

**Testimony by**

**The Public Utilities Commission of Ohio  
Alan R. Schriber, Chairman**

**Before the**

**House Public Utilities Committee**

**May 26, 2009**

**PUCO MISSION:**

**To ensure all residential and business consumers access to  
adequate, safe, and reliable utility services at fair prices,  
while facilitating an environment that provides competitive  
choices.**



Chairman DeGeeter, members of the committee, thank you for inviting me to appear before the committee today to give an overview of the Public Utilities Commission of Ohio (PUCO). For those of you new to the House Public Utilities Committee, I am Alan Schriber, chairman of the PUCO.

As you may know, the PUCO is governed by a chairman and four commissioners, who are appointed by the governor to staggered, five-year terms. The governor's selection is made from a list of names submitted by the PUCO Nominating Council, a broad-based 12-member panel charged with screening candidates for the position of commissioner. As chairman, I also act as the agency's full-time director and chair the Ohio Power Siting Board, which reviews all applications for building major utility facilities in Ohio.

The PUCO oversees public utility industries, including electric, natural gas, pipelines, telephone, water, railroad, hazardous material carriers and commercial transportation carriers, including ferryboats, buses, towing companies and household goods carriers. The PUCO is the only state agency charged with ensuring that essential utility services are safe, reliable and adequate. Our expert staff regularly inspects utility facilities around the state to ensure that utility wires, pipes and equipment are safe and well-maintained.

When I first served on the Commission in the early 1980s, we began to address the issue of competition in the utility industry. At that time, the primary focus on competition in the utility regulatory environment revolved around the transition in the long distance telephone industry. However, since that time, utility markets have continued to evolve and, today, competition in utility sectors has been initiated in trucking, natural gas, local telephone and electricity.

It is also important to point out that the PUCO serves *all* customer classes: commercial, industrial and residential. The PUCO has the authority and enforcement power to resolve complaints directly between the consumer and the utility and between competitive providers. It is through direct contact with customers via our call center and the inspections conducted by our

staff investigators and auditors that we have been alerted to and acted upon violations of our service standards.

On average more than 1,500 cases are filed at the PUCO each year; these cases include formal complaint proceedings, certifications for operating authority, rulemakings, tariff filings and all other cases. Attached to my testimony is a chart illustrating how a complaint case and a rulemaking proceeding might become a finalized Commission order. We often get questions about our process as it differs from the legislative process of a bill becoming law and resembles more of a legal proceeding.

### **Percentage of Income Payment Plan (PIPP)**

At the end of 2008, the Commission approved revised rules regarding the Percentage of Income Payment Plan (PIPP). PIPP is a program designed to assist low income customers in paying for their natural gas bills. Customers whose yearly household income is 150 percent or less of the federal poverty level may pay a certain percentage of their income to maintain their natural gas service. The PIPP program was first implemented over 25 years ago and has allowed thousands of Ohioans to stay warm during the colder winter months. The PUCO recently revised rules that will lower the monthly payments of PIPP customers from 10 to 6 percent of their income. The Commission believes this will make payments more affordable and encourage more timely payments by PIPP customers.

### **PUCO Transportation**

The PUCO's motor carrier program ensures quality and equitable service for public and commercial carriers in Ohio. Our comprehensive program of carrier registration and insurance filing, data collection through audits and inspections and issuance of civil forfeiture fines for safety and rule violations, among other things has been both effective and efficient. The PUCO's hazardous materials inspectors examine and audit motor carriers to ensure safety on Ohio roadways. PUCO inspectors regularly conduct audits, inspections and safety reviews to evaluate motor carriers' safety records, policies and procedures.

Railroad grade crossing safety is also a high priority at the PUCO. Since 1990, motor vehicle/train crashes at grade crossings in Ohio have declined significantly. Each year, the

PUCO authorizes funding for the installation of lights and gates at grade crossings across Ohio. The PUCO Web site contains a comprehensive database of every highway-rail crossing in Ohio. This Railroad Information System allows anyone to search for a crossing based on county, type of crossing, position of crossing and status.

