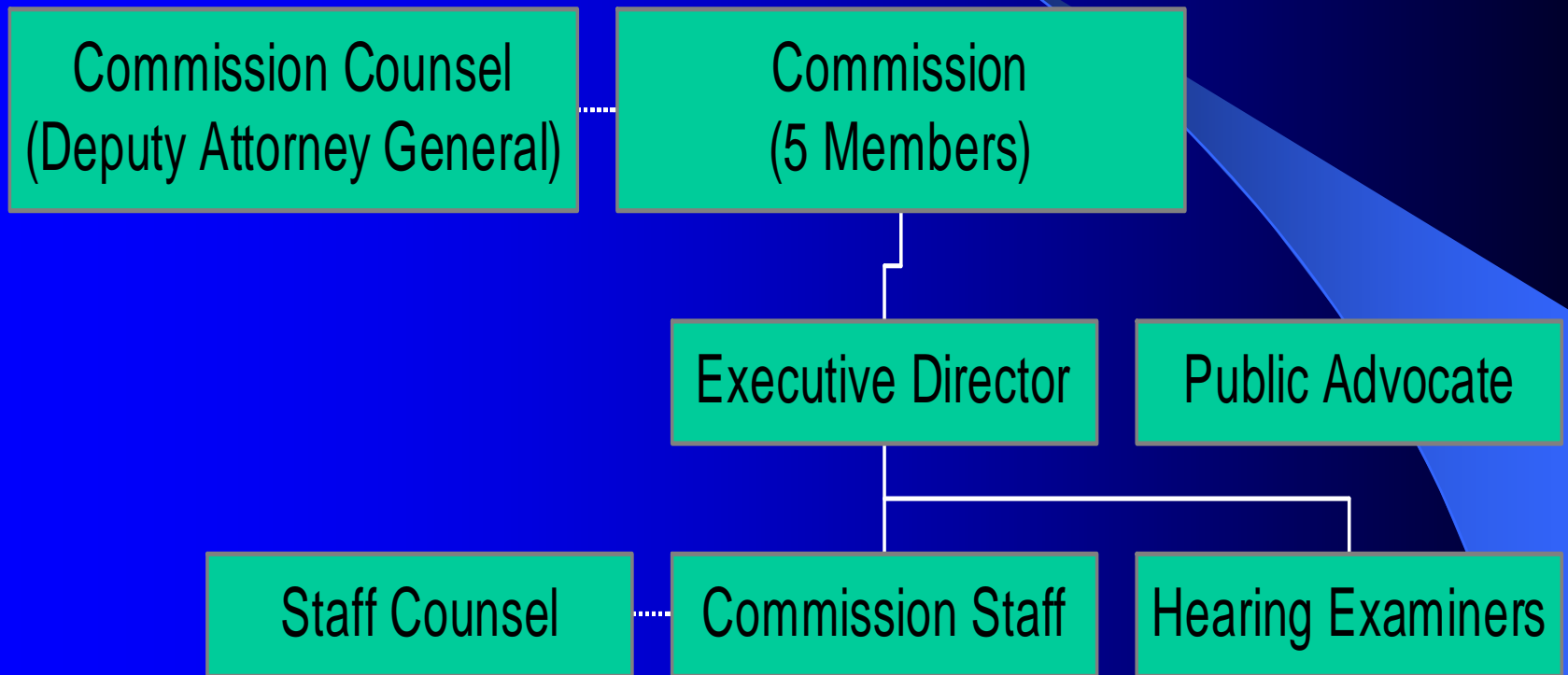


# STAFF AND HEARINGS

William O'Brien, Hearing Examiner  
Delaware Public Service Commission  
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# Organizational Overview



# Types of Agency Activity

(When is a hearing required?)

## HEARING

- Regulations (Substantive)
- Case Decisions
- Licenses (if opposed)

## NO HEARING

- Regulations (Procedural)
- Informal Agency Activity

# Hearings – Historical Overview

- U.S. Constitution prohibits any State from depriving a person of life, liberty, or property without due process of law (i.e., notice and opportunity to be heard)
- Del. Administrative Procedures Act (APA)
- Del. Public Utilities Act of 1974
- Del. PSC Rules of Practice and Procedure

# Hearings – Roles

- Commission Staff
  - As a “party” to the proceeding
  - As an advisor to the Commission
  - As an adjunct to the Hearing Examiner
- Hearing Examiner
  - Subordinate to Commission
  - Manage proceedings, conduct hearings
  - Findings and Recommendations (with proposed Order)
- Public Advocate

# Hearings - Procedure

- Pre-Hearing
  - Notice to Commission, Application, Initial Order, Notice, Temporary Rates, Interventions, Discovery, Motions, Pre-filed Testimony, Public Comment, Settlements
- Hearing
  - Burdens of Proof, Opening Statements, Evidence, Witnesses, Exhibits, Closing Arguments

# Hearings - Procedure (cont'd)

- Post-Hearing
  - Briefs, Findings and Recommendations of the Hearing Examiner, Exceptions, Oral Argument before the Commission, Deliberations, Remand, Final Order
  - Appeals to Superior Court
    - Scope of Review (“on the record,” deference to PSC expertise in factual matters)
    - Standard of Review (legal error, substantial evidence test)

# Specific Types of Proceedings (Electric and Natural Gas)

- Regulations (reporting requirements, termination of service, pipeline safety, transition to competitive market, rules for competitive suppliers, etc.)
- Rate Cases (Base Rate, Fuel Adjustments, Standard Offer Service)
- Complaints (customer vs. utility, competitor vs. utility)



# Types of Proceedings (Cont'd)

- Investigations (storm response, billing problems, market monitoring)
- Approval of Mergers
- Arbitrations (interconnection agreements)
- Licenses (or “Certification”)
  - Exclusive Territories for Electric Distribution
  - Nonexclusive Territories for Suppliers

# FERC-related Proceedings

- Compliance proceedings at PSC
  - Impact of FERC wholesale pricing decisions on Delaware retail pricing
- PSC participation in FERC proceedings
  - PSC interest in operation of transmission grid
  - PSC role and Staff role in developing position