

The Public Utilities Commission of Ohio

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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 Snitchler, members of the committee, thank you for inviting the Public Utilities Commission of Ohio (PUCO) to appear before the House Public Utilities Committee to give an agency overview.

Our presentation today will begin with a short history and background on the PUCO, followed by information on our quasi-judicial function and case process before giving you a glimpse of the industries we regulate and the top issues currently facing them.

PUCO History and Background

Utility and transportation regulation in Ohio dates back to 1867 when the Ohio General Assembly established an office to examine Ohio's railroads and telegraph companies. By the early 1900's the office was expanded to address telephone, electric, natural gas and water industries. Today the PUCO continues to oversee these industries, along with natural gas pipelines, 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. The PUCO regularly inspects utility facilities around the state to ensure that utility wires, pipes and equipment are safe and well-maintained.

As you may know, the PUCO is governed by a full-time 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. The chairman of the PUCO also acts as the agency's director.

The chairman of the PUCO also chairs the Ohio Power Siting Board, which reviews all applications for building major utility facilities in Ohio. Ohio's efficient siting process is possible because all 11 entities involved with approving the siting application are part of the Board: 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.

More recently, the passage of HB 562 in 2008, gave the Board additional oversight regarding commercial wind farms in Ohio that are more than 5 megawatts. These wind farms are required to receive a siting certificate through the Ohio Power Siting Board. This bill also 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.

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 toll-free call center, formal complaints and filings along with the inspections conducted by our staff investigators and auditors that the Commission has been alerted to and acted upon violations of our service standards.

PUCO Process and Structure

As you can imagine, there is a lot activity within the Commission on a daily basis. Some of the activity results in orders and entries which appear on the Commission's weekly meeting agenda and some of the activity is part of our statutory mission and handled by PUCO staff without appearing on the weekly agenda.

On average more than 1,900 cases are filed at the PUCO each year; these cases include formal complaint proceedings, certifications for operating authority, rulemakings, tariff filings rate proceedings, energy efficiency, renewable, and economic development arrangements. Attached to the testimony is a chart illustrating how a complaint case and a rulemaking proceeding generally 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.

The commissioners meet every week and the meetings are webcasted just like your House sessions. The Commission agenda is released each Thursday for the following week. At the Commission meeting, agenda items can be discussed and signed or rescheduled to a later agenda. The purpose of the Commission meetings is for commissioners to decide pending utility matters.

They do not hear from the public or outside parties at this time because parties have already had the opportunity to present their views through workshops, public hearings, legal pleadings or written comments prior to the Commission meeting.

Unlike your legislative bill drafts, the contents of all agenda items are confidential and cannot be discussed with or revealed to anyone outside the Commission until voted upon and signed at a public meeting. In addition, once a case is assigned a formal docket number, no commissioner or attorney examiner assigned to the case shall discuss the merits of the case with any party to the proceeding without formally disclosing those discussions (*Ex parte*).

After the case is voted upon, the written decision is available to the public following the meeting. All documents in a case can be found on our electric docketing information system (DIS) on our website (PUCO.ohio.gov). This docket can be used as a resource to view every document, letter, testimony, brief, or report in the case. The commissioners rely upon the case record when making a decision. Once a case has received due process by the PUCO, it may be appealed directly to the Ohio Supreme Court.

PUCO Industries and Policies

As stated earlier, the PUCO oversees public utility industries, including electric, natural gas, telephone, water, and transportation. Although it may vary over time which industry or industries are in the news or require the most action by the Commission, we have staff working with all the industries on a regular basis. Here is a snap shot of each industry and some of the issues facing them.

Electric

The electric industry consists of three main components: generation, transmission, and distribution. Senate Bill 3, passed by the Ohio General Assembly in 1999, allowed Ohioans to choose the company that provides their electricity. This program is commonly referred to as electric choice. Generation providers are competitive entities certified by the PUCO, but are not fully regulated. Transmission and distribution companies, on the other hand, continue to be fully regulated entities and fall under the PUCO's and Federal Energy Regulatory Commission's jurisdictions.

