

Public Utilities Commissions and Consumer Advocates: Protecting the Public Interest, 2nd Ed.

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Public utility commissions (PUCs) and consumer advocates (CAs) share the responsibility of protecting ratepayer interests in the utility regulatory process. Whereas PUCs fulfill the complex role of balancing ratepayer, utility, industry, and other interests while maintaining reliable and affordable service, the CA is the only organization participating in proceedings whose primary mission is to represent the interests of ratepayers generally and residential customers, specifically. Given the increasing frequency of proceedings and complexity of issues brought before commissions, the role of the CA and its relationship to the PUC is of growing importance to realizing the vision of utility regulation in the public interest.

This guide describes the overlap and distinction between PUCs and CAs, examines the current and emerging state of engagement between the two parties, and offers ideas for how relationships can be strengthened based on the experiences of PUCs and CAs.

Key Takeaways

- Build Credibility and Trust:** The relationship between a PUC and CA functions best when each side builds credibility and trust. The CA must provide credible, accurate, and transparent expertise in proceedings on which the PUC may rely. The PUC must value the work of all parties and should make reasonable use of the CA presentations in its decisions.
- Informal Communication:** Communication outside of litigated proceedings can provide valuable opportunities to find points of commonality between entities. Sharing information and data can increase technical understanding for PUC and CA staff on complex issues or provide each agency with insight on issues such as consumer complaints. The value of such communication depends on the level of respect held by each regarding the other's competency and integrity. At the same time, ex parte communications must always be avoided.
- Sufficient Staffing:** To address the increased complexity and pace of the modern utility regulatory environment, both PUCs and CAs have needed to increase staffing and expertise in recent years, which typically requires state legislative action; in places where budgets and headcount have not increased, the agencies rely more heavily on outside experts.
- Understanding the role of the Consumer Advocate:** Incoming Commissioners should understand that the CA and PUC have different functions in the utility regulatory process and that the responsibilities, obligations, and limitations of the CA mean that the two entities will not always align on issues or outcomes. CA must focus on customers, while PUC must balance customer and utility interests among others.

The Intertwined History of Utility Commissions and Consumer Advocates

During the 1970s, rapidly rising energy prices led to increased pressure from customers for better representation of consumer interests in utility regulation. This situation galvanized legislatures to create state-level independent consumer advocate offices because individual customers are greatly affected by utility regulatory decisions but could not realistically participate in the complex legal processes that make up regulatory proceedings.

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.

This genesis of CAs is important to consider for two reasons. First, they were created to ensure that the balancing act among consumers, the utility, and other interests that the PUC must achieve did not underrepresent the consumer. Second, the CA role was designed and resourced to operate in the regulatory environment of the 1970s and 1980s, which focused on discrete and formal proceedings—typically rate cases and merger approvals. The current regulatory environment is changing rapidly for both the PUC and CA, and effective collaboration is more important than ever to protect consumers.

An econometric analysis of 1,349 rate reviews that occurred between 1980 and 2007 found evidence that, on average, the presence of a consumer advocate has a tangible downward pressure on rates. The authors found that states with a CA saw fewer rate cases, a lower permitted return on equity (that averaged 0.45 percentage points lower than states without a CA) and lower residential rates relative to other customer classes.¹

“There are more outstretched hands than ever asking for ratepayer money, whether to meet policy goals or other objectives. I see upward pressures on rates to retire plants, build new ones, and invest in new infrastructure. The consumer advocates’ role is to force a hard look at anyone and anything that is asking for ratepayer money—in an effort to keep service safe, reliable, and affordable. I think our role is going to be more important going forward than it’s ever been.”

—Chris Ayers, North Carolina Utilities Commission Public Staff

Although PUCs and CAs strive to work together, there are times when disagreements arise. For example, if there is a shared funding source for the two entities that requires negotiation or if there are conflicting opinions around PUC decisions in a proceeding, these challenges can affect the relationship. This paper offers ideas and examples for how to constructively work together when such differences arise. Given the independence of the PUC and CA, as well as the permanence of the relationship between them, the public benefits when the two types of organizations proactively manage their relationship.

Structure and Characteristics of Consumer Advocates

Forty-four states and the District of Columbia have consumer advocates. Consumer advocate offices fall into four general categories: independent state agencies, divisions of state attorneys general (AG), nonprofit organizations, or arms of the legislature. **Table 1** shows a comparison of CA categories. Acts of legislation created CAs, except some of the nonprofit CAs. The CAs created by legislation are bound by state statutes; however, the scope and details of statutes vary from state to state.