### **Telephone**

The PUCO oversees the service quality of telephone companies in Ohio with about 7.5 million telephone lines. The PUCO ensures that, regardless of competitive market conditions, the quality of telephone services in Ohio, for both residential and business customers, is adequate and reliable.

Ohio's Wireless Enhanced 9-1-1 (E9-1-1) Fund was created in 2005 to assist local emergency response organizations in upgrading facilities and equipment to enable them to receive information transmitted when a 9-1-1 call is made from a wireless phone. Through these enhancements, emergency responders are able to use technology that assists in locating callers that may be unable to give their exact location. At the end of 2008, the Ohio General Assembly passed Senate Bill 129, extending the surcharge through the end of 2012 and reducing the surcharge from 32 to 28 cents a month.

In less than three years, all of Ohio's 88 counties have been approved for wireless enhanced 9-1-1 funding, and 60 counties have implemented Phase II E9-1-1, which allows emergency operators to pinpoint the location of callers using advanced technology. The PUCO collects and disburses funds paid by wireless subscribers to county treasurers. To date, more than \$91 million has been disbursed by the PUCO.

### **Natural Gas**

The natural gas industry is a complex network of companies that produce, transport and distribute natural gas. In Ohio, more than three million people use natural gas. The PUCO oversees more than 54,000 miles of distribution lines which provide natural gas to individual users, as well as more than 6,000 miles of transmission lines. As you know, natural gas customers in Ohio can choose the provider of their natural gas. The PUCO's *Apples to Apples*

natural gas rate comparison charts are updated regularly and provide gas supplier information in each service territory. The charts are routinely the most sought after information on our Web site.

In 2008, the PUCO implemented a new “levelized” residential distribution rate structure for Ohio’s four largest natural gas utilities (Columbia Gas of Ohio, Dominion East Ohio, Duke Energy Ohio and Vectren Energy Delivery of Ohio) that better reflects the fixed cost nature of delivering natural gas. The new rate structure more accurately reflects the cost of distribution service while lowering what had otherwise been added to the cost of the natural gas itself. At the same time, the new rate structure gives customers a more accurate reward for conservation measures.

### **Renewable Energy**

Renewable energy resources have caught the attention of many utility customers during the last several years. Rather than go through the expense of installing a windmill, solar panels or other source of renewable energy, many utility customers across the U.S. have opted to purchase power generated from renewable resources.

In 2007, the PUCO approved plans for Duke, FirstEnergy and AEP-Ohio to begin offering green pricing options to consumers. Under the programs, customers may choose to purchase renewable energy credits (RECs) as a premium to their electric bill. While purchasing RECs does not guarantee that the power delivered to a customer came from a renewable resource, purchasing RECs is guaranteed to help fund the advancement of renewable technologies.

Each company’s program varies slightly, but in general, for a few dollars per month a consumer can purchase enough RECs to offset their entire usage. The programs ensure that money collected through the purchase of RECs is channeled to approved projects, such as the development of wind power, biofuels and solar energy.

Commercial wind farms in Ohio (more than 5 megawatts) can now receive a single siting certificate through a convenient “one-stop” process at the Ohio Power Siting Board as a result of the passage of HB 562 in 2008. This bill directed the Board to adopt certification rules for the construction, operation and maintenance of wind-powered electric generation facilities. The rules

outline requirements for aesthetics, setback, noise levels, ice throw, blade sheer and shadow flicker among other issues.

Ohio's efficient siting process is possible because all 11 entities involved with approving the siting application are seated at the same table: the chair of the PUCO; the directors of the Ohio Environmental Protection Agency, the Ohio Departments of Agriculture, Development, Health, and Natural Resources; and a public member. Four members of the Ohio General Assembly also serve as non-voting members of the Board.

