

## PUCs and the Investment Community: Opportunities for Engagement

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Electric utilities require large amounts of long-term financial capital to build, operate, and maintain power producing facilities and the infrastructure that supports electricity delivery. The investment community provides capital to meet investor-owned utilities' financing needs under the oversight of public utility commissions (PUCs). One of the core regulatory duties of PUCs is rate making, or tariff setting, to determine the rates that customers pay for utility services. Across the country, PUCs ensure that utility rates are fair, just, and reasonable for customers. A PUCs' rate-making duties are intended to balance the interests of utility customers to pay just and reasonable rates while attracting capital from utility investors to fund needed investments. Utility services are largely the result of investments in infrastructure, which can be at significant cost and last for multiple decades, making utilities among the most capital-intensive industries in society.<sup>1</sup>

This mini guide explores the roles and relationships of PUCs and members of the investment community and the impact of these dynamics on utilities and customers. Nine individuals were interviewed to obtain commissioner and investment community views on engagement. The primary theme that emerged is that engagement between PUCs and the investment community can provide mutual benefits to the utility and its customers.

### TYPES OF CAPITAL

Investors supply capital to a utility with the expectation of earning a return that is related to the perceived risk of that investment. Low-risk investments require relatively low rates of return and high-risk investments require relatively high rates of return. Most industrial companies are perceived to have higher risk than utilities, and thus investors expect higher returns. In general, PUC-authorized returns on equity (ROEs) for utilities reflect this risk-return relationship by being lower than the cost of capital discount rates used by industrial companies.

There are two primary types of capital: debt and equity. A debt investor essentially lends debt capital to a utility and expects to receive periodic interest payments and the return of principal at the end of the life of the debt security. In contrast, an equity investor acquires stock which represents an ownership interest in a utility and expects to receive periodic dividend payments and stock price appreciation upon selling the stock. In general, an equity investment is considered higher risk than a debt investment.

It is not possible to directly observe the decision-making and thought processes of debt and equity investors, but it is possible to review publicly available financial publications, including rating agency reports and equity sell-side analyst reports.<sup>2</sup> Rating agencies are important because the credit ratings they place on debt securities both reflect and influence the decision-making and thought processes of debt investors. Likewise, equity sell-side analyst reports are important because they both reflect and influence the decision-making and thought processes of equity investors.

1 PUCs generally do not have rate-making authority for municipal and cooperative utilities, for which it is assumed that the balance of interests between investors and customers is struck when customers are the utility owners.

2 An example of one such report is S&P Global's RRA State Regulatory Evaluation.

### About the NCEP Mini Guide Series

*The National Council on Electricity Policy (NCEP) is a platform for all state-level electricity decision-makers to share and learn from diverse perspectives on the evolving electricity sector. The NCEP mini guide series promotes this dialogue by highlighting examples of successful engagement across its members. Each mini guide features collaborative approaches, lessons learned, and interviews with leading state and local decision-makers.*

Often, the investment community is thought of as a homogenous group, but it is important to understand the difference between the “buy-side” and the “sell-side” of Wall Street. The “buy-side” refers to firms that have funds to invest, make investment decisions, and engage in securities transactions. The “sell-side” refers to firms that issue, sell, or trade securities. The sell-side sells investment advice, and the buy-side may use sell-side advice along with their own internal research when making investment decisions.

Both debt and equity securities are traded in the capital markets. Capital markets are global, with investments competing against alternatives across the world on a risk-adjusted basis with capital funds readily flowing to investments that provide attractive risk-adjusted returns. Alternative capital investments are evaluated by investors on their individual merits and risk metrics. In general, utilities fall into the below-average risk category compared to the marketplace and therefore are expected to provide lower-than-average returns.

## DEBT CAPITAL

The risk of debt is generally assessed by credit rating agencies. Globally, there are three prominent rating agencies: Moody’s Investor Service (Moody’s), Standard & Poor’s Global Ratings (S&P), and Fitch Ratings (Fitch), which collectively control about 85 percent of the global credit rating market.

The role of the rating agencies is to provide debt capital markets participants with an independent, objective, and forward-looking opinion of creditworthiness based on fundamental analysis including quantitative and qualitative factors. Moody’s, S&P, and Fitch take business and financial risk into account when establishing credit ratings on utility debt.

*“Open dialogue with the regulator is important. The more Moody’s understands about PUC views, the better it will enable us to provide more accurate and informed credit assessments and, ultimately, ratings. We get regular calls from investors that are looking at a particular utility that is in the market to sell bonds, wanting to understand our credit views on that utility before they invest.”*

*— Michael Haggerty, Associate Managing Director, Moody’s Investor Service*

Business risk is the risk associated with the variability of operating income and cash flows due to the fundamental nature of the firm’s business, including sales volatility and operating expense uncertainty. In contrast, financial risk is the risk associated with the variability of earnings available for common stockholders due to the introduction of financial leverage, or capital components other than common equity, such as debt and preferred stock, into the capital structure.

