

MARYLAND PUBLIC SERVICE COMMISSION

Reporting of Judicial Review Outcomes

December 1, 2023

Prepared in response to the 2023 Joint Chairmen's Report from the Senate Budget and Taxation Committee and House Appropriations Committee, addressing procedures relating to court filings on behalf of the Public Service Commission Decisions

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I. INTRODUCTION

The Maryland Public Service Commission (PSC or Commission) hereby submits this report in response to the 2023 Joint Chairmen’s Report (JCR) from the Senate Budget and Taxation Committee and House Appropriations Committee pertaining to procedures related to PSC court filings.

II. BACKGROUND

In accordance with Public Utilities Article § 2-106(d)(1), the Office of General Counsel (OGC) is the division within the PSC responsible for defending Commission decisions on judicial review. Attorneys within OGC manage and defend the Commission orders in each of the cases they are assigned, through the issuance of any final PSC orders, rehearing orders, and judicial review appeals. Orders—and briefs in defense of those orders—are reviewed internally by the PSC General Counsel and the Deputy General Counsel before they are finalized for issuance and filing. In 2023, a case involved marketing information contested by Washington Gas, pertaining to natural gas. In response to OPC’s initial brief, the OGC attorney handling the case filed an answering memorandum on what constitutes “clean energy.” The answering memorandum, on behalf of the Commission, was filed prematurely before receiving and reviewing edits from the PSC General Counsel, and without completing the standard OGC review process. The attorney is a very competent member of the OGC team, with an outstanding track-record of success in defending Commission orders.

The Joint Chairmen's Report requests (1) the steps that PSC has taken to ensure that correct versions of filings are submitted to the courts, and (2) discussion of the review process for filings made on behalf of the Commission in circuit court and appellate court proceedings.

III. COMMISSION RESPONSE

A. Steps PSC has taken to ensure that correct versions of court filings are submitted.

The PSC General Counsel has reemphasized in writing to all OGC attorneys the long-standing requirement that drafts of all answering memoranda and briefs must be thoroughly reviewed internally by the General Counsel and Deputy General Counsel before they are filed in court, and that suggested edits and comments must be addressed.

B. Review process for PSC filing.

Before answering memoranda and briefs are filed in circuit court and appellate court proceedings, initial draft briefs should be submitted to the Deputy General Counsel and General Counsel for review one to two weeks before the filing date (depending on the complexity of the case and number of issues on appeal). Initial drafts should be submitted for review at least seven days before the filing due date. Final versions of briefs (ready for filing) must be reviewed and approved no less than 18 hours before filing.

IV. CONCLUSION

The PSC appreciates the opportunity to provide information pertaining to procedures related to PSC court filings. The Commission understands that data collection

and sharing practices are constantly evolving, and the Commission will continue to assess feedback it receives regarding its processes.