### **Electric**

Since the implementation of Senate Bill 3 in 1999, the PUCO has worked to ensure rate stability for customers, financial stability for electric utilities and promote further development of competitive markets. More recently, the PUCO worked with the Ohio General Assembly and interested stakeholders on the passage of Senate Bill 221 in 2008, Ohio's new electricity law developed from Governor Ted Strickland's Energy, Jobs and Progress Plan to stabilize electricity prices, create jobs and expand Ohio's green energy industry.

Before I begin discussing SB 221, I would like to begin with a brief background about the electric industry and recap where we have been since Ohio's electric restructuring legislation was signed into law back in 1999.

The electric industry consists of three main components: generation, transmission and distribution. Senate Bill 3 (SB 3) was signed into law in 1999 and allowed for competition in electric generation. SB 3 also provided a five-year market development period lasting from Jan. 1, 2001 to Dec. 31, 2005. During this period, rates were frozen in order to allow a competitive wholesale market to take shape.

Ohio moved toward restructuring the electric industry with the belief that competitive market forces would develop and hold down prices. Since electric choice began in 2001, we have been working to facilitate a competitive electric market in Ohio. However, it is widely acknowledged that a fully competitive market did not develop. As a result, the PUCO developed plans to secure the future of Ohio's retail electric market.

As the end of the market development period neared, we grew concerned that the limited number of competitive electric suppliers and low degree of market activity were an indication that an immediate shift to market-based rates in 2006 would not be in the best interest of customers. To minimize the effects of rate “sticker shock” and gradually transition customers to market-based rates, we worked with Ohio’s electric utilities to develop rate stabilization plans (RSPs). These plans, coupled with other recent rate modifications, eliminated market uncertainty and provided customers with stable, predictable rates.

The Ohio Legislature supported the establishment of RSPs in a report issued in October 2003 encouraging the PUCO to “continue to take the necessary steps ... to ensure that a healthy competitive market is in place before full electric competition begins.”

In May 2007, Governor Ted Strickland announced his Energy, Jobs and Progress Plan. The governor’s plan served as the foundation for SB 221 to develop a comprehensive, long-term approach to the challenges of supplying reliable and affordable power. SB 221 came about after many discussions with representatives of all key stakeholder groups including electric utilities, environmental and consumer advocates, customers of all sizes, along with business and political leaders.

On May 1, 2008, Gov. Strickland signed SB 221 into law. SB 221 became effective on July 31, 2008 and incorporates a system under which rates would be set by the PUCO or provides a path where electric utilities may implement market-based pricing.

SB 221 ensures price stability and an adequate, reliable supply of electricity. It is a carefully crafted hybrid approach that recognizes how we generate, distribute and price electricity. This is particularly important since Ohio is fifth among the states in overall energy consumption and spends more than 30 billion dollars on energy every year. Electricity is the single biggest component of our energy use.

SB 221 opens the door to the jobs of the future through the establishment of advanced and renewable energy and energy efficiency portfolio standards. Ohio possesses a wealth of resources to invent, build and deploy the next energy technologies. From our great research

universities to our industrial base to our skilled workforce, we have the key building blocks for a new economic focus on the energy technologies of the future.

SB 221 also empowers Ohio consumers by making available technologies that will allow all customer classes to better understand their use of electricity, its cost and how to control it as well as modernizing the electric grid so that we can more efficiently use the electricity we need.

### **Implementation of SB 221**

Recently, the PUCO has focused on implementation of SB 221. On July 31, 2008, American Electric Power and Duke Energy Ohio filed electric security plans (ESP). FirstEnergy filed both an electric security plan and market rate offer (MRO) on that same day. Dayton Power & Light filed an application for an ESP on Oct. 10, 2008. Attached to my testimony is more detailed information about each electric utility company.