For utilities, one of the most important types of business risk is regulatory risk. Regulatory quality impacts are assessed by investors when judging a utility’s risk. Components of regulatory quality include the PUC-authorized ROE and regulatory lag considerations that contribute toward the utility’s ability to achieve the authorized ROE. Regulatory lag can be influenced by PUC decisions related to test year, capital structure, accounting practices, rate case timing, rate structures, and regulatory adjustment mechanisms. Investors evaluate regulatory risk by understanding the regulatory climate because it is an important component of assessing risk and determining the value at which they are willing to transact on investments in regulated utilities.

The rating agencies have similar but not identical ratings methodologies. Moody’s provides a particularly well-described example. Moody’s utilizes a four-factor scorecard to assess utility risk. Factor 1 is “Regulatory Framework” and contributes 25 percent of the risk assessment with subfactors of “Legislative and Judicial Underpinnings of the Regulatory Framework” and “Consistency and Predictability of Regulation.” Factor 2 is “Ability to Recover Costs and Earn Returns,” which contributes another 25 percent with subfactors of “Timeliness of Recovery of Operating and Capital Costs” and “Sufficiency of Rates and Returns.” As a result of Factors 1 and 2, 50 percent of Moody’s risk assessment is directly tied to the regulatory environment. Factor 3 is “Diversification,” which contributes 10 percent and is related to market position, and generation and fuel diversity, and not directly related to regulatory risk. Factor 4 is “Financial Strength,” significantly based on cash flow metrics, and it contributes another 40 percent. The Financial Strength factor cash flow metrics are also significantly influenced by the regulatory environment because PUC rate decisions directly impact utility cash flows. As a result, regulatory risk impacts well over half of the Moody’s scorecard factors for utilities.

*“Wolfe publishes an industry primer, which we’re happy to send to regulators to read and get a perspective of how investors look at utilities. It’s more focused on the investor side, not the regulatory side, but in part, we talk about some of the key things that we look at in assessing the regulatory environment. We also have a distribution list for our research that we’re welcome to have regulators be on to monitor what’s going on in the industry overall.”*

*— Steve Fleishman, Managing Director and Senior Analyst, Utilities, Midstream, and Clean Energy, Wolfe Research*

Debt investors generally perceive utility bonds as providing a safe and consistent return while monitoring balance sheet integrity and cash flow metrics. Debt investors are not required to own utility bonds if risk-adjusted returns are higher in other sectors. On the other hand, debt investors may own a significant proportion of utility bonds if risk-adjusted returns are attractive.

## EQUITY CAPITAL

The risk of equity investments is assessed by all equity investors, but professional investment analysts at large institutional investors can have a significant influence. Both buy-side and sell-side utility equity analysts are focused on researching utilities to pick winning and losing stocks and to achieve attractive risk-adjusted returns. Specifically, buy-side analysts make stock investment decisions, invest client funds, and have their performance evaluated by the return that they achieve relative to a benchmark. Typically, buy-side analysts work for asset managers, institutional investors, and hedge funds.

Sell-side analysts publish research reports with stock recommendations, market their services to buy-side investors, and have their performance evaluated by their clients—the buy-side investors. Typically, sell-side analysts work at investment banks, commercial banks, stockbrokers, and boutique research firms. As mentioned previously, it is not possible to directly observe the decision-making and thought processes of buy-side analysts that are making the actual investment decisions, but sell-side analyst reports both reflect and influence the decision-making and thought processes of buy-side equity investors.

Similar to utility debt investors, utility equity investors expend considerable effort assessing business risk and financial risk, with regulatory risk being a primary business risk. Equity investors form opinions about regulatory risk through meetings with company management, meetings with regulators willing to talk with investors, and reviewing research reports, as well as sell-side analyst reports. Regulatory climate is significantly impactful on utility equity valuation.

*“We’re long-term investors looking to compound returns with minimal volatility in utility companies where we’ve identified management teams that we think can execute on their obligations under the regulatory compact in their state, and where they have a regulatory partner who is willing to reasonably penalize and reward them for performance and provide a risk-return profile that I think is reasonable versus my other options.”*

— Greg Gordon, Partner, North American Utilities Research, Zimmer Partners

*“The key thing a PUC is missing if they avoid meeting with the investment community is part of the information flow needed to balance the interests between customers and investors. Instead of just relying on the utility company to relay what the investment community says, you do have the ability to gather that information directly. I think you are more likely to make smarter decisions if you’ve gained knowledge based on relationships from the investment side.”*

— Steve Fleishman, Wolfe Research

## IMPACT ON UTILITY CUSTOMERS

The risks faced by utility investors are important to utility customers because they are reflected in the capital costs to the utility, which are ultimately paid for by customers. Regulatory risk, as perceived by investors, impacts the availability and cost of capital. When investors perceive higher risk, the corresponding costs of debt and equity increase. If investors are less willing to provide capital, capital is less cost-effective for customers. For example, rating agency downgrades generally result in higher interest rates on newly issued debt securities. A utility downgrade would place upward pressure on the embedded cost of debt, as new long-term debt securities are issued at higher interest rates. Additionally, a utility’s cost of equity would increase as investors require a higher rate of return to compensate for additional risk.