The PUCO works to ensure rate stability for customers and financial stability for electric utilities and promotes 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 to further ensure price stability and an adequate, reliable supply of electricity. 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. SB 221 incorporates a system under which rates would be set by the PUCO pursuant to a hybrid approach (commonly known as an electric security plan) or provides a path where electric utilities may implement market-based pricing.

SB 221 establishes advanced and renewable energy and energy efficiency portfolio standards. In order to become a “renewable energy resource generating facility” that is eligible to generate renewable energy credits (RECs) that may be used to count towards Ohio’s renewable energy resource benchmarks, a facility must first be certified by the PUCO. In 2010, a total of 1,006 applicants filed for PUCO certification, and 700 facilities were certified, including 13 “utility-scale” facilities.

PUCO certification does not predetermine compliance with Ohio’s annual renewable energy resource benchmarks. The PUCO provides a certificate number to an attribute tracking system for processing and administration of RECs. The tracking system records generation data from the certified facility to determine how many RECs the facility is eligible for in a given year. If the owner of the certified facility is a regulated Ohio utility or generating company, the RECs may be eligible to count toward the renewable energy resource benchmark following PUCO review. Otherwise, the owner of the facility can sell the RECs on one of the nation’s developing REC markets.

The law 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. Three electric utilities are currently offering pilot programs, which utilize smartgrid technologies.

One of the electric issues you may have heard a lot about recently, particularly if you are from the northern Ohio area, is all-electric rates. During the energy crisis of the 1970s, FirstEnergy

implemented rates designed to promote the use of electricity. As a result, customers who lived in all-electric homes purchased electricity at a discount in the FirstEnergy service territory.

Beginning in 2006, the all-electric rate discounts changed for a number of reasons. Discounted rates result in customers paying less than the actual cost paid by FirstEnergy to purchase electricity for their customers. The cost of the discounts is recovered from other FirstEnergy customers who do not receive the discounts.

During the 2009-2010 winter billing cycle, many customers began realizing the changes that had occurred through increased bills. Upon receiving hundreds of contacts from FirstEnergy customers and public officials expressing concerns, and after participating in town hall meetings across northern Ohio, the PUCO provided rate relief to FirstEnergy's all-electric customers by directing the utility to temporarily return the customers' rates to the level in effect on Dec. 31, 2008. This temporary discount applies to homeowners who previously received the all-electric rate as well as customers who moved into a home or apartment that was served at the all-electric rate under previous owners. The temporary discount is approved to remain in effect through May 31, 2011. The PUCO also directed its staff to investigate potential long-term solutions to the all-electric issue. The staff filed a report that includes a range of options regarding proposed rates and discounts to be provided to all-electric residential customers upon the conclusion of the temporary discount. Parties are preparing for litigation and the hearing is scheduled to begin at the end of this month.

Natural Gas

Natural gas is the energy source most Ohioans use to heat their homes. Several separate and distinct industries produce, transport, and distribute gas throughout Ohio. These segments are production companies, transmission companies, distribution companies, and marketers. The PUCO has regulatory authority over distribution companies and has some responsibility for marketers, but does not directly oversee other aspects of the industry.

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 website.

In recent years, the way consumers purchase natural gas has changed. Customers who do not select an alternative supplier are assigned a competitive supplier for their natural gas. The price is set by the New York Mercantile Exchange (NYMEX) month-end settlement price plus a retail mark up, as determined by a competitive auction. In 2010, the PUCO approved auction results for Dominion East Ohio, Columbia Gas of Ohio and Vectren Energy Delivery of Ohio.

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.

Last February, the PUCO approved a merger between Frontier Communication Corporation and Verizon Communications. Under the terms of the merger, Frontier will develop and implement a program for the deployment of broadband services within its service territory. Frontier also committed to not increase Verizon's current basic local exchange rates during the broadband program.