Table 1: Structures of Consumer Advocate Offices

	State Agency	Attorney General	Nonprofit	State Legislature
State Count	30	13	11	2
Structural Stipulations	May be administratively attached to another state agency. Must have separate mission, budget, and staff than the state PUC. Cannot report to commissioners.	May be a separate office within the state AG’s office or a division within the AG’s office.	May or may not have legislative authority to fill the role of the official CA. Otherwise, a nonprofit complements an existing CA.	An appointed public counsel represents ratepayers and reports to an oversight committee. ^{www}
Appointment of the head of the CA Office	Generally appointed by the Governor or other executive official. Appointed by the state AG in MD and PA and by a Legislative committee in FL and MT. Some states also require confirmation by the Senate and/ or House (e.g., ME, NJ, TX).	The state AG or AG staff appoints the CA. Iowa also requires confirmation by the Senate.	Board of Directors	State legislature or subcommittee
Funding	Appropriations from state budget or regulatory fee assessed on utility bills	Appropriations from state budget or regulatory fee assessed on utility bills.	State funding, philanthropic funding, membership dues, or intervenor compensation.	Appropriations from state budget.

1 Fremeth, A.R., Holburn, G.L.F. & Spiller, P.T. The impact of consumer advocates on regulatory policy in the electric utility sector, *Public Choice* 161, 157–181 (2014), <https://doi.org/10.1007/s11127-013-0145-z>

Although consumer advocates vary greatly in size, activity level, and issue areas, three core characteristics define all legislatively created CAs.

- **Explicit mandate to represent consumers:** This requirement generally refers to all consumers, although some CAs are limited to some of the following classes: residential consumers, low-income customers, agricultural, or small businesses consumers.
- **Structural separation from the utility regulatory body:** According to the National Association of State Utility Consumer Advocates' (NASUCA) constitution, all official consumer advocates must "operate independently of state utility regulatory commission(s) with respect to policy determination, hiring and firing of personnel, and fiscal control."
- **Standing in cases and the power to appeal decision:** The legislation that creates the CA also defines their right to intervene, have legal standing in all cases at the PUC, and appeal PUC decisions to the state's court.

On the other hand, the following characteristics may vary among consumer advocates:

- Method of appointment or election of the head of the office of the CA
- Term, if any, of the head of the office
- Location or division of state government where the office is housed
- Stability, reliability, source, and magnitude of annual budget
- Scope of jurisdiction granted
- Class(es) of consumers represented

Structures of Public Utility Commissions

PUCs are also known as public utilities, service, corporation, commerce, or regulatory commissions, authorities, departments, or boards, depending on the state. Their core functions are determined by state legislation or constitution and historically center on ensuring utility investments and rates are fair, just, and reasonable for all customers. PUCs are generally comprised of two main components: the commissioners and staff.

Commissioners: Commissioners render decisions on cases regarding regulated utilities, ranging from rate cases to resource planning. PUCs may have three to seven commissioners whose terms may last from four to six years. In most states, the governor appoints commissioners, with senate confirmation. Eleven states hold public elections for commissioners. In two states, the legislature elects or appoints the commissioners. Staff size ranges from 20 to more than 1,000 employees.⁷ Although the organization of a PUC can vary greatly, there is often some separation between commissioners and some of the staff to enable the PUC as a whole to maintain ex parte rules.⁸

Executive Director: Most, but not all, PUCs have an executive director who is responsible for managing the staff, allocating staff resources, and sometimes acting as an intermediary for commissioners and staff. In some states, such as Maryland, this role is carried out by the executive secretary while the executive director coordinates technical staff.

Advisory Staff: These staff work directly or indirectly with commissioners to provide research and analysis on the cases before the commission.

Advocacy Staff: These staff are separated from the commissioners and advisory staff to provide independent testimony and analysis to proceedings in the public interest. Not all states use advocacy staff. Sometimes advocacy staff operate in addition to the CA and sometimes they fulfill the role of the consumer advocate. For instance, the public staff of the North Carolina Utilities Commission is the legislatively created consumer advocate and fulfills the role of the advocacy staff. Depending on state protocols, PUC staff are either assigned advisory or advocacy roles on a case-by-case basis (e.g., Oregon), assigned a role permanently (e.g., Nevada), or housed in separate agencies (North Carolina).

⁷ Ibid.