Customers benefit from having a financially stable utility with sufficient earnings and cash flow to attract equity and debt on reasonable terms. Generally accepted regulatory rate-making principles support that a reasonable authorized ROE and capital structure, combined with an opportunity to achieve the authorized ROE, is an important contributor to financial stability.

Regulatory policies that reduce regulatory lag and increase utility financial stability minimize the utility’s regulatory risk and may be recognized in setting a just and reasonable authorized ROE.

*“Engagement is important in terms of achieving a state’s goals to raise capital and fund investment in the state. To indicate that you’re not willing to meet with investors may be perceived as adversarial.”*

— Steve Fleishman, Wolfe Research

All commissioners come to the job with the experience of being a utility customer, but few commissioners start serving with knowledge of the intricacies of utility capital and the investment community. Interaction between PUCs and investors can give commissioners an appreciation for how investors view the regulatory environment and the associated impact on the cost and availability of capital.

*“I’ve seen situations where capital providers have been at serious odds with key regulators in certain jurisdictions, whether FERC or the states. If they can’t find common ground, that ultimately increases volatility, decreases earned returns, and increases the cost that the customer ultimately has to pay for their services. If you try to play chicken with capitalism, you will lose because you’re ultimately going to drive up costs of providing service and volatility for your customers, possibly harm the quality of service, and drive capital out of your state.”*

— Greg Gordon, Zimmer Partners

*“The transparency of being willing to sit down with the investment community and answer questions helps to boost confidence in the regulatory environment and ultimately the investment opportunities. That is beneficial to the state and beneficial to the customers of the utilities, in addition to being beneficial to the utilities themselves. It is in the best interest of utility customers, because when there is uncertainty that adds to the risk, it adds to the premium that’s expected. With a relationship, you can be transparent even in delivering news that the investment community may not favor, it helps in removing the uncertainty. A lack of transparency ultimately results in higher cost because it adds questions to the regulatory environment, and then those get priced into the cost of capital.”*

— Chair Dan Scripps, Michigan Public Service Commission

*“You want to have credibility with investors when your utility needs to borrow money at a reasonable rate during a crisis. When we had the Uri winter ice storm, our utilities needed to immediately fund the sky-rocketing gas costs. Our utilities were calling investors, asking to borrow that money. When utilities make that call, I don’t want the first thing to go through the lender’s mind is ‘you kind of got a goofball on your commission. I don’t know if I want to loan this money because I might not get it back.’ PUCs are part of the repayment program for people wanting to loan money, and you want to be known as a serious, responsible regulator. You don’t want the commission to be perceived as unpredictable. That’s bad. That means potentially higher interest rates.”*

—Chair Ted Thomas, Arkansas Public Service Commission

## BALANCE OF INTERESTS

Regulators are charged with balancing the interests of investors and customers. Utility management has a fiduciary responsibility to deploy investors’ capital productively. Investors recognize the importance of regulatory and stakeholder relationships and expect utility management to provide safe, reliable, and affordable service to customers to preserve and enhance the value of their invested capital. As a result, investors are eager to engage with utility regulators to learn how utility management is performing. The interests of customers can be served when investors’ desire to provide capital is harnessed for prudent utility investment.

*“I’ve used the dialogue with investors to communicate back to the utility about what’s important. We have a unit that’s had chronic performance problems. It’s really important to me that they fix those performance problems. What I wanted investors to do was ask the utility at its analyst day ‘We’ve heard that your regulators are really concerned about this. What are you doing about it?’ I pushed it all the way to that level with enough mustard on it that the analysts were going to ask them about it. The utilities always pay attention to their investors.”*

— Chair Ted Thomas, Arkansas Public Service Commission

In weighing interests, PUCs may wonder how to strike the right balance between customers and investors. At what point does the regulatory climate that provides cost-effective capital become one that provides excess profits to investors at customers’ expense? This question has historically been addressed through a combination of competitive capital markets and conventional PUC rate-making principles that set the authorized return equal to the cost of capital. This approach has been relied upon for decades and is widely accepted in the industry. It is intended to prevent utilities from providing outsized returns to investors and is based on evidence that is introduced on the record in regulatory proceedings.

More debatable than the rate-making principle is the measurement of the cost of capital. Reasonable minds can produce different estimates of the cost of capital. The record of evidence in a typical rate case includes significant expert witness testimony about the measurement of the cost of capital developed and provided by utilities, intervenors, and PUC staff. The

varying cost of capital estimates from an array of expert witnesses generally provide commissioners with a range to consider. An essential part of the PUC balancing process is for the commissioners to weigh the evidence and determine the authorized return within the range of presented evidence.

Moreover, in globally competitive capital markets, investors cannot circumvent the risk-reward relationship by intentionally mispricing utility securities downward with the hope of manipulating higher returns from regulators. Any mispricing attempt would be arbitrated away by other competing investors and presumably called out by intervenor and PUC expert witnesses that regularly participate in rate cases.

