

# What is a Regulatory Law Judge?

**T**he role of the five commissioners of the Missouri Public Service Commission is well defined by statute. Section 386.050, RSMo 2000 provides that the Commission is composed of five Commissioners, appointed by the Governor, with the advice and consent of the Senate. The statutes that establish the Commission's authority do not, however, describe the role of a regulatory law judge.

While not described by statute, the Commission's rules define a presiding officer as "a commissioner, or a law judge licensed to practice law in the state of Missouri and appointed by the commission to preside over a case or any portion of a case."<sup>1</sup> A commissioner has the authority to act as a presiding officer, but at least since the 1940s the Commission has exercised its authority under Section 386.240, RSMo 2000, to delegate its powers by appointing attorneys to act as presiding officer in their stead. Such presiding officers are currently given the title of regulatory law judge, but in the past, they have carried the title of hearing examiner, attorney-examiner, special examiner, or examiner.

The Commission currently employs six regulatory law judges, led by a Chief Regulatory Law Judge and a Deputy Chief Regulatory Law Judge. The Chief Regulatory Law Judge assigns cases to the other judges as appropriate. By terms of the Commission's regulations, the regulatory law judges have a duty to "conduct full, fair and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of cases, to maintain order, and shall possess all powers necessary to that end."<sup>2</sup> In essence, that means the regulatory law judges are responsible for managing all cases filed with the Commission.

Managing a case requires different actions by the regulatory law judge depending upon the complexity of the relief sought from the Commission, whether there is any opposition to the relief sought, and whether a hearing is required before the Commission can render a decision.

For the simplest cases in which the Commission exercises no discretion and acts in a ministerial role, the regulatory law judge may manage a case by simply ensuring that the required order or authority is issued in a timely manner.

For a more complicated case where the Commission may exercise its discretion, the regulatory law judge will direct the Commission's Staff to review the matter and to file a recommendation for the Commission's consideration. If no one disagrees with Staff's recommendation, the regulatory law judge will write an



A regulatory law judge presides over hearings held in Commission offices in Jefferson City.



appropriate order and submit it to the Commission's agenda meeting for approval by the Commission.

The Commission holds weekly agenda meetings to discuss various cases, policies and rulemakings, and to issue its decisions. Those meetings are open to the public and are webcast on the Commission's website at [psc.mo.gov](http://psc.mo.gov).

For the third type of case, a contested case that requires a hearing before the Commission can make a decision, the regulatory law judges' role is more complicated. The regulatory law judge is responsible for scheduling the hearing and any preliminary proceedings leading up to the hearing. As part of that process, the regulatory law judge must resolve any discovery or procedural disputes raised by the parties. Before the hearing, the regulatory law judge will also brief the Commissioners on the issues that will be addressed at the hearing and on the positions of the parties on those issues.

The regulatory law judge presides at the hearing; controlling the flow of testimony or cross-examination and ruling from the bench on any evidentiary objections or procedural matters that arise during the hearing. The regulatory law judge may also choose to question witnesses to clarify their testimony or to ensure that a complete evidentiary record is established.

Once the hearing is over, the regulatory law judge moves into the role of facilitating the Commission's decision and writing a report and order that embodies that decision. In that role, the regulatory law judge reviews the evidentiary record established at the hearing and the briefs submitted by the parties. He or she compiles the relevant facts and law and presents it to the Commission for its deliberation at a public agenda meeting. The regulatory law judge must note the consensus decisions reached by the Commissioners in their deliberations and then write a detailed report and order that explains and supports those decisions with reference to the law and to the facts established at the hearing.

In fiscal year 2016, 362 new cases were opened at the Public Service Commission. There were 9,024 filings in cases before the Commission during the 2016 fiscal year along with 631 tariff filings.

The role of a regulatory law judge is not established or defined by the statutes that created and empower the Public Service Commission. Nevertheless, the regulatory law judges play a vital role in moving the cases that come before the Commission to a successful conclusion.

— **Morris Woodruff**, PSC Secretary/Chief Regulatory Law Judge

<sup>1</sup> Commission Rule 4 CSR 240-2.010(14).

<sup>2</sup> Commission Rule 4 CSR 240-2.120(1).

## PSC Cases Fiscal Year 2016

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**9,024** case filings  
**631** tariff filings



Commissioners and regulatory law judges discuss issues in a case during a Commission Agenda meeting.