such special applications for emergency orders to individual Commissioners or the Director of Operations should be reserved for extraordinary circumstances. See 52 Pa. Code §§3.1-3.5. As a case progresses before an Administrative Law Judge or Presiding Officer circumstances may change or may threaten to change which, if permitted to continue, could irreparably harm a party before a final order is entered. For this reason the Administrative Law Judges or Presiding Officers will be given the authority to preserve the status quo or to grant some other form of injunctive relief. The proposed regulations in Annex A are designed to implement an orderly process for crisis avoidance. The current Rules of Practice and Procedure will be improved and supplemented with this new proposal.

These changes are reflected throughout sections 3.1 and 3.6-3.11 and are set forth fully in Annex A of this order.

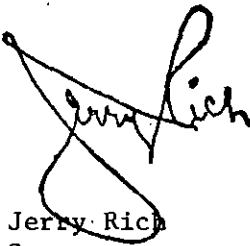


Accordingly, pursuant to Sections 308, 316, 331, 501, 1501, 1504 and 1704 of the Public Utility Code, Act of July 1, 1978, P.L. 548, No. 116, 66 Pa. C.S. §§308, 316, 331, 501, 1501, 1504 and 1704; Sections 201, 202 and 205 of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, as amended, 45 P.S. §§1201, 1202 and 1205, we find that 52 Pa. Code should be amended by revising Chapter 3, Sections §§3.1-3.12, as set forth in Annex A hereto, or as modified after receipt of comments; THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking docket be opened to consider the regulations set forth in Annex A.
2. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for review as to form and legality.
3. That the Secretary shall submit this Order and Annex A for review by the designated standing committees of the General Assembly and for review and approval by the Independent Regulatory Review Commission.
4. That the Secretary shall duly certify this Order and Annex A and deposit them with the Legislative Reference Bureau for publication as proposed rulemaking in the Pennsylvania Bulletin.
5. That the original and ten (10) copies of comments concerning these proposed amendments be submitted within 30 days of publication in the Pennsylvania Bulletin to the Pennsylvania Public Utility Commission, Attention: Secretary, P.O. Box 3265, Harrisburg, PA 17120. The contact person is Daniel P. Delaney (717) 783-3190.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 19, 1985

ORDER ENTERED: September 24, 1985

ANNEX A

Title 52 Public Utilities
Part I
Public Utility Commission
Chapter 3 - Subchapter A
Special Commission Actions
Emergency Relief

§3.1 Definitions.

* * * *

Interim Emergency Order - an order issued by an Administrative Law Judge or Presiding Officer which is immediately effective and grants injunctive relief during the pendency of a proceeding.

* * * *

§3.6 Petitions for Interim Emergency Orders..

- (a) A petition in the form as set forth in §5.41 (relating to petitions generally) for an interim emergency order may be submitted by a party at any time during the pendency of a proceeding.

- (b) The allegations contained in the petition shall be deemed to have been denied by the opposing parties, and an answer is not required. However, if a party desires, an answer in the form set forth in §5.61 (relating to answers to complaints and petitions) may be filed no later than 5 days after receipt of a copy of the petition.

(c) No other pleadings, memoranda or briefs related to a petition for interim emergency orders are permitted unless specifically requested by the Administrative Law Judge or Presiding Officer.

§3.7 Issuance of Interim Emergency Orders.

(a) An Administrative Law Judge or Presiding Officer may issue an interim emergency order upon finding that:

- (1) petitioner's right to relief is clear;
and
- (2) the need for relief is immediate; and
- (3) the injury would be irreparable if relief is not granted.

(b) An interim emergency order or an order denying injunctive relief shall be issued within 15 days of receipt of the petition.

§3.8 Form of Interim Emergency Order.

An interim emergency order shall contain a brief description of the evidence presented in support of the petition and shall specify how that evidence meets the criteria set forth in §3.7 (relating to the issuance of interim emergency orders).

§3.9

Hearings on Interim Emergency Orders.

(a) No interim emergency order shall be issued until the Administrative Law Judge or Presiding Officer holds a hearing on the merits of the petition. The hearing shall be held within 10 days of the receipt of the petition.

(b) An interim emergency order shall be served as expeditiously as practicable on all parties to the proceeding.

§3.10

Commission Review of Interim Emergency Orders.

An interim emergency order or an order denying injunctive relief may be reviewed by the Commission upon petition in accordance with the procedures set forth at §§5.301-5.303 (relating to interlocutory review).

§3.11

Duration of Interim Emergency Orders.

An interim emergency order shall expire upon entry of a final Commission order unless otherwise specified.

§3.12

Applicability to Transportation Proceedings.

Nothing in this subchapter shall be construed as preempting or modifying the procedures as set forth in §§3.338-3.385 (relating to temporary authority or emergency temporary authority).