In addition to considering the ESP and MRO applications, we have also been working on rules for the implementation of SB 221. Since July 2008, we have issued three sets of rules for comment that address the following subject areas:

- The requirements and procedures for Ohio's electric distribution utilities to submit electric security plan and market rate option standard service offers, file corporate separation plans and apply for economic development and energy efficiency arrangements.
- New or revised requirements for electric line extensions, government aggregation programs, net metering, interconnection, and environmental disclosure.
- Alternative energy portfolio standard, new requirements for energy efficiency programs, renewable energy credits, long-term forecast, and greenhouse gas reporting and carbon dioxide control planning.

### **Conclusion**

The past year has brought a significant workload to the staff at the PUCO. In addition to the ESP and MRO applications and rule making dockets, we have also considered applications for rate increases for electric distribution companies, the four major natural gas and water company rate

cases, while also completing implementation of wireless 9-1-1 service in Ohio and restructuring the natural gas Percentage of Income Payment Plan. I am extremely proud of the work being done by commissioners and our dedicated staff who handled this increased workload with extreme professionalism and diligence.

Thank you for the opportunity to appear before you today. Chairman DeGeeter, if you or members of the committee have questions, I would be happy to answer them.

**Implementation of SB 221 by utility company**

**FirstEnergy**

FirstEnergy was the only company that filed both an ESP and MRO application; those applications were filed on July 31, 2008. We held nine local public hearings in FirstEnergy's service territory on the company's application. The evidentiary hearing began in mid-October and concluded in late-October.

In November, we denied FirstEnergy's application to establish a MRO. Upon review of the company's MRO application, we took into consideration the requirements set forth in SB 221 and we evaluated the specific requirements that the company must meet to demonstrate that the application meets the statutory requirements together with the policies set forth in the law. As such, we concluded that FirstEnergy's MRO application could not be approved as filed.

In December, we modified and adopted an ESP for FirstEnergy that established generation rates that we felt were stable. The ESP also ended regulatory transition charges for two of FirstEnergy's three operating companies (Ohio Edison and Toledo Edison). I would note that Cleveland Electric Illuminating's transition charges are scheduled to continue through next year. We also directed the company to implement a new Energy for Education program that would provide public schools with a discount of their electric rates in exchange for the prepayment of their bills, using the schools' bonding authority.

Shortly after we issued the modified ESP, FirstEnergy filed notice with us that they were withdrawing and terminating their ESP application. In January, we modified and approved tariffs that reflect FirstEnergy's most recent standard service offer as outlined in the company's rate certainty plan (RCP) approved in January 2006. As outlined in SB 221, we also authorized the company to file to recover its purchased power costs.

Upon our direction, PUCO staff developed a proposal to establish an ESP for FirstEnergy in late January. Staff shared this proposal with the parties and after several discussions the parties reached a stipulated agreement in the case in February. The stipulated agreement resulted in a

hybrid approach in which the ESP will utilize a competitive bid process or auction to establish the company's generation rate for the next two years.

In March, we approved the stipulated agreement that established an ESP for FirstEnergy. The ESP is in effect through May 31, 2011. Under the ESP, retail generation rates from June 1, 2009 through May 31, 2011 will be determined through a competitive bid process. During the ESP, FirstEnergy's distribution rates will be frozen through Dec. 31, 2011. FirstEnergy will commit \$25 million to economic development in Ohio over the next three years and continue its existing green resource program that allows customers to purchase renewable energy credits each month. Also during the ESP, FirstEnergy will participate in a collaborative that will develop energy efficiency and demand-side management programs. FirstEnergy will also develop a proposal to apply for available federal funds under the Economic Recovery Act that may be available for smart grid investment.

The competitive bid process or auction, held on May 13 and May 14, was conducted by an independent bid manager. There were 12 bidders registered for the auction and nine submitted winning bids. The auction resulted in a final wholesale auction price of \$61.50 per megawatt hour for FirstEnergy's operating companies' standard service offer supply. While the percentage change in the retail rates for individual rate classes vary, on an annual total bill basis, retail rates for a standard residential customer using 1,000 kilowatt hours (kWh) per month will decrease by 16 percent for Ohio Edison, 12.6 percent for Toledo Edison and 7.4 percent for Cleveland Electric Illuminating, as a result of the auction. The rates around these annual total bill percentages will vary between summer and winter. We are more than pleased that ratepayers in northern Ohio, many of whom have been victimized by the economy, will benefit from the outcome of the energy auction.

