

Agency Snapshot: Florida Public Service Commission

by Theresa Lee Eng Tan

Commission's Mission Statement: To facilitate the efficient provision of safe and reliable utility services at fair prices.

Background:

The Florida Public Service Commission ("Commission") was originally created by the Florida Legislature in 1887 to regulate the rates charged by Florida's railroads for passengers and freight service. As Florida's population grew and its industry diversified, the Commission's jurisdiction expanded. At one time, the Commission regulated the rates charged by railroads, motor carrier transportation companies, and airlines. Today, the Commission exercises regulatory authority over investor-owned electric, natural gas, telephone, water, and wastewater utilities in one or more of three key areas: (1) rate base/economic regulation; (2) competitive market oversight; and (3) monitoring of safety, reliability, and service. The Commission exercises limited regulatory authority over municipal and rural electric cooperatives.

The Commission carries on its work through two primary functional units: The Office of the Executive Director and the Office of the General Counsel. These Offices are charged with implementing chapters 350, 364, 366, 367, 368 and 427, Florida Statutes, and sections 403.064, 403.501-403.539, and 403.9401-403.9425, Florida Statutes. The Commission's administrative rules are located in rule division 25 of the Florida Administrative Code.

The Commission is headed by five Commissioners. Commissioners are nominated by the Florida Public Service Commission Nominating Council, appointed by the Governor, and confirmed by the Senate. The Commission Chairman is elected by a majority vote of the Commissioners to serve as chair for a period of two years. The Chairman is the chief administrative officer of the Commission, presiding at all hearings and conferences when present, setting Commission hearings, and performing those duties prescribed by law. A majority of any Commission panel

constitutes a quorum, and the Commission cannot take formal action in the absence of a quorum. A majority vote of the quorum determines Commission action.

The Commission conducts most of its regulatory business at its regularly scheduled agenda conferences, which can be identified on the Commission's calendar and website. At these conferences, the Commission reviews staff recommendations for dockets on the agenda. Depending on the procedural status of the dockets, the Commission may entertain comments from the parties and the public. The Commission's order may adopt, reject, or modify the staff recommendations. Orders issued by the Commission are available on its website at: <http://www.psc.state.fl.us/dockets/orders/>. Commission final orders involving the rates or service of electric, gas, or telephone companies are appealed directly to the Florida Supreme Court. Commission final orders related to water and wastewater are appealed to the First District Court of Appeal. In addition, under the Federal Telecommunications Act of 1996, some Commission decisions implementing federal law are reviewable by complaint in the U.S. District Court for the Northern District of Florida.

Commissioners:

Chairman Art Graham
Commissioner Lisa Polak Edgar
Commissioner Julie Immanuel Brown
Commissioner Ronald A. Brisé
Commissioner Jimmy Patronis

Executive Director:

Braulio L. Baez
Office of Executive Director
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6068

The Office of the Executive Director advises the Commission on all

technical and policy matters under the Commission's jurisdiction and in coordination with the Office of the General Counsel, serves as the Commission's liaison with federal and state agencies as well as the Florida Legislature. Also, the Office of the Executive Director has authority over all divisions and offices, except the Office of the General Counsel. Two Deputy Executive Directors, technical and administrative, assist the Executive Director in planning and operational activities.

Agency Clerk:

Carlotta Stauffer
Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6770

The Office of Commission Clerk is responsible for accepting official filings, maintaining the official case files, coordinating the Commission's records management program, and issuing all commission orders and notices. The hours of operation are from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays. For information on dockets and filings, please refer to <http://www.psc.state.fl.us/dockets> or call the Office of the Commission Clerk. The Commission also encourages electronic filings, provided that certain conditions are met, through its website <https://secure.floridapsc.com/e-filings/efiling.aspx>.