Substitute Senate Bill 162, Ohio's new telecommunications law, became effective Sept. 13, 2010. The law establishes a new regime for regulatory oversight of telephone companies, including wireless service providers, telecommunications carriers, and internet protocol-enabled service providers, including voice over internet protocol service. The PUCO is implementing the new law, which includes rulemakings and market monitoring of consumer protections, along with current responsibilities of company-to-company mediations, review of mergers and acquisitions and eligible telecommunications carrier issues.

Last October, the PUCO initiated an investigation into prepaid Lifeline service for low income customers offered by Competitive Eligible Telecommunications Carriers (CETCs) in the state. The PUCO will investigate the appropriate rules and standards and the investigation will explore various issues surrounding the enrollment of Lifeline customers for prepaid telephone service offerings, payments into 9-1-1 and Telephone Relay Service funds and the reimbursement from the federal Universal Service Funding program.

Water

The PUCO regulates investor-owned water and wastewater companies throughout the state. The PUCO does not regulate water and waste water from municipal, county, cooperative, or water and/or sewer district.

Last year, the PUCO scrutinized three water rate cases in Ohio and disallowed significant portions of the companies' proposed rate increases, ultimately reducing the overall increase allowed to be charged to consumers.

Transportation

Railroad grade crossing safety is also a high priority at the PUCO. Ohio has the fourth highest rail traffic in the country. The PUCO, in conjunction with the Ohio Rail Development Commission, is responsible for ensuring the safety of motorists at the more than 6,000 highway-rail grade crossings in Ohio. 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's website 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.

Commercial transportation companies in Ohio are also public utilities under the jurisdiction of the PUCO. The PUCO registers motor carrier and ensures they adhere to state and federal safety standards. In addition, the PUCO registers more than 2,500 hazardous materials transporters each year and works to ensure carriers are safely transporting these commodities on Ohio's highways.

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.

Last year, Ohio's Motor Carrier Safety Assistance Program (MCSAP) received an award from the Federal Motor Carrier Safety Administration (FMCSA) for having the most comprehensive and effective compliance review program among large states in 2009. A compliance review is a comprehensive audit of a motor carrier's business practices to ensure that they are complying with state and federal safety regulations. PUCO inspectors work in conjunction with the FMCSA

to conduct reviews, review documentation of particular areas, such as hours of service, vehicle maintenance, financial responsibility and driver qualifications. In the past, compliance reviews have been found to be one of the most effective tools to ensure motor carriers are operating safely.

Last November, the PUCO took action to delay active enforcement of new motor carrier safety rules for private commercial motor vehicles with a gross vehicle weight between 10,001 and 26,000 pounds in intrastate commerce. Safety violations cited against these motor carriers and drivers will not be assessed a civil forfeiture until January 1, 2012.

The rules were initially scheduled to become effective January 1, 2011, however, the Commission found that the transportation community affected by these new safety regulations was unprepared for active enforcement. The next year will serve as a transitional period for drivers and owners. As these vehicles are stopped for roadside inspections, state motor carrier enforcement personnel will advise the driver or carrier of the violations and use the inspection as an opportunity to educate the driver on the new requirements. Enforcement will be taken only in cases where egregious violations of the safety regulations are discovered or if the vehicle cannot be safely moved a reasonable distance to resolve the safety violation.

The PUCO will establish a process that will allow further comment by interested parties on the rules. Without compromising the safety goals of the rules, the Commission may consider reasonable and appropriate revisions to the rules that seek to simplify the provisions, address applicability, and provide a way of mitigating financial burdens relating to compliance.

