

# **Indiana Utility Regulatory Commission**



## **Legal Authorities and Proceedings**

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# General Themes

- Consistency — role of precedent
- Send signals — allow for predictability





# Sources of law for regulating utilities





# Federal

- US Constitution
  - Individual property rights
  - Due process
- Federal Law
- Federal Rules
  - Promulgated by federal agencies acting on authority from Congress (FERC and SEC)



# State

- State Constitution
- State Law
- Commission Rules and Orders



# IURC Created By Statute

- 5 Commissioners
- At least 1 must be an attorney
- Political composition
- Impartial nominating committee
- Accountable to Governor
- Chairman's vote is equal



# IURC Created By Statute

- 4 years term to ensure development of expertise
- Limits on outside activities
- Staggered terms for continuity and transition
- No financial interest in entities regulated
- Avoid the appearance of impropriety
- Ethical rules to promote fairness and impartiality
- Commissioners are sworn to uphold the rule of law



# Statutory Mission

- Reasonably adequate service – reliability
- No discrimination in rates among classes
- Rates must be based on actual cost





# Commission's Proceedings

Due process guides all proceedings

- Notice of proceeding
- The right to be heard
- Before an impartial adjudicator
- The right to present evidence
- The right to cross-examine evidence



# Statutory Requirements

- Controversial/ important proceedings
- Impartial fact-finding body
- Orders based on facts
- Neutrality in proceedings
- Evidence offered in proceeding
- Commission staff may submit documents
- Any party must be subject to cross-examination



# Main IURC Role



Utilities

Consumers

Represented by the Utility Consumer Counselor

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# Other Roles

- Investigative
- Testimonial



# Other Due Process Concerns

- Prohibition against ex parte discussions
- Ex Parte - From or on one side only, with the other side absent or unrepresented
- Evidentiary record – or lack of



# Commission Orders and Rulemakings

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# Orders

- Pursuant to state law
  - Written disposition of case
  - Specific to the facts
  - Commission ‘speaks only through its orders’
    - Relies upon and establishes precedent
    - Signals to enable predictability
    - Order is basis for appeal
    - Permits Commission to emphasize policy issues
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# Rulemakings

- Guidelines of general applicability
  - Customer rights
  - Service quality standards
- Authority from Legislature because of presumed expertise





# Lawyers and the Commission





# Administrative Law Judges

- Presides over proceedings
- Consults with Commissioners and Staff
- Prepares proposed orders
- Mediates settlements
- Case Management



# General Counsel's Office

- Answer Legal questions
  - Assist in policy decisions
  - Ensure conformation with the law
  - Review proposed orders
  - Answer legal questions from outside parties
  - Keep abreast of changes in the law
  - Work with Commissioners and Staff
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