## REFLECTIONS OF PRACTITIONERS ON BENEFITS OF ENGAGEMENT

This mini guide series looks to active practitioners to describe how PUC and investment community relationships impact utilities and customers. For this guide, four commissioners representing four states—Arkansas, Georgia, Michigan, and Montana—and six investors representing credit rating agencies, sell-side researchers, and buy-side researchers were interviewed.

**Table 1. Mini Guide Interviews**

| Name             | Position   | Organization                       | Organization Type         |
|------------------|--|------------------------------------|---------------------------|
| Ted Thomas       | Chairman   | Arkansas Public Service Commission | PUC                       |
| Tricia Pridemore | Chairman   | Georgia Public Service Commission  | PUC                       |
| Daniel Scripps   | Chair  | Michigan Public Service Commission | PUC                       |
| Brad Johnson     | Vice-Chair   | Montana Public Service Commission  | PUC                       |
| Michael Haggerty | Associate Managing Director  | Moody's Investor Service           | Credit rating agency      |
| Natividad Martel | Vice President and Senior Analyst  | Moody's Investor Service           | Credit rating agency      |
| Ryan Wobbrock    | Vice President and Senior Credit Officer                                     | Moody's Investor Service           | Credit rating agency      |
| Steve Fleishman  | Managing Director and Senior Analyst, Utilities, Midstream, and Clean Energy | Wolfe Research                     | Sell-side equity research |
| Greg Gordon      | Partner, North American Utilities Research                                   | Zimmer Partners                    | Buy-side equity investor  |

Each person interviewed expressed his or her own opinions. Inclusion in this document does not indicate an author's or organization's endorsement of any statement or suggestion.

Of the many benefits of engagement, some of the most mutually impactful for PUCs and investors are understanding each other's positions and perspectives with greater clarity and how their varying considerations can lead to different outcomes.

*"I think there's value in sitting down directly with the investment community and sharing our thoughts. We get a lot out of engagement by being able to hear the questions that are front of mind. My sense is that the investment community also gets a lot out of it by being able to understand where we're coming from and how we're thinking about some of the big issues that they're tracking. Our level of transparency helps with investor confidence in the utilities that we regulate. The dialogue can help to avoid places where we're unintentionally adding risk or making decisions that have a negative result that's not intended."*

— Chair Dan Scripps, Michigan Public Service Commission

*"Open communication is best so that we don't misinterpret or have an inaccurate or incomplete understanding of a particular issue or point of view. The more communication, the better."*

— Michael Haggerty, Moody's Investor Service

Specific benefits of open communication for PUCs include:

- developing a relationship for future questions on utility credit ratings and financings,
- facilitating capital attraction for the state,
- getting a benchmark comparison to other states,
- understanding why capital is flowing into or away from your state,
- gaining a historical perspective on the utility sector,
- enhancing understanding of capital markets and global trends,

- obtaining investor insights on in-state utilities,
- sending public interest messages to the utility through investors,
- communicating the differences between stylistic changes and substantive changes,
- better critiquing testimony about investor views in rate cases and other proceedings,
- avoiding unintentional negative reactions or confusion,
- gaining another point of view on PUC performance, and
- getting a sense of the dispersion of viewpoints of different investors.

*“A dialogue with Wall Street is really very important when you think about the core functions of what a regulator does. I enjoy my time when I talk with Wall Street in the respect that I believe it gives them an understanding of what’s happening in Georgia, and also gives me an opportunity to peacock about the positive things happening in my state. At the same time, they’re the people that I call when I’ve got questions about ranges, valuations, and earnings reports, and when I want to understand what an ROE request from a utility should look like. It doesn’t cost me anything, and it’s just great free advice. I’m grateful to those analyst firms for allowing me access to their experts and allowing me to pick their brain.”*

— Chair Tricia Pridemore, Georgia Public Service Commission

*“Investors in the utility space are there to make a reasonable return by supporting investments in infrastructure that benefit customers. There is risk involved when you sit down with an investor, but it’s a bigger opportunity than it is a risk. You’re getting an opportunity to articulate your regulatory philosophy and attract capital to your state, or an opportunity to understand why your regulatory philosophy is dissonant with the risk-return profile of the investor who’s contemplating an investment in your state.”*

— Greg Gordon, Zimmer Partners

Specific benefits of greater communication for investors include:

- learning what is happening with utilities in each state,
- understanding the regulatory environment and unique aspects of the state,
- obtaining an enhanced ability to assess the risk-return relationship of each state and each utility within a state,
- understanding past regulatory decisions,
- understanding new regulatory mechanisms,
- improving quality of investment analysis,
- adding context to regulatory decisions,
- differentiating between the real details of events and the headlines,
- obtaining views other than those from the utility,
- understanding regulatory philosophy and the regulatory construct in each state,
- keeping utility management teams accountable, and
- allocating capital more efficiently.