Conclusion

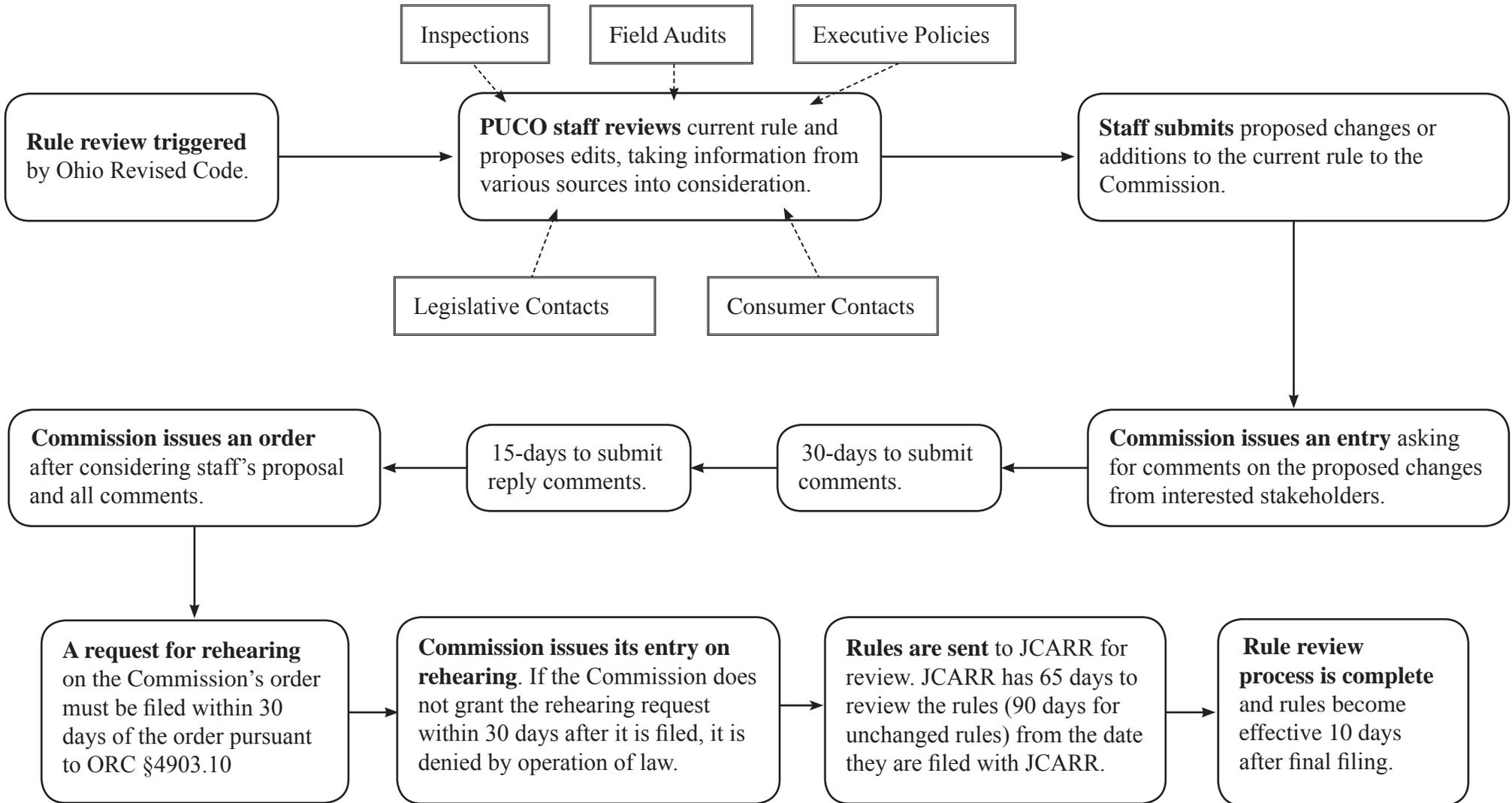
The past year has brought significant increases in the workload of the Commissioners and staff at the PUCO. We are extremely proud of the work being done by commissioners and our dedicated staff who handled this increased workload with extreme professionalism and diligence.

