

# Indiana Utility Regulatory Commission



## Case Procedures, Rules, and Negotiations

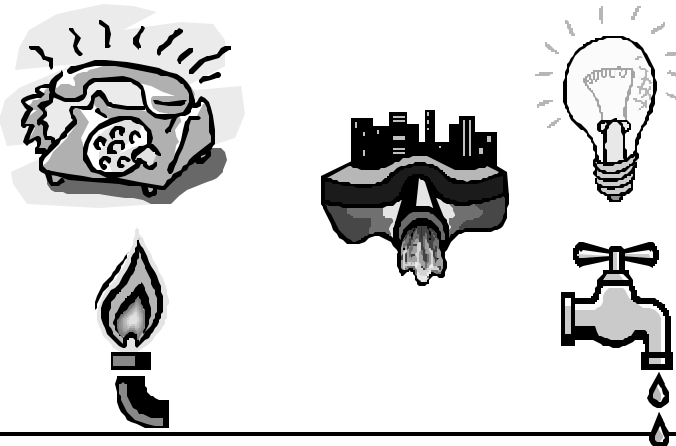
**Scott R. Storms**  
**Chief Administrative Law**  
**Judge**

June 3, 2003

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## Types of Cases Heard by the Commission



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## **How Things get Started** **Petition Filed with the** **Commission**



- Assigned a unique cause number and file marked with the date of filing.
- Public file created for assignment to Administrative Law Judges

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## **Public Notice and Scheduling a** **Proceeding**



## Public Notice



- Commission Hearings are open to the public and the public must be notified of the proceeding
    - Notice ten (10) days prior to the date of the proceeding
    - Newspapers of general circulation, printed and published in the English language
    - Notice in the part of the state where the company is located and in the local community that will be impacted by the case.
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## Types of Hearings Before the Commission



- Prehearing Conference
    - Initial hearing in a case
    - Commission issues a Prehearing Conference Order
  - Evidentiary Hearing
    - Parties present formal testimony to the Commission
  - Field Hearing
    - Additional hearing that is held in local community
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## **Commission Investigations and Complaints**



- Commission has the ability to initiate Investigations against Public Utilities in the State
- Commission can hear Complaints filed against Public Utilities in the State

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## **Conduct of Hearings Before the Commission**



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# Hearing Procedures



- Administrative Law Judge presides over all Hearings
    - Proceeding open to the public
    - Proceeding is placed “on the record” by a court reporter
    - Witnesses are subject to cross examination by other Parties
    - Witnesses may be asked clarifying questions by the Administrative Law Judge or the Commissioners
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# Docket Entries



- Issued by the Presiding Officers
    - Typically issued in response to written Motions filed by the parties to a proceeding, such as a request for a continuance of prefiling deadlines or the hearing itself.
    - May be used to set forth issues that the Presiding Officers have determined should be addressed in a proceeding.
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## Docket Entries (Cont'd)



- A Docket Entry is a determination made by the Presiding Officers to a case and is not a Final Order of the Commission.
  - Determinations made by the Presiding Officers in a Docket Entry may be appealed to the full Commission.
  - Once the Commission acts on an appeal it becomes a final Order of the Commission.

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## Administrative Notice



- **Administrative Notice**
  - Pursuant to 170 IAC 1-1.1-21(g), the Commission, either on its own motion or on the motion of a party, may take Administrative Notice of certain types of information.
  - The commission shall take administrative notice of any fact that must be judicially noticed by a court of Indiana.
- **Typical Types of Information**
  - The Commission may take administrative notice of relevant administrative rules, commission orders, or other documents previously filed with the commission.

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# **Negotiation and Settlement of Cases, and Commission Orders**



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## **Private Negotiations Public Settlement**



- Cases may be settled by two or more parties to a proceeding. Settlement Discussions are private
- Commission must review Settlement in an open proceeding and may approve or reject the Settlement Agreement
- Settlement must be supported by probative evidence and be found to be in the public interest
- Additional Prefiled Testimony should be submitted in support of Settlement Agreement

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## Commission Orders



- Pursuant to state law
- Written disposition of case
- Specific to the facts of the case
- Commission 'speaks only through its orders'
  - Relies upon and establishes precedent
  - Signals to enable predictability
  - Order is basis for appeal

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## Judicial Review in Administrative Proceedings



Comparison of Commission's Appeal Process  
to that utilized by other Administrative  
Agencies

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# Types of Administrative Proceedings



## *Structure Common to Other Agencies*

- Administrative Law Judge issues a “Proposed Order”
  - Review of Proposed Order by Full Commission
  - Appeal of Commission’s decision to Trial Court
  - Appeal then goes to the Court of Appeals
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# Types of Proceedings



## *Structure Common to Other Agencies*

- Parties get a “free preview” of the Order prior to consideration by the Commission
    - This can be good for the Parties, but can complicate the process
    - Structure may prohibit Communications between Administrative Law Judge and Commission
    - Matter then Appealed to Trial Court, which may not understand the process
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# Types of Proceedings

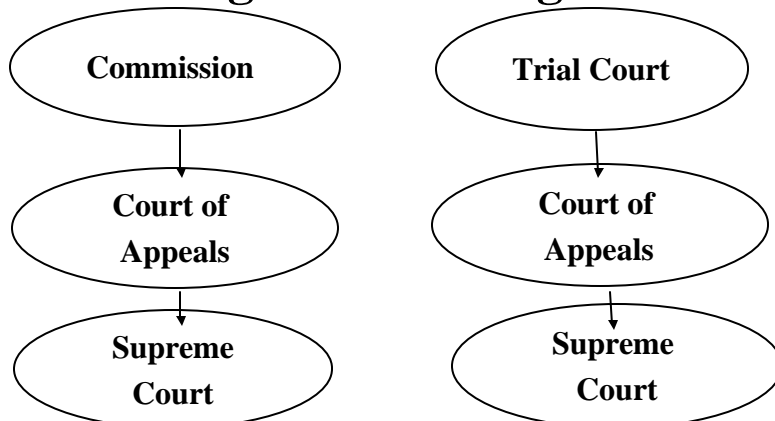


## *Structure Utilized by the Indiana Commission*

- Administrative Law Judge develops Order with input from the Commissioners
- Order issued is a Final Order of the Commission
- Appeal to the Indiana Court of Appeals

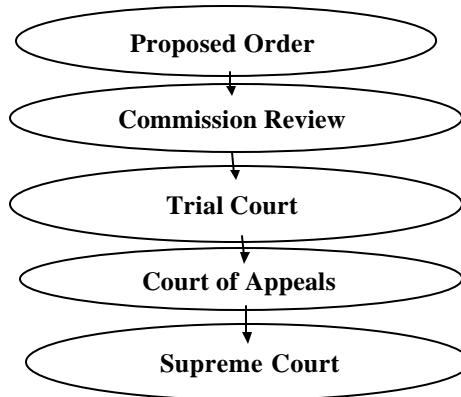
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## Commission Process Compared to Standard Legal Proceeding



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## Process of Other Administrative Agencies



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## Which Process is Better?



- Commission system mimics familiar appeals process— Commission acts as the *Trial Court*
- Other system, while still workable, requires more steps and may lead to less predictable results

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