*“Investors might ask specific questions, but they’re also making a general appraisal of your competence as a commissioner, and you need to hit the mark on that. Part of the upside is communicating, I am serious, know what I’m talking about, am taking the right approach to the role, do not see it as a political allocation of resources, and understand there are rules to follow.”*

— Chair Ted Thomas, Arkansas Public Service Commission

*“We measure the risk and the reward of investing in 49 different regulatory regimes every day. The more we understand the differences and similarities between those regulatory philosophies in those different states, the more we can allocate capital efficiently.”*

— Greg Gordon, Zimmer Partners

*“The more opportunities Moody’s has to understand PUC thoughts and views, the more it helps us to provide the most accurate credit assessments, better communicate our views to investors, and allows investors to better understand these utilities.”*

— Michael Haggerty, Moody’s Investor Service

*“Moody’s role is to compare and contrast the credit quality of utilities in different jurisdictions. For example, when a new regulatory mechanism is implemented, the devil is often in the details. Understanding the benefits and limitations of a new rider or any new mechanism, by talking to the commissioners and staff about the thought process behind that new mechanism, allows us to understand it better and to improve the quality of our analysis.”*

— Natividad Martel, Vice President and Senior Analyst, Moody’s Investor Service

*“Moody’s analysis of a regulatory environment is really predicated on relationships. ‘What is the utility’s relationship with the regulators? And how does that influence our credit opinion?’ It behooves the commission to have a seat at the table and have a voice in dialoguing with us so that we understand their viewpoint. It better helps us sort between what’s the headline and what’s the actual credit implication.”*

— Ryan Wobbrock, Vice President and Senior Credit Officer, Moody’s Investor Service

*“We changed our ROE law in a way that was a stylistic change and not a substantive change. It was very important after we did that to level set with investors. So, when investors were thinking about what the language meant, it might mean that they really shouldn’t see any difference on future ROEs from that language than they would otherwise.”*

— Chair Ted Thomas, Arkansas Public Service Commission

*“The investor does not have to invest in your state. They can invest in any state. What your state historically does may not be particularly attractive or competitive with what other states are doing. It’s important to understand the context or the investor could just decide, ‘I don’t want to put my money in this state. I don’t like the way this regulation is structured.’”*

— Steve Fleishman, Wolfe Research

## PUC STAFF ENGAGEMENT

PUC engagement with the investment community is not limited to commissioners; investors see benefit from engaging with PUC staff as well as commissioners. Often, PUC staff members are knowledgeable subject matter experts that can describe technical engineering, accounting, economic, financial, or legal concepts. Likewise, PUC staff can obtain capital markets information that makes them more effective at doing their jobs to the benefit of utility customers in their state.

*“Senior staff members are very important because they are in their positions through the years and have a much longer historical perspective. The staff can play a key role in transition, knowledge transfer, and consistency because there are always changes as commissioners come and go.”*

— Michael Haggerty, Moody’s Investor Service

*“It’s very important to talk to not only the commissioners, but the staff as well. On occasion, staff members will call Moody’s to talk through our ratio definitions and calculations. I believe they are trying to think through various aspects of rate cases and understand potential credit implications of decisions they are making. The more staff knows and the more dialogue we’ve had, the better it is for consistency and predictability on both sides, both in regulatory recommendations and in credit implications and outcomes.”*

— Ryan Wobbrock, Moody’s Investor Service

*“I like meeting with commission staff because they’re often subject matter experts. They also don’t have the extent of legal obligations and limits since they’re not the judge in the case. They can give you more color than the commissioners do, so I love meeting with commission staff.”*

— Steve Fleishman, Wolfe Research

## FREQUENCY, FORMAT, AND VENUES

Investors prefer a regular pattern of engagement with PUCs, varying from once a quarter to once a year. In unusual circumstances, investors prefer more frequent engagement. California, Ohio, and Georgia were cited by investors as states that have had frequent, substantial, and/or impactful regulatory activity leading to periods of heavier engagement. Investors and commissioners prefer one-on-one meetings but also find group and virtual meetings valuable. Investors and commissioners both prefer informal conversations to formal presentations.

*“When I have very large investments in particular regulatory jurisdictions, I will often request periodic one-on-one meetings with the senior regulators and staff members of those commissions. But I also find group meetings incredibly useful as well, because I’m also gathering information in those meetings. Larger group meetings also allow PUCs to get a sense of the dispersion of expectations.”*

— Greg Gordon, Zimmer Partners

*“When there’s a big credit event or driver, we’re likely to speak more often; but in the normal course, it’s likely to be less frequent. Georgia Power’s construction of the Vogtle nuclear power plant provides a good example. Our dialogue with the Georgia commission has been much more frequent during construction because it’s a big project of high interest to both investors and us. In addition, we had a lot of dialogue with the California PUC and staff during the wildfire crisis over the last several years that eventually affected the credit quality of the three major California investor-owned utilities.”*

— Michael Haggerty, Moody’s Investor Service

*“The new chairman of one commission was in New York several years ago, and she and a couple of her staff reached out and visited our offices. We prepared a presentation explaining how Moody’s regulated utility ratings methodology works, how we apply it, and the differences that we saw across the different utilities that they regulate.”*

— Natividad Martel, Moody’s Investor Service

Meetings can be initiated by either investors or a commissioner, though most engagement is initiated by investors. However, investors perceive a higher level of transparency in states that engage proactively rather than reactively. Investors indicate that they are more than happy to provide their direct views to any commissioner or PUC staff member who contacts them.

