

# Management Process: Rules of Practice and Procedure

Raj Addepalli

# Management Processes

- **Management Process of making decisions**
- **Types:**
  - **Rate Case**
  - **Generic Proceedings**
  - **Various Petitions**
  - **Tariff Filings**
  - **Rulemaking**
  - **Other**

# Management Processes: Vehicles

- **Hearings**
  - Public Statement
  - Evidentiary
  - Legislative
- **Collaborative Processes: Alternate Dispute Resolution**
- **Paper Proceedings**
- **Role of Staff, Senior Staff, Judges**
- **Commission Decision Making**

# Management Processes(contd)

## Rate Case

- **Rate Case**
  - **Utility files case for changes in rates (typically in testimony format) with the Commission and distributes to interested parties and notifies in the papers**
  - **11 month statutory clock starts**
  - **Judge assigned to the case**
  - **Staff team formed in the Commission to investigate case**

# Management Processes(contd)

## Rate Case

- Judge calls a pre-hearing conference to identify parties to the case, schedule for the case
- Discovery Process begins where staff and other parties can ask the utility for clarification and additional details regarding its filing
- Utility witnesses cross-examined by staff and other parties before ALJ
- Staff and other parties file their direct case in response to the utility filing

## Management Processes(contd) Rate Case

- Staff and other parties cross examined
- Opportunity for rebuttal testimony
- Initial Briefs and Reply Briefs filed by parties justifying why they are right and others are wrong
- Various methods used to seek input of public who are not involved in the case as formal parties

## Management Processes(contd) Rate Case

- Judge renders ‘Recommended Decision’
- Parties files objections to the RD- two rounds (briefs and reply briefs on exceptions)
- The Judge, using the RD and briefs on exceptions, works with senior staff in the Commission and provides an analysis to the Commission

# Management Processes(contd)

## Rate Case

- Commission deliberates in public and votes on the analysis-it could accept, reject or modify the analysis recommendations
- If Commission places conditions, utility is given certain time to respond
- Commission order prepared by the Judge per Commission decision
- Utility files tariffs in compliance with Commission Order
- Parties given opportunity to comment on the compliance filings
- Staff then reports compliance filings to the Commission for its approval

# Management Processes(contd)

## Generic Proceeding

- While rate cases are more utility specific, generic cases are used to examine issues of common interest to all utilities: examples:
  - should we introduce competition in the generation industry?
  - How do we address the needs of low-income customers?
  - How do we determine the cost of capital?

# Management Processes(contd)

## Generic Proceeding

- There is no statutory clock; Commission provides guidance on how quickly it wants done, typically through the Judge
- Commission typically issues an Order explaining the scope of the proceeding and its expectations
- The process could take several forms depending on the topic and parties

## Management Processes(contd)

### Generic Proceeding

- Staff team formed; typically takes lead in the proceeding; at times leadership shared with other parties
- Parties work together, write white papers to articulate issues better
- Typically several meetings held to discuss papers
- Position papers exchanged

# Management Processes(contd)

## Generic Proceeding

- If there is consensus parties can express their common position to the Judge who will report that with his analysis to the Commission
- If there is no consensus, parties can file opposing views with ALJ. Hearings held, if needed.
- ALJ provides analysis to the Commission

# Management Processes(contd)

## Tariff Filings

- **Tariff filings are made to**
  - **make minor ‘house keeping’ changes**
  - **make changes to terms and conditions of service**
  - **make rate changes that may be revenue neutral**
  - **in compliance with Commission determinations**
    - **rate case outcomes**
    - **legislative changes**

# Management Processes(contd)

## Tariff Filings

- Typically there is no statutory clock
- House keeping changes don't need much analysis or public input
- Other filings subject to public comment
- Staff from the lead division, with input from public and from other Offices in the PSC, makes a recommendation to the Commission

# Management Processes(contd)

## Rulemaking

- Rulemaking is typically initiated to make changes to the Commission's existing rules and regulations and/or to introduce new rules
- This could be at the initiation of staff or Commission or other parties to achieve certain goals
- This is an elaborate process