### **Duke Energy Ohio**

Duke filed an application for an ESP on July 31, 2008. We held three local public hearings in Duke's service territory on the company's application. In late October, parties including Duke, PUCO staff and the Office of the Ohio Consumers' Counsel, among others, filed an agreement to allow Duke to establish the ESP. The evidentiary hearing occurred in mid-November.

In December we implemented a three-year electric security plan for Duke. The plan establishes fair and reasonable price increases in the base price of generation. The base price of generation will increase approximately 2 percent in 2009 and 2010 for Duke's residential customers. There will be no base generation increase for residential customers in 2011. For Duke's commercial and industrial customers, the base price of generation will increase approximately 2 percent each year of the plan.

The implementation of the ESP, including the updated riders and the quarterly adjustment of Duke's fuel costs, resulted in a decrease in electric rates for all customers for the first quarter of 2009. The decrease for a typical customer is as follows:

- Residential customers - 3.8 percent reduction in the total bill. A typical residential customer uses 1,000 kWh of electricity per month.
- Commercial customers - 4.4 percent reduction in the total bill. A typical commercial customer uses 14,000 kWh per month with a 40 kW demand.
- Industrial customers – 5 percent reduction in the total bill. A typical industrial customer uses 400,000 kWh per month with a 1,000 kW demand.

The ESP also establishes a mechanism for Duke to recover costs for SmartGrid technology and requires the company to explore ways to maximize SmartGrid benefits. Additionally, the ESP also provides incentives for Duke to achieve energy efficiency.

### **American Electric Power-Ohio**

American Electric Power-Ohio (AEP-Ohio) filed an application for an ESP on July 31, 2008. We held five local public hearings in AEP-Ohio's service territory on the company's application. The evidentiary hearing commenced in mid-November and ended in mid-December. The briefing schedule for the case continued into mid-January prompting us to approve AEP-Ohio's request to continue the company's current rates. In March, we modified and approved an electric security plan for AEP-Ohio. During the ESP period, AEP-Ohio will phase-in authorized increases to customers' generation rates. For Columbus Southern Power customers, these annual increases will be capped at 7 percent in 2009 and 6 percent in 2010 and 2011. Ohio Power customers will have increases capped at 8 percent in 2009, 7 percent in 2010 and 8 percent in

2011. The plan also allows for AEP-Ohio to implement its gridSMART program that will enable the company to improve reliability, reduce costs and allow customers to better control their electric bills through advanced metering technology. AEP-Ohio will also implement an enhanced vegetation management program under which the company will move to a four-year cycle-based vegetation management program and employ additional resources and increase the level of vegetation management work performed.