*“We host semi-regular meetings with the investment community, usually once or twice a year. We call them ‘office hours’; informal opportunities to talk with members of the investment community. Pre-COVID-19, they were in person, and so folks would come to Lansing. They’re typically one-hour meetings with investment analysts, so we can do seven or eight in a day. Since COVID-19, they’ve been online.”*

— Chair Dan Scripps, Michigan Public Service Commission

*“The commission or staff typically initiate meetings when they’re sensitive to credit concerns and how the utilities within their state might be impacted. This year, I’ve given presentations on Moody’s rating methodology, the factors we look at, and how regulation influences credit ratings to two different commissions. And there’s been several conversations with another about our financial ratios, how we calculate them, and what line items of the financial statements are used.”*

— Ryan Wobbrock, Moody’s Investor Service

*“To the extent that the regulator can get comfortable putting together a systematic process by which they’re going to engage with investors, that’s positive. Their time is scarce, but an example would be to say, ‘I’m going to allocate five days a year to investor interaction, I’ll do meetings at NARUC twice a year, I’ll do one Wall Street Dialogue, and I’ll have one open office day where I’ll let investors come visit with me or do something on Zoom.’”*

— Greg Gordon, Zimmer Partners

Because most engagement is initiated by investors, it is easy to perceive that the meetings are intended to primarily benefit investors through commissioners answering investor questions. However, the most constructive and robust communications occur when the information flow is bidirectional. The meetings are mutually beneficial when the communications are two-way.

*“Regulators should not look at talking with Wall Street analysts as just a one-way communication, or necessarily that the analysts are trying to get in your head and determine how you’re going to rule on a case, or that they’re advocating for the utilities’ financial position. It’s really to give the regulator an opportunity to talk about the important things happening in their state, as well as to get feedback on not only what’s happening in other states, but the trends that those analysts are seeing happening, not just nationally, but globally.”*

— Chair Tricia Pridemore, Georgia Public Service Commission



*“At the end of each meeting, investors will ask if we have any questions for them, and we usually take the opportunity to ask. Typically, the questions in that respect are, ‘what are you looking for? What are some of the strengths or areas for improvement in the regulatory environment? Are there things that we should be thinking about that are important to the investment community that you haven’t heard during the conversation?’ That’s a good chance to better understand how they’re evaluating us.”*

— Chair Dan Scripps, Michigan Public Service Commission

*“We definitely encourage two-way communication. The best meetings are the ones where there’s two-way dialogue about the investor side helping the regulator and the regulator helping the investor side understand the key issues in the state. A few regulators take advantage, most do not. I think they would find it very helpful to ask questions because we monitor probably 40 of the 50 states.”*

— Steve Fleishman, Wolfe Research

The existing venues for PUC-investment community engagement include meetings in PUC offices, meetings in investor offices, or meetings at neutral sites such as industry conferences. Investors travel often and like to meet with commissioners when they are proximate to commission offices. Popular engagement opportunities for both commissioners and investors include the Wall Street Dialogue periodically hosted by Gee Strategies in New York and sell-side-hosted meetings at the three-times-a-year NARUC policy summits.

## Wall Street Dialogue

*“The different venues all have their benefits. I think some of the informal side conversations that I’ve had at conferences have been really insightful. In informal conversations with members of the investment community, you can really get a sense of issues that folks are concerned about.”*

— Chair Dan Scripps, Michigan Public Service Commission

*“I encourage regulators, especially if you’re new to your PUC, to do the Wall Street Dialogue event. It’s a great opportunity for you to understand utility investors. It’s in a casual setting where they’re going to answer a lot of questions, maybe questions that you may not even know to ask. They take you through buy-side and sell-side analysts, as well as bond ratings and credit rating agencies, and how important they are to your utilities. You’ll also get an opportunity to pick the brains of analysts, not just in a formal question and answer setting, but also one-on-one during breaks.”*

— Chair Tricia Pridemore, Georgia Public Service Commission

*“I attended the Wall Street Dialogue early on in my tenure as a commissioner. While I certainly found participation in that program helpful, I could have gotten more out of it if I had more of an understanding of how the investment community interacts with the regulated utilities. It helped me to understand where I needed to learn more and ask more questions. There was a substantial amount of information I was able to absorb.”*

— Vice Chair Brad Johnson, Montana Public Service Commission

*“I encourage regulators to come to a Wall Street Dialogue, which is probably the single most helpful event to both train and build relationships. I’ve spoken at the Wall Street Dialogue a couple of times, and I found it very helpful for me, because it’s a good way to meet some new regulators that I’ve not interacted with before. The regulators get a great lineup of people with information that really gives them points of view on the investor side that’s valuable. So, I think it’s a ‘must do’ as a regulator to participate in at some point.”*