# Management Processes(contd)

## Rulemaking

- Staff drafts proposed rules and regulations and provides an analysis to the Commission
- Then the proposed rules are issued for public comment
- Staff then analyzes the comments and makes recommendations to the Commission
- If major changes are made to the proposed rules, then they may have to be reissued once more for comments

# Management Processes(contd) Vehicles

- Commission Sessions
- Hearings
- Paper Proceedings
- Collaborative Forums

# Management Processes(contd)

## Vehicles

- **Commission sessions**
  - **Held at least once in a month or more as needed**
  - **Sessions including the agenda are noticed to the public at least a week ahead of schedule**
  - **There has to be a quorum of Commissioners**
  - **The sessions are held in public and the discussion and voting on items by the Commissioners is done in public: now they are telecast live on the web**

# Management Processes(contd)

## Vehicles

- **Commission sessions (contd)**
  - Only the Commissioners and senior Commission staff speak at the sessions; others are not allowed to speak
  - PSC staff or Judges prepare session items for Commissioners consideration and distribute them at least 10 days ahead of session. They are inter-office memorandums and are not made public. After the session, they made be public as is or with some changes. Some items result in special Orders and Opinions of the Commission (rate cases, policy items etc).

# Management Processes(contd) Vehicles

- **Hearings**
  - **Public Statement Hearings**
  - **Evidentiary Hearings**
  - **Legislative Hearings**

# Management Processes(contd)

## Vehicles

- **Public Statement Hearings**
  - Held in the context of rate cases and major policy proceedings
  - At least a few are held in the affected territories, giving an opportunity for the general public to come and make their views known.
  - Typically they are conducted by the ALJ assigned to the case. The Judge explains the process for the case.

# Management Processes(contd)

## Vehicles

- **PSH (contd)**
  - Typically at least one Commissioner attends the hearings.
  - The comments of public are transcribed and made a part of the official record in the case
  - The Judge summarizes the comments from the public in his analysis to the Commission
  - The Judge and the PSC incorporate the comments in their decision making.

# Management Processes(contd)

## Vehicles

- **Evidentiary Hearings**
  - **Are typically held in the context of rate cases or other proceedings where there is an issue of at question**
  - **Witnesses are deposed before the Judge; all the official parties to the Case can cross examine the witness**
  - **The hearings are transcribed and become a part of the official record.**

# Management Processes(contd)

## Vehicles

- **Legislative Hearings**
  - Are held typically for very major policy proceedings
  - Parties are given time to address the Commissioners at a public Commission session to explain their views and positions
  - Senior members of the parties typically address the Commission
  - Commissioners ask the parties questions directly
  - Hearing transcribed and becomes part of official record

# Management Processes(contd)

## Vehicles

- **Paper Proceedings**
  - There may be no PSH or evidentiary hearings
  - Most of the record is developed based on paper submissions by the parties in a given case
  - Staff or Judge summarize views of the parties and make recommendation to the Commission
  - Parties may or not meet at all during the course of the proceeding

# Management Processes(contd)

## Vehicles

- **Collaborative Forums:**
  - This process, alternate dispute resolution, is becoming more of the norm for dealing with issues
  - Less adversarial process; parties openly express their views in a collaborative process
  - Parties start with identification of “interests”, not positions; there may be more than one way to achieve interests
  - Forums are facilitated by an ALJ or staff or professional facilitators

# Management Processes(contd)

## Vehicles

- **Collaborative Forums (contd):**
  - Attempts are made to find common ground for all the parties and resolve conflicts amicably; evidentiary hearings still possible on issues where agreement cannot be reached
  - “Can I live with the outcome?” is a major test
  - Parties are less intimidated by the process
  - Easier for parties with less sophistication in the regulatory process to participate and make their views known
  - Sometimes it could be a tedious, frustrating and time consuming process, however.

# Management Processes(contd)

## Internal Staff Process

- Different professionals bring different view points to the table - economists, engineers, accountants, consumer advocates
- Staff has to reconcile different view points and reach a judgement with “public interest” being the overarching criterion
- Requires skills of consensus building and respect for each others’ views
- No one has the “right” answer
- While there may be frustrations at time, the end product is much improved with input from different staff members