

BTS enforcement officers are police officers pursuant to 66 Pa. C.S. §307. The enforcement officers, therefore, can prosecute summary offenses without the assistance of an attorney. If the enforcement officer believes he or she needs assistance in prosecuting a summary offense, he or she will seek help from the district attorney or if the district attorney is not available, from the Law Bureau. Usually the enforcement officers will request assistance in summary prosecutions if they know that counsel represents the defendant.

In misdemeanor cases, the enforcement officers can present their case at the preliminary hearing without the assistance of an attorney. If the enforcement officer believes that he or she needs assistance at the preliminary hearing, he or she will seek help from the district attorney or if the district attorney is not available, from the Law Bureau. Again, usually the enforcement officers will request assistance at the preliminary hearing if they know that counsel represents the defendant. If the enforcement officer presents a prima facie case at the preliminary hearing and the matter is set for trial before the Court of Common Pleas, the county district attorney will prosecute the case with the enforcement officer acting as the witness. The district attorney may request assistance from the Law Bureau in certain misdemeanor cases. Law Bureau assistance may include attendance and participation in the district attorney's prosecution of the misdemeanor before the Court of Common Pleas.

Before initiating any criminal prosecution, BTS enforcement officers contact local law enforcement authorities to make sure that the prosecution does not conflict with ongoing investigations or prosecutions of the defendant.

2. Are there any recommendations as to how the Commission could seek to improve its enforcement/collection efforts?

Response: The Law Bureau has developed seven recommendations for your consideration. They are as follows:

1. Better Monitoring of Compliance. Responsible Commission staff need to take a more proactive role in monitoring compliance with the Public Utility Code, Commission regulations and Commission orders for both fixed and motor carrier utilities. Absent effective monitoring by staff to detect non-compliance, enforcement efforts will not even commence.

2. Make Early Contacts. Responsible Commission staff need to take a more proactive role in contacting by telephone the delinquent utility in the early stages of the dispute to resolve the matter efficiently and expeditiously without the filing of a formal complaint. Such additional efforts up front can save substantial time and resources later.



SUPPORTING DOCUMENTATION

- Confidential
- PFA

- | | |
|---|--|
| <input type="checkbox"/> Application Updates/Revisions | <input type="checkbox"/> Pleading |
| <input type="checkbox"/> Bank Statement | <input type="checkbox"/> Police Report |
| <input type="checkbox"/> Budget | <input type="checkbox"/> Proof of Publication |
| <input type="checkbox"/> Case Related Document | <input type="checkbox"/> Questions and Procedures |
| <input type="checkbox"/> Conference Report | <input type="checkbox"/> Remedies Report |
| <input checked="" type="checkbox"/> Exhibit | <input type="checkbox"/> Return Receipts |
| <input type="checkbox"/> Final Court Decision | <input type="checkbox"/> Returned Mail Envelope |
| <input type="checkbox"/> Financial Fitness Review | <input type="checkbox"/> Special Service Instructions |
| <input type="checkbox"/> Interrogatories | <input type="checkbox"/> Testimony |
| <input type="checkbox"/> Invoice | <input type="checkbox"/> Transcript |
| <input type="checkbox"/> Motion | <input type="checkbox"/> Transcript Correction Request |
| <input type="checkbox"/> Notification of Disagreement
for Satisfaction | <input type="checkbox"/> Transcript Exhibit |
| <input type="checkbox"/> Plans (Rail) | <input type="checkbox"/> Verification Statement |

This new approach is being utilized by the Law Bureau on a regular basis and has proven to be highly effective in getting the desired results with minimal effort.

3. Use Criminal Prosecutions. The Commission should consider expanding the use of criminal prosecutions under 66 Pa. C.S. §3302 in appropriate cases. As reported above, BTS uses this authority to some extent already, but it has not generally been used in the prosecution of fixed utilities for failing or refusing to obey a Commission regulation or order.

4. Amend Procedures Manual Rule 503. Our existing internal procedures at Rule 503 should be amended to make them consistent with our current collection/enforcement practices, which have been quite successful. Given the current level of interest in this area by the Commissioners, however, the Law Bureau will not propose specific changes until we obtain feed back and/or instructions in response to this memo.

5. Improve Communications Among Bureaus. The procedures outlined in Executive Director Smith's May 23, 2002 memo relating to the process for issuing default orders should be fully implemented to avoid the inter-bureau communications lapses that were the focus of the Executive Director's memo. Specifically, the May 23 memo advises that before a default order is proposed, an inquiry should be made to determine whether the delinquent filings, assessments or fines have been submitted or paid. As a final step in the process, Law Bureau is to check with the Bureau of Fixed Utility Services and the Secretary's Office as to the company's filing/payment status before making a recommendation for a default order.

6. Improve Information Access. While the procedural steps outlined in Proposal 5, above, will help ensure that orders are not entered against companies that are no longer delinquent, the Law Bureau also recommends that capability under the recently approved new central document system be developed and implemented to eliminate this type of communications problem. Such a system would give Commission employees the ability to keep track of all current activity affecting a particular utility by simply inputting that utility's name no matter which bureau had an assignment. Such access would increase our efficiency and avoid duplicity of action by alerting staff of other pending actions or investigations affecting that utility.

7. Create Dedicated Enforcement Staff. The Commission should consider organizational changes that would create a separate enforcement unit within the Law Bureau or the Office of Trial Staff, or as a separate enforcement bureau. Creation of an enforcement unit with the Law Bureau provides both focus and the ability to shift resources within the bureau whenever non-enforcement matters required more support. At the present time, nearly all prosecutions are handled by a single division chief.