

Indiana Utility Regulatory Commission



Utility Regulatory Practice in the United States

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Administrative Law Judge

July 27, 2004

Types of Cases Heard by the Commission



Electric Utilities



- 5 Investor owned
- 79 Municipals (25 under IURC jurisdiction)
- 43 Rural Electrical Member Cooperatives
(4 under IURC jurisdiction)
- 9 Independent Power Producers

Oversight and Regulation of the Electricity Grid



- United States
 - Federal Energy Regulatory Commission
 - Region
 - Regional Transmission Organizations
 - State
 - State Commissions
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Federal and State Roles in the Regulation of Electricity



■ Generation

■ Wholesale = FERC

■ Retail = IURC

■ Transmission

■ FERC

■ Distribution

■ IURC

How Things Get Started at the Commission



- Petitions

- Complaints

- Commission Investigations

Petitions



- Pursuant to State Law, utilities regulated by the Commission must receive Commission approval prior to undertaking proposed activities.
 - Initial approval to operate as a utility in the State
 - Once approved, must receive Commission approval for subsequent activities including, but not limited to:
 - Financing
 - Modification of service area
 - Establishment or modification of rates
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Typical Types of Complaints



■ Service Complaints

- A company or an individual may be dissatisfied with the quality of service it receives from a utility.
- A group of Customers may challenge a utility's attempt to reduce service previously provided.

■ Billing Disputes

- May initially be presented to the Commission's Consumer Affairs Division.
 - May be resolved informally or presented to the Commission for review.
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Commission Investigations



Examples:

- To address a Commission concern that a utility may be engaging in unlawful activity
- To address an issue that is common among certain utilities



New Case Procedure:



- A new case is assigned a unique cause number and file marked with the date of filing.
 - A public file is created for assignment to an Administrative Law Judge.
 - A Commissioner may also be assigned to a case.
 - A member of the Commission's Technical Staff is also assigned to each case.
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Public Notice and Scheduling a Hearing



Public Notice



- Commission Hearings are open to the public and the public must be notified of the proceeding.
 - Notice must be published at least (10) days prior to the date of the proceeding.
 - Publication of notice must be in newspapers of general circulation.
 - Notice must be in the part of the state where the company is located and in the community that will be affected by Commission action.
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Types of Hearings Before the Commission



■ Prehearing Conference

- Establishes a procedural schedule.
- Commission issues a Prehearing Conference Order.

■ Field Hearing

- Held in local community for public to present evidence.

■ Evidentiary Hearing

- Parties present evidence.
 - Commission issues a final Order.
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Types of Hearings



■ Public Field Hearing

- Opportunity for the general public to speak directly to the Commission
 - Publicly noticed and conducted in the community that is impacted by the case
 - Held in the evening at a local facility that can accommodate a large number of people
 - Field Hearing is in addition to the Prehearing Conference and Evidentiary Hearing
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Thirty Day Filing Process



- A streamlined process available for minor changes to existing rates, and rates for new services, by an existing utility.
 - A hearing is not required for this process; however the Commission must formally approve or disapprove the requested changes.
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Indiana's Access to Public Records Act



- With very limited exceptions, all documents submitted to the Commission are open to public inspection and copying.
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Confidential Documents



- Subject to carefully defined legal standards, parties may request confidential treatment for certain types of documents submitted during a proceeding.
 - Confidential treatment is the exception to the general rule that all records are to be open and available to the public.
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Conducting Evidentiary Hearings Before the Commission



Prefiled Testimony



- Testimony of each witness is filed with the Commission in written “question and answer” form prior to the Evidentiary Hearing.
 - Copies of prefiled testimony are provided to all parties to the proceeding.
 - Testimony is provided under oath and is made a part of the record of the proceeding.
 - Testimony is a public record.
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Hearing Procedures



- An Administrative Law Judge presides over all Hearings
 - A record of the hearing is made by a court reporter.
 - Witnesses can be cross-examined by other parties and asked clarifying questions by the Administrative Law Judge or the Commissioners.
 - The Commission's administrative rules govern conduct of the hearing.

Hearing Procedures



■ Indiana Office of the Utility Consumer Counselor (“OUCC”)

- is the statutory representative of the public in all proceedings before the Commission.
- represents the interests of the ratepayers in a proceeding.
- prefiles testimony and participates in a case like all other parties to a proceeding.

Rulings Made by the Administrative Law Judge



- Rulings made by the Administrative Law Judge are not final determinations of the Commission and may be appealed to the full Commission.
 - A ruling can be made in a Docket Entry.
 - A ruling can be made during a proceeding.
 - If not appealed to full Commission, ruling of Administrative Law Judge may become final.
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Docket Entries



- Issued in Writing by the Presiding Officer
 - Typically, issued to rule on prehearing motions such as a Motion to Dismiss the proceeding or a Motion to Continue the Evidentiary Hearing date
 - May set forth issues that the Commission believes should be addressed
 - If appealed, must do so within 6 business days
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Rulings During a Proceeding



- Made orally by the Presiding Officer during a proceeding.
 - Typically, ruling on an objection that evidence being offered during a proceeding is not admissible, such as a ruling on a “hearsay” objection
 - If appealed, must do so orally and immediately
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Communications Regarding a Matter that is Pending Before the Commission