— Steve Fleishman, Wolfe Research

## NARUC Meetings

Sell-side analysts often host meetings between commissioners and buy-side investors concurrently and on-site with the NARUC Annual Meeting, Summer Policy Summit, or Winter Policy Summit. These analyst meetings are not sponsored by NARUC. Generally, the meetings are structured as hour-long panels of 3–4 commissioners meeting with one to two dozen investors. Investors find these valuable because they provide an opportunity to meet with multiple commissioners in groups and back-to-back all in one setting. The sell-side host often publishes and distributes a report to inform buy-side investors who cannot

attend NARUC meetings. Commissioners also find it time-efficient to meet with a group of investors. These meetings provide the commissioners the opportunity to listen to their peers from other states discuss their own distinct risk-return proposition.

*“I’ve participated with probably ten to twelve groups in sell-side-hosted meetings associated with NARUC policy summits. That’s more the interview format, where you give a presentation and then they ask state-specific questions. Typically, the questions are driven by their overall perception of the state’s openness to their views and specific hot potatoes.*

*They’ll ask about specific things in the state like our Grand Gulf nuclear facility. Of course, you always give a disclaimer. These folks, in my view, are bright, intense, competitive, and serious about their work.”*

— Chair Ted Thomas, Arkansas Public Service Commission

*“I’ve participated in three of those. The first one was early on, and I’d love to have a re-do on that because I just was very uncertain about what those investors were looking for. I wasn’t sure how a commissioner should even respond to some of those questions. But by the time I went through the last two, I was really very comfortable in terms of my role of trying to explain to those investors what the commission’s regulatory attitudes and policies were toward the utilities we regulate. The give-and-take was much more effective.”*

— Vice Chair Brad Johnson, Montana Public Service Commission

## Other Forums

Other valuable engagement venues include utility analyst days, the Wall Street Utilities Group, industry conferences such as the annual Society of Utility and Financial Regulatory Analysts (SURFA) financial forum, and other NARUC-related events, such as the semi-annual NARUC Subcommittee on Accounting and Finance conference. Some additional engagement opportunities are presented by industry trade organizations such as the Edison Electric Institute (EEI), the American Gas Association (AGA), and the National Association of Water Companies (NAWC).

*“The EEI and AGA events in New York usually include interactions with investors and regulators. Those are great opportunities for investors and regulators to meet and discuss their respective regulatory philosophies.”*

— Greg Gordon, Zimmer Partners

*“I particularly like the Society of Utility and Regulatory Financial Analysts (SURFA) annual forum because it pulls together the various stakeholders that are generally seen as having opposing viewpoints and agendas. SURFA enables those stakeholders, including utility company representatives, commissioners, staff, consumer advocates, and large industrial user groups, to meet and engage in a constructive dialogue. The SURFA forum is thematic in nature, so everybody can talk in generalities and not be restricted by general rate case and legal issues. It’s a more open and collaborative forum, which is really beneficial because everyone learns from one another, and you can better understand someone’s opposing viewpoint in a congenial atmosphere.”*

— Ryan Wobbrock, Moody’s Investor Service

*“The NARUC Subcommittee on Accounting and Finance semi-annual conference is a great experience. At one of the recent conferences, I had the opportunity to not only make a slide presentation, but to also address questions in a very open and transparent environment. PUC staff members asked about what Moody’s does, and although some of the questions were very direct, I thought it was extremely helpful for all. This dialogue happened not only during the presentation itself, but also throughout the day and during the lunch and dinner events. This was more informal, but I think it is important because it allows us to establish relationships, and to show that at the end of the day, we are just interested in understanding how the regulatory construct works in each state.”*

— Natividad Martel, Moody’s Investor Service

*“Another organization is the Wall Street Utility Group that has over the years invited three or four commissioners to visit New York and talk to a group of investors informally as part of a panel. Although COVID-19 made that more difficult, the group typically held meetings several times a year, including the rating agencies, at which we discuss industry trends and developments.”*

— Michael Haggerty, Moody’s Investor Service

*“It is important to highlight that some analyst on my eight-person team is listening to any important commission meeting and listening to what the commissioners are focused on. So, even if PUCs are not directly talking with us, commissioners should be aware that their words and actions are being regularly watched by investors. All the public meeting commentary provides pieces of the puzzle for us and something that we pay a lot of attention to.”*

— Steve Fleishman, Wolfe Research

Additional forms of engagement include investors listening to webcast or telephonic PUC public meetings, and the distribution of sell-side research reports directly to PUC commissioners and/or PUC staffs.

## LIMITATIONS ON ENGAGEMENT

There are some challenges to PUC-investment community engagement. Among the most impactful are ex-parte communication restrictions. An ex-parte communication is a communication that is made without proper notice to all parties and not on the public record. This undermines the fairness of a regulatory proceeding by introducing new information to the decision maker without giving that same information to other parties or providing them an opportunity to respond or test the information.