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



PUCO Administrative Code Rule Review Process

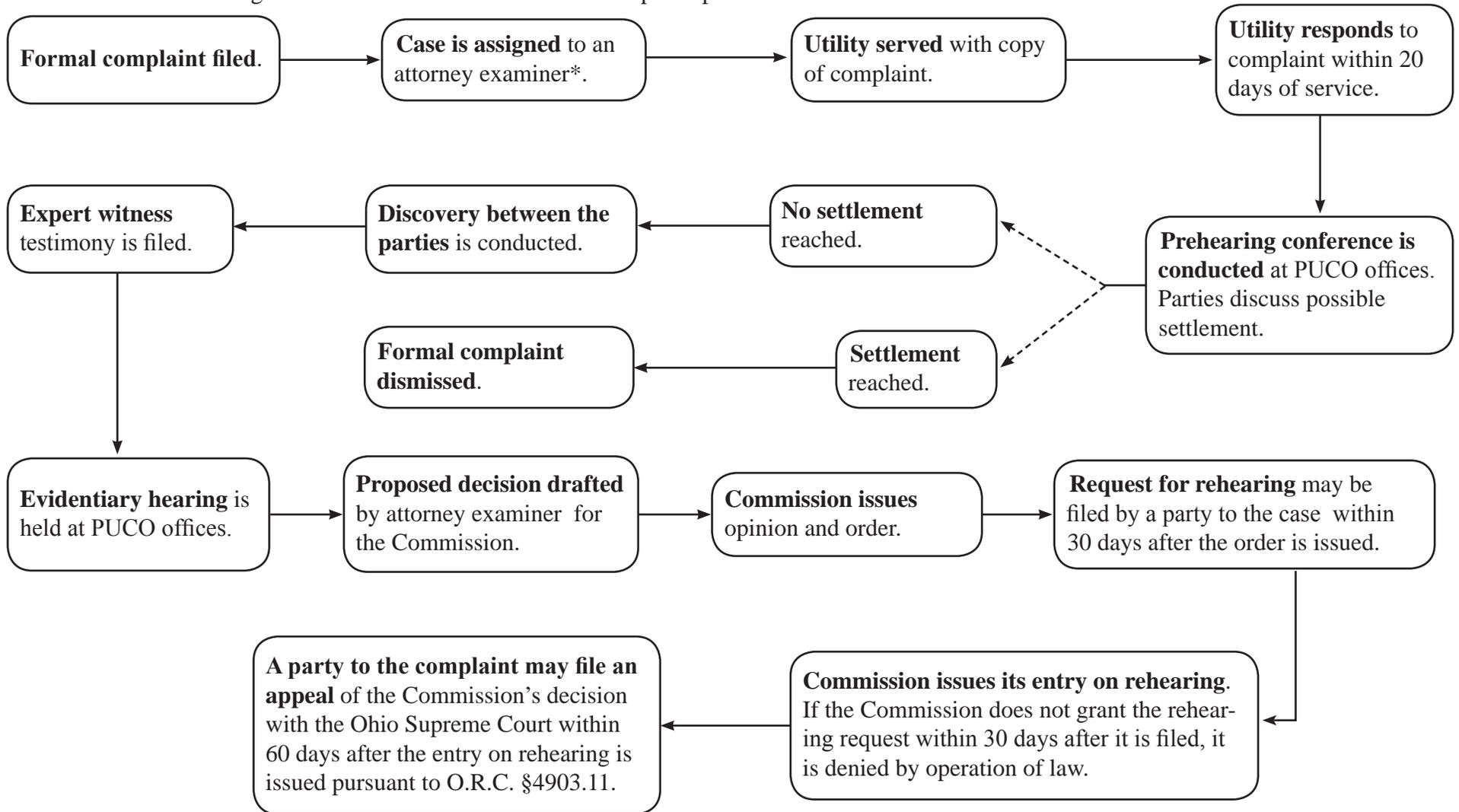
Each Ohio Administrative Code rule must be reviewed every five years and sent to the Joint Committee on Agency Rule Review (JCARR). The following chart outlines the process the PUCO uses to review its rules and make any necessary changes.





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.