⁸ Ex parte communication occurs when one party to a case talks or writes or communicates directly with a commissioner, administrative law judge, or other decision maker in the commission about the issues in a pending case without the knowledge of other parties to the case. Ex parte communications are prohibited due to the decision-making duties and responsibilities of these positions. The cure is publication of the communication.

Historical and Emerging Trends in PUC-CA Engagement

Consumer advocates engage at their PUCs in two general categories: formal intervention and informal collaboration. Consumer advocates are subject to the same ex parte rules as any other intervenor, which can limit the topics on which the PUC and CA can engage.

Formal Intervention. Although statute dictates that consumer advocates have standing in all cases before the PUC, the CA may or may not be present in all proceedings. However, the consumer advocate will likely be present in at least all major rate cases. The level of involvement by the CA generally corresponds to the level of resources they have available. Resource-constrained CAs must decide which cases to participate in and to what degree they will participate. For example, a smaller CA may limit itself to only hiring expert witnesses in major rate cases to conserve resources and not participate in dockets that have a less direct impact on rates. Other CAs with greater resources or a statutory directive actively participate in all major cases.

Informal Collaboration. Processes outside of the traditional space of litigated PUC proceedings are increasingly influencing energy policy and aspects of rate setting. Processes such as PUC-led working groups, stakeholder groups, tasks forces, and informal inquiries, as well as state legislative action, are increasingly influencing the regulatory landscape. In many of these cases, communication between CA and PUC staff occurs on a near-daily basis. In these contexts, maintaining the relationships and establishing clear pathways for collaboration are essential to the success of both organizations. This informal collaboration has continuously proven to increase the effectiveness of, and support for regulatory proceedings that address emerging issues. Below are three examples of recent and ongoing informal collaboration.

- During the COVID-19 pandemic, PUCs were confronted with the challenge of balancing acute customer need for continued service with the economic fallout on utilities. The Illinois Commerce Commission (ICC) turned to the state's two consumer advocates as well as low-income advocates, and the City of Chicago to understand how they could best protect vulnerable customers in real time while also working with the utility on long-term financial solutions.
- In states that have wholesale markets, the PUC and CA may choose to share information and collaborate on wholesale issues and federally regulated matters where their interests align. For example, the Kentucky PUC and consumer advocate frequently work together on wholesale market issues, delineate focus areas, and find alignment on issues before the Federal Energy Regulatory Commission (FERC).
- PUC commissioners and staff are increasingly asked to address social equity concerns in their work; however, they may not have adequate or relevant experience to come to informed decisions. Consumer advocates, who advocate on behalf of ratepayers and work to ensure that vulnerable populations have access to adequate and reliable utility service at a reasonable price, can be a valuable resource as commissions are asked to integrate broader social equity concerns into utility regulation. The Oregon Citizens' Utility Board works to bridge the gap between environmental justice organizations and the PUC and local utilities.

As the regulatory environment and energy policy shift, several trends have emerged that are reshaping the consumer advocate and their role in utility regulation.⁹

The move away from litigated proceedings to more informal collaboration. Many important decisions that can affect consumers' rates and welfare are occurring outside of formal rate cases through informal collaborative processes. This evolution may cause challenges for CAs who were originally designed and resourced to engage in a narrow scope of litigated proceedings. This trend also requires new tactics and considerations from the CA, who historically may not have considered themselves as operating in a political environment. Tactics like establishing coalitions and bridge building with other parties have long been used by resource constrained CAs but may require new expertise and resources in the modern environment. Some CAs are increasingly leveraging media to engage their audience.

Fractured consumer interest in a complex and changing energy sector. Issues like net metering and grid modernization have split consumer interests, which, in some cases, can make it more difficult to represent consumers as a monolithic class. These new issues also bring new stakeholders to the table (e.g., solar developers, landowners) who occupy more and more of the CA's time. The tension between the urgency to act on climate change and the potential rate impact of those actions on customers, especially low-income residential customers, is at the forefront of many CAs' current concerns.

9 Katz, E., and Schneider, T. (2020). The Increasingly Complex Role of the Utility Consumer Advocate. Energy Bar Association. Retrieved from: https://link.edgepilot.com/s/2f9304fe/2OGjOP_WlUuhg56hX7X7sA?u=https://www.eba-net.org/wp-content/uploads/2023/02/5.-Katz-SchneiderFinal1-21.pdf

Increasing complexity and frequency of proceedings is a challenge for resource-constrained Consumer Advocates. The increasing number and complexity¹⁰ of issues under consideration is a challenge for both PUCs and CAs, but the impact is generally more pronounced for CAs due to their smaller budgets and more limited staff capacity. Many CAs have looked to external consultants, collaboration with their PUC and NASUCA, and educational materials to try to stretch their resources.