*“Almost every utility investor will know that they’re not allowed to talk to regulators about cases or issues that are currently being adjudicated. Any investor that asks a regulator a question that any reasonably well-educated utility investor should know is off limits is not somebody you probably want to be talking to because they’re not doing you or themselves a service by asking you questions about things you can’t answer.”*

—Greg Gordon, Zimmer Partners

Commissioners are restricted by statute from discussing certain topics related to open proceedings and upcoming proceedings. Investors, like other constituents that PUCs deal with, can either purposely or inadvertently ask questions that a commissioner should not answer because it addresses a matter before the commission. Commissioners indicate that most investors understand and respect “I cannot answer” as the response to a question. Diligent preparation by PUCs and investment community representatives will help avoid restricted areas.

*“I’m perfectly comfortable to tell an analyst, ‘Look, I’m under ex-parte in this case, and there’s a lot happening. Let’s wait until my ex-parte is lifted, then I can really get into some of the details about the decision.’ Most importantly, commissioners are comfortable to look at an analyst and say, ‘I’m not going to answer that. This is not the right time for me to answer that question.’ Your answer is your answer, and that certainly is never a poor reflection on your state, on your governor, or on your state’s energy or utility portfolio.”*

—Chair Tricia Pridemore, Georgia Public Service Commission

*“I think pushing too hard can be counterproductive. We see benefit in meeting, but if we’re pushed too hard on areas that we just legally cannot talk about in terms of open cases from an ex-parte perspective, it substantively undermines the process. It puts us on the defensive in a way that we’re being asked to talk about things that we can’t, and so it makes it harder to answer even the easier questions.”*

—Chair Dan Scripps, Michigan Public Service Commission

Some PUCs are generally reluctant to meet with members of the investment community. There may be a natural hesitancy of some commissioners, particularly new commissioners, to engage with investors. Sometimes commissioners receive internal legal advice to avoid engagement. There can appear to be more risk than reward for new commissioners. One early negative engagement experience may be enough to discourage a new commissioner from repeating the experience. Commissioners may perceive investors as overly aggressive

*“I think there’s a natural hesitancy to engage, partly because as regulators, what we say can actually move markets intentionally or not, and also there have been negative examples that resulted in various degrees of political controversy. Yet for all of that I still think it’s worth it because of the benefits to the state, the regulated entities, and ultimately, their customers.”*

—Chair Dan Scripps, Michigan Public Service Commission

in advocating for their own interests or pushing for decisions that benefit investors and disadvantage customers. Also, investor publications can sometimes be critical of commission decisions.

*“There’s a lot of new commissioners, even some veteran commissioners, that say, ‘I’m never going to engage with Wall Street. I know they’re trying to get in my head. I’m not going to let them.’ Well, I don’t want to let them in my head either, but there are other things I can accomplish without letting them too much into my head in ways I don’t want them to be. On day one, most commissioners should be cautious, but as you master regulatory issues, then engagement is a tool that should be used.”*

*–Chair Ted Thomas, Arkansas Public Service Commission*

Some entities, notably consumer advocates, argue that consumers are not fully represented in PUC and investor discussions, as PUCs are tasked with balancing both investor and consumer interests while investors are focused with representing their own interests. SURFA and Wall Street Dialogues are two events where consumer advocates can engage with investors alongside commissions.

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### About the National Council on Electricity Policy

The National Council on Electricity Policy (NCEP) is a platform for all state-level electricity decision makers to share and learn from diverse perspectives on the evolving electricity sector. Our community includes over 200 representatives from public utility commissions (PUCs), air and environmental regulatory agencies, governors’ staffs and state energy offices, legislatures, and consumer advocates. We are an affiliate of the National Association of Regulatory Utility Commissioners (NARUC) Center for Partnerships and Innovation (CPI).

NCEP serves as a forum for collaboration around grid-related topics at state, regional, and national levels, offering a unique opportunity for state electricity decision makers throughout the country to examine the ways new technologies, policies, regulations, and markets impact state resources and the bulk power system.

NCEP facilitates an annual meeting, connections to virtual resources, and ongoing learning opportunities for members to explore multiple perspectives on complex electricity system issues.



**NARUC**

National Association of Regulatory Utility Commissioners

### About the NARUC Center for Partnerships & Innovation

The NARUC Center for Partnerships and Innovation (CPI) identifies emerging challenges and connects state utility commissions with expertise and strategies to navigate complex decision-making. We accomplish this goal by building relationships, developing resources, and delivering training that provides answers to state commissioners’ questions. CPI works across four key areas on a wide range of projects: energy infrastructure modernization; electricity system transition; critical infrastructure, cybersecurity, and resilience; and emerging issues. CPI is funded by cooperative agreements with the U.S. Department of Energy (DOE), the U.S. Department of Commerce’s National Institute of Standards and Technology (NIST), and charitable sources.