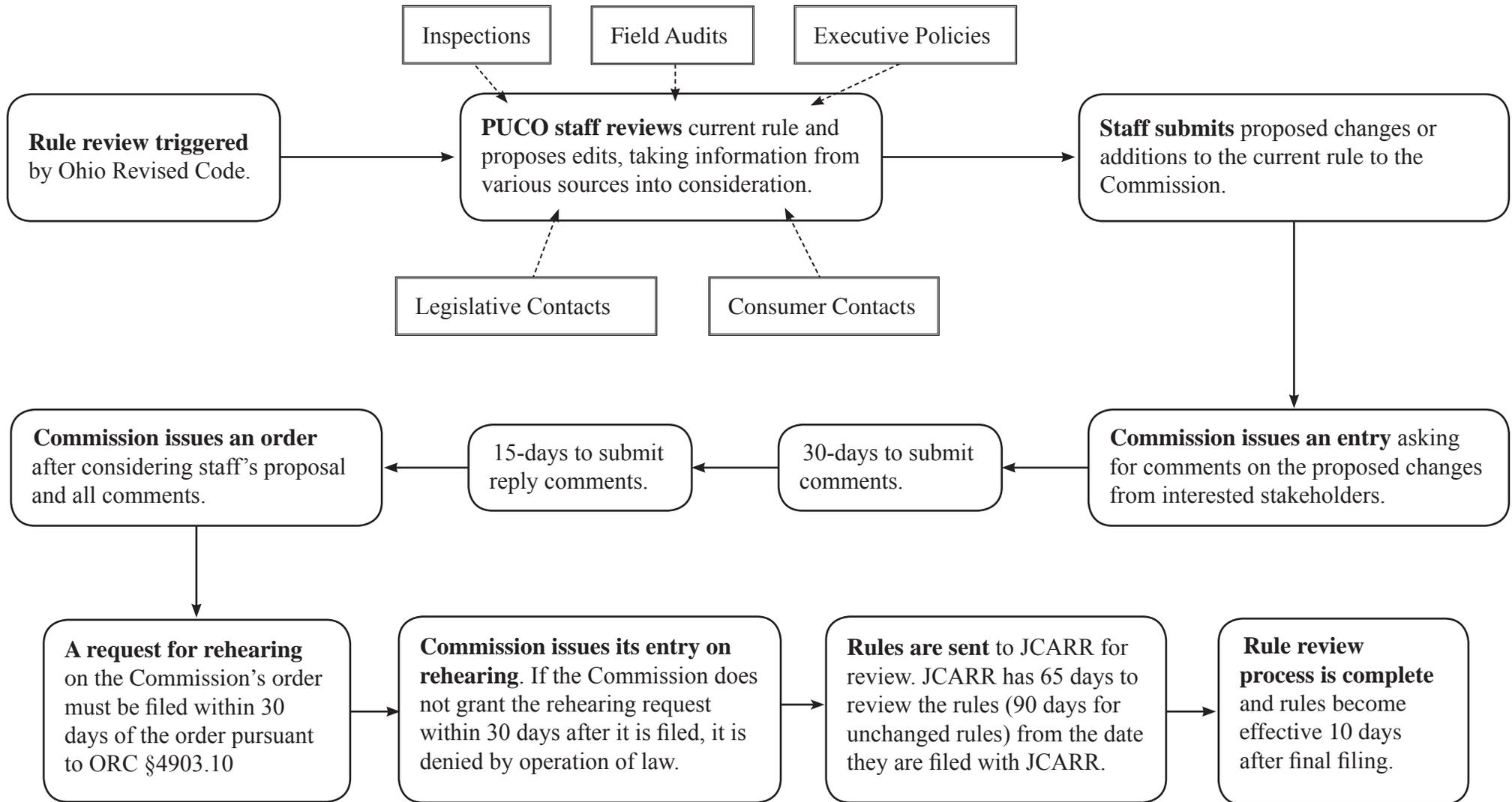
**Dayton Power & Light**

Dayton Power & Light (DP&L) filed an application for an ESP on Oct. 10, 2008. We held three local public hearings in DP&L's service territory on the company's application. The evidentiary hearing occurred in mid-February. In late February the parties including DP&L, PUCO staff and the Office of the Ohio Consumers' Counsel, among others, filed an agreement to allow DP&L to establish the ESP. The stipulated agreement is currently pending before the PUCO commissioners.