Due process guides all proceedings:

- Commission decisions must be based only on the facts presented on the record.
 - Commissioners, the Administrative Law Judge and staff members assigned to a case may not discuss the merits of a case without all parties being present.
 - Any letters or other correspondence sent to the Commission in a proceeding must be disclosed and made part of the record.
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Commission Orders



Commission Orders



- Written disposition of a case, specific to the facts of the case
 - Includes *Findings of Fact and Conclusions of Law* on all issues.
 - If tariff is affected, the order will include instructions on filing tariff.
 - Commission speaks only through its orders.
 - Orders establish precedent.
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Commission Conference



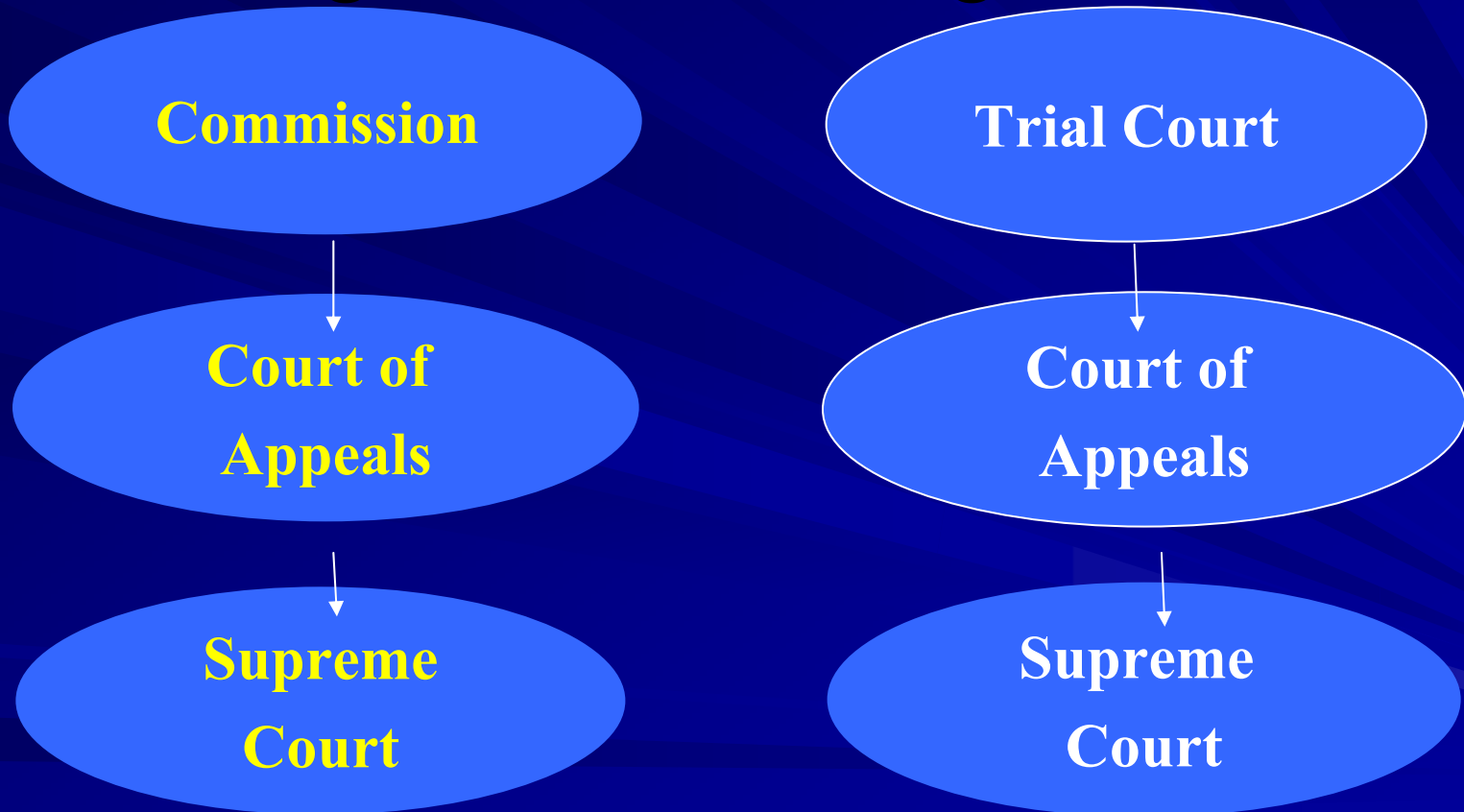
- Commission meets weekly in a formal public Conference to vote on Orders.
 - Conference is publicly noticed, open to the public and on the record.
 - A majority of the Commissioners (3 of 5) must be present to conduct business.
 - An Order that receives votes from a majority of the Commissioners is passed and approved by the Commission.
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Appeal of Commission Orders



- Final Orders of the Commission may be appealed to the Indiana Court of Appeals and then to the Indiana Supreme Court.
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Commission Appeal Process Compared to Standard Legal Proceeding



Advantages of the Administrative Process



- Commission system uses familiar judicial process—Commission acts as the *Trial Court*.
- Commission offers expertise in utility issues.
- Procedures allow for the development of a complete record by all interested parties prior to a decision being made by the Commission.

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