General Counsel:

Charlie Beck
Office of the General Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6199

The General Counsel is responsible for all legal advice provided to the Commission and all legal matters

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under the Commission’s jurisdiction. The General Counsel supervises the attorneys and staff in the Office of General Counsel and advises the Commission on ethics law issues and other non-regulatory matters. The Office of General Counsel, in coordination with the Office of the Executive Director, serves as the Commission’s liaison with federal and state agencies as well as the Florida Legislature and political subdivisions of the state. In the course of evidentiary proceedings before the Commission, the Office of the General Counsel and its sections are responsible for presentations of staff positions in the proceedings, including cross examination of witnesses and presentation of staff testimony.

Number of Lawyers on Staff: 20

Kinds of Cases: Utility Regulation and Telecommunications Arbitration

The Office of the General Counsel is divided into three sections: (1) Appeals, Rules, and Mediation Section (APP); (2) Economic Regulation Section (ERS); and (3) Regulatory Analysis Section (RAS). The Appeals, Rules, and Mediation Section is responsible for defending Commission orders on

appeal, defending Commission rules challenged before the Division of Administrative Hearings (“DOAH”), and representing the Commission before state and federal courts. APP supports technical divisions in making filings with, or presentations to, other federal, state or local agencies. APP advises in the promulgation of rules, and attends or conducts rule-making hearings at the direction of the Commission. It also offers mediation services to parties to Commission proceedings. The Economic Regulation and Regulatory Analysis Sections are responsible for legal issues related to electric, natural gas, water and wastewater industries. The Regulatory Analysis Section also handles legal issues related to wholesale concerns on wireline telecommunications. ERS and RAS are responsible for conducting discovery, presenting staff positions, presenting any staff testimony, and cross-examining other parties’ witnesses in matters involving evidentiary hearings before the Commission or an Administrative Law Judge. In conjunction with the appropriate technical staff, the Office of General Counsel prepares recommendations to the Commission and prepares written orders memorializing Commission decisions.

APA Interaction:

The Commission is subject to the Administrative Procedure Act (chapter 120) and is generally subject to

the Uniform Rules of Procedure. However, the Commission has a number of specific exemptions from the Uniform Rules, so a practitioner must be sure to consult rule chapters 25-22 and 25-40, Florida Administrative Code. In addition, the Commission has several agency specific procedural provisions in section 120.80, Florida Statutes. While the Commission has the authority to send cases to DOAH for hearings before an Administrative Law Judge, the vast majority of chapter 120 proceedings are heard by the five-member Commission or by a panel of two or more Commissioners.

Practice Tips:

The Commission has several unique procedural practices: (1) the Commission uses prefiled written testimony in cases heard by the Commission or a Commission panel; (2) the Commission has strict rules for the classification and handling of confidential materials; and (3) the Commission makes available options for the reconsideration of final Commission orders. Questions about these or any other procedural matters may be directed to any member of the General Counsel’s office.

For a more in-depth article on practicing before the Commission, please refer to Theresa Lee Eng Tan & Adam J. Teitzman’s chapter on the Public Service Commission in Florida Administrative Practice, Ch. 10 (10th ed. 2015).



Judicial performance feedback sought from Bar members

The Judicial Administration & Evaluation Committee is encouraging all Bar members to participate in the Confidential Judicial Feedback Program developed by the committee and approved by The Florida Bar Board of Governors.

The purpose of the Confidential Judicial Feedback Program is to promote judicial self-improvement and enhance the quality of our judiciary as a whole. Attorneys are asked to evaluate the judge’s demeanor, knowledge, fairness, and other factors, but not to discuss issues of their specific cases. The commenting attorney’s identity is kept confidential and the comments are provided only to the judge who is the subject of the review. All feedback is and remains confidential pursuant to Florida Rule of Judicial Administration 2.051(c)(4).

There are separate forms for trial court judges and appellate court judges. Feedback may be provided two ways” by competing the forms online at www.floridabar.org/JudicialFeedback or by downloading the forms at www.floridabar.org/JAEC and following the instructions.