# PUCO Administrative Code Rule Review Process

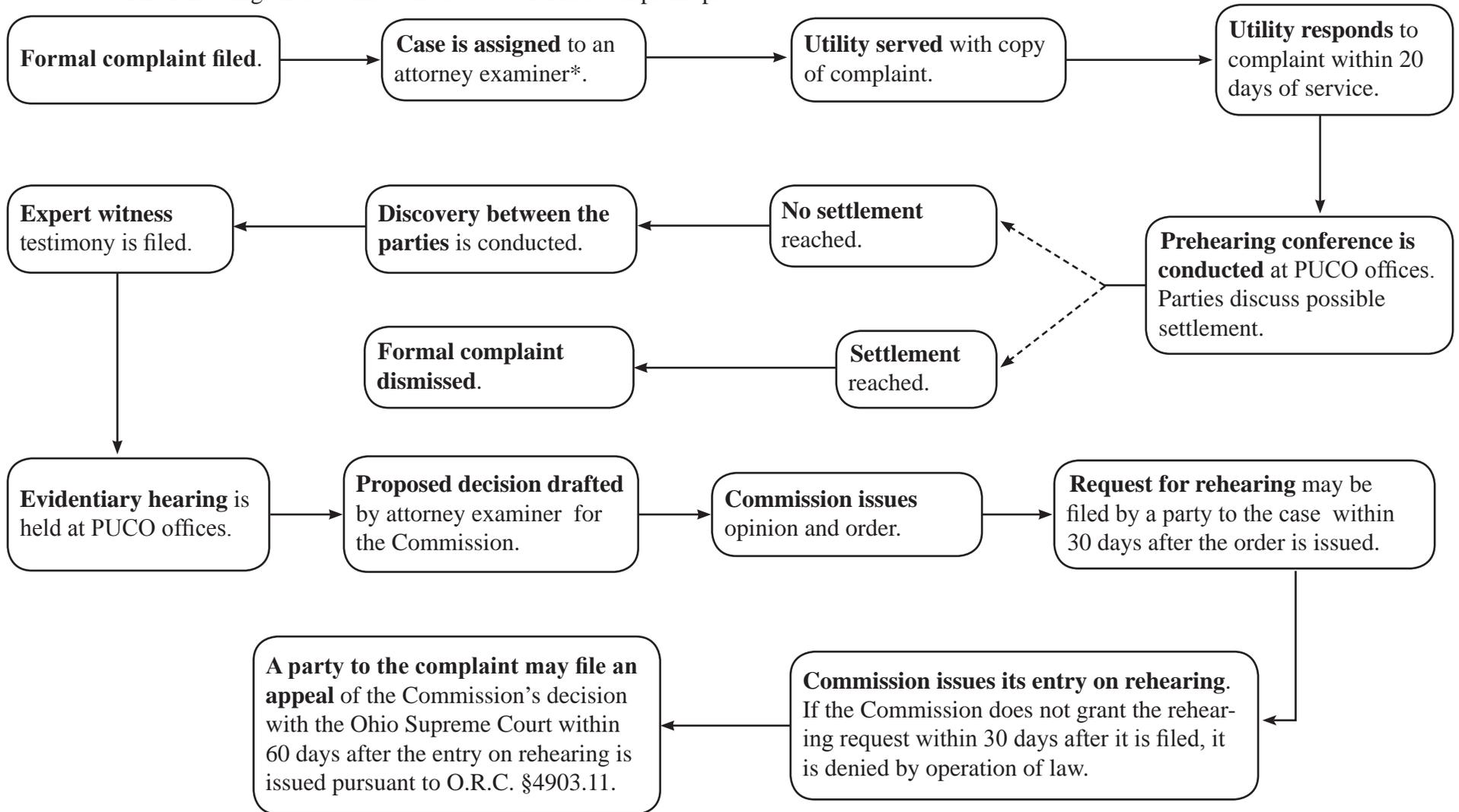
Each Ohio Administrative Code rule must be reviewed every five years and sent to the Joint Committee on Agency Rule Review (JCARR). The following chart outlines the process the PUCO uses to review its rules and make any necessary changes.





# PUCO Formal Complaint Process

The PUCO operates a call center staffed by professionals trained to resolve issues between consumers and utility companies. In most cases, the PUCO’s call center staff are able to help the consumer and utility reach an agreement over the concern at hand. From time to time, however, the consumer will choose to file a formal complaint if a solution cannot be worked out. The following chart outlines the PUCO’s formal complaint process.



\* PUCO attorney examiners perform the duties of an administrative law judge.