

# Regulatory Review Process

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# Introduction

- What is a regulation?
- *Law that is binding on both the agency and persons subject to the agency's jurisdiction.*
- Why write a regulation?
- *To implement new legislation, clarify an existing regulation, or amend outdated provisions.*

# Overview of Commission Authority

- The Commission has the power to make and amend its own regulations.
- Once the regulations become law, the Commission has the power to enforce and carry out the regulations.
- Everyone is required to follow the regulations, including the Commission and, specifically, the public utilities in Pennsylvania that the Commission regulates.

# Rulemaking Process

# The Proposed Stage

- The rulemaking process begins at the Commission level. Commission staff, such as Law Bureau attorneys, write a proposed rulemaking order with an attached annex that explains how the regulation should look. Law Bureau attorneys often consult with other Commission staff and interested parties when developing a proposed regulation.

# The Proposed Stage

- Example of a Commission rulemaking:  
Recent amendments to the Commission's procedural rules at Chapters 1,3 and 5 of the Commission's regulations (approved by the Commission at the Dec. 15, 2005 public meeting).

# The Proposed Stage

- The Commission decided to revise its procedural rules because the rules had not been revised since 1996. We needed to modernize our practices and make sure the rules accurately reflected our current jurisdiction and responsibilities. Some of the decisions we made during this rulemaking included:

- Rejecting a request to impose a \$25 filing fee on any party that comes to the Commission with a concern.
- The Commission denied the request because this unnecessary cost could discourage the public from alerting the Commission to potential service problems and frustrate the public in regards to the role it plays in helping the Commission meet its statutory mandate to ensure adequate, efficient, safe and reasonably priced utility service.



- Providing for a direct right of appeal to the Commission of a resolution of an informal complaint.
- Continuing to recognize a person's right to file a complaint against a proposed rate filing.
- Recognizing the distinct right of the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff as statutory advocates, to intervene in Commission proceedings on behalf of consumers and the public.

- Ensuring that consumers or the public, who are not required to be represented by counsel, are not burdened with unnecessary requirements or costs in bringing a matter to the Commission's attention.

# The Proposed Stage

- After the Commission approves the proposed rulemaking order at public meeting, the Commission delivers its proposed regulation to the Senate and House Committees, the Independent Regulatory Review Commission, and the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

# Proposed Stage

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Committees may provide comments to IRRC and agency at any time prior to final-form regulation delivery. Agency can continue to move the regulation through the process.

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1. PUBLIC COMMENT PERIOD. Agency delivers proposed regulation to IRRC, committees and LRB for publication in the *Pennsylvania Bulletin* with a public comment period of at least 30 days

2. IRRC COMMENT PERIOD. IRRC delivers comments within 30 days of the close of the public comment period.

3A. AGENCY REVIEW.  
Agency responds to comments and delivers final-form regulation.

3B. RULEMAKING ENDS.  
Agency does not deliver final-form regulation within 2-year statutory period.

# The Proposed Stage

- In developing the final regulation, the Commission carefully considers and responds to the comments received from interested parties and, particularly, comments from the Independent Regulatory Review Commission.

# The Proposed Stage

- During the Commission's rulemaking to amend the procedural rules in Chapters 1,3, and 5 of the Commission's regulations, we considered the comments of the Independent Regulatory Review Commission and other interested parties.
- Law Bureau attorneys also met with various representatives from the parties and had internal meetings with Commission staff. Many of the parties' suggestions and comments were incorporated into the language of the final regulation.

# The Final Stage

- After considering the comments, the Law Bureau drafts a final rulemaking order and annex that reflects the final regulation language.
- The order discusses the language of the final regulation and explains parties' comments and the Commission's response to these comments.

# The Final Stage

- The order then goes to public meeting for approval of the final regulation by the Commission.
- After the Commission approves the language of the final regulation, the Commission delivers the regulation to the Senate and House Committees and the Independent Regulatory Review Commission.



# Final Stage

3A. AGENCY REVIEW. Agency responds to comments and delivers final-form regulation.

3B. RULEMAKING ENDS. Agency does not deliver final-form regulation within 2-year statutory period.

3C. FINAL-OMITTED REGULATIONS DELIVERED.

4. IRRC ACTS AT ITS PUBLIC MEETING. IRRC may have until its next meeting, which occurs no less than 30 days after receipt of the regulation, provided that IRRC cannot act for at least 20 days after receipt of the regulation.

5A. IRRC APPROVES. A committee disapproves or files notice of intent to review.

5B. IRRC DISAPPROVES. Agency has three options.

5C. IRRC APPROVES. Committees approve.

At any time up to 24 hours before the IRRC public meeting, a committee may approve, disapprove or notify IRRC and agency of intent to review.

# Commission Approval With Committee Approval

5C. IRRC APPROVES. Committees approve.

16B. With Attorney General approval, agency may proceed with final publication in the *Pennsylvania Bulletin* and the regulation is effective.

# The Final Stage

- For most regulations, the rulemaking process ends with the approval of the Senate House Committees and the Independent Regulatory Review Commission during its public meeting.
- After a final review by the Attorney General, the Commission publishes the regulation in the *Pennsylvania Bulletin*, and the regulation has the full force and effect of law.

The End