Intersection of state and regional or national issues. In states with wholesale markets, ratepayers are greatly affected by policies set by regional transmission operators (RTOs) and FERC. For example, the FERC's 2019 ruling establishing a Minimum Offer Price Rule caused a national debate regarding its impact on consumers.^{11, 12} Both PUCs and CAs may face expertise and capacity constraints when engaging with intra-state policy issues.

State legislation to align utility regulation with climate and equity priorities. Some states are reviewing the statutes that guide their utility commissions in light of modern policy goals around climate and social equity to determine if it is sufficient to meet those goals. In the last few years, at least 10 states and Washington, D.C., have passed legislation or otherwise ruled that their PUC must consider climate and/or equity in all or part of their decision-making processes. In some cases, this expansion of the mandate of the PUC also applies to the CA. Given the newness of such legislation, PUCs and CAs are still determining how it will impact their work. Several of the consumer advocates interviewed for this guide expressed concern about the unintended consequences of such policies on customers, especially how the costs of implementation might be borne disproportionately by those who already struggle to pay their utility bills.

The Public Benefits When Utility Commissions and Consumer Advocates Work Together

The relationship between PUCs and CAs can wax and wane over time as personnel turnover at each organization and as the issues they face change. The procedural nature of the regulatory realm may lend toward an adversarial relationship, unless both parties take actions to bridge the gap. Interviews for this document identified several opportunities for commissioners, staff, and consumer advocates to create a cooperative relationship and all work together to further their shared goal of serving the public.

"I think that PUCs should look at their consumer advocate as if they were a retired commissioner with 30 years of experience who was now just a citizen concerned with their own rates who wants to participate in a rate case with a proposed rate increase. There's really no difference between that person and what the consumer advocate is and does."

– Chairman Kent Chandler, Kentucky Public Service Commission

Commission-Led Collaboration Opportunities

Commissions view consumer advocates as a resource. CAs can offer procedural history and regulatory insights to incoming and existing commissioners and staff. The advocate and staff frequently hold their positions for a long time and have garnered significant expertise by working with many commissioners and in many dockets. This institutional knowledge can prove invaluable for the PUC. At the start of their tenure, incoming commissioners can engage the consumer advocate to learn from their experience.

The PUC supports a more resourced consumer advocate. Given that consumer advocates must contend with the same issues as the PUC but, on average, have roughly 10 percent of the staff and budget of the PUC, most CAs are chronically underfunded. CAs have learned to deal with this reality by using tactics such as selectively choosing when to engage, how deeply to participate, and partnering with other nonprofits and community organizations. Several interviewees noted the additional value that the CA can provide when they are well-resourced; for example, through filling gaps in the record of a proceeding by providing expert testimony.

"I have never met a fully, adequately staffed consumer advocate office. I've never met a consumer advocate who is able to be involved in all the issues that we need to be able to take care of without working double time."

– Chairman Kent Chandler, Kentucky Public Service Commission

10 Lawrence Berkeley National Laboratory. (n.d.). The Future of Utility Regulation Series. Retrieved from: <https://emp.lbl.gov/projects/feur>.

11 Gogging, M. and Gramlich, R. (May 2020). A Moving Target: An Update on the Consumer Impacts of FERC Interface with State Policies in the PJM Region. Grid Strategies. Retrieved from: <https://gridstrategiesllc.com/wp-content/uploads/2024/05/a-moving-target-paper.pdf>.

12 Organization of PJM States, Inc. (May 2020). OPSI PJM MOPR Filing. Retrieved From: <https://opsi.us/resolutions-and-filings/>.

Consumer Advocate-Led Collaboration Opportunities

Provide both perspective and evidence to the PUC. Consumer advocates generally excel at bringing unique perspectives to cases but may not always provide sufficient evidence to support these perspectives. This is especially problematic for less-resourced CAs that might not have economic and/or technical expertise on staff.

Commissioners need evidence included in the official record to react to; CAs can provide a clear vision for the PUC to consider and include evidence on why it is pertinent and how to get there.

Providing more tangible evidence may be possible under current resource levels by reprioritizing staff efforts or changing communication strategies. The consumer advocate can strive to increase their own capacity by deepening their partnerships with local and national advocates, nonprofits, universities, and their own community. Community members and community-based organizations may have a strong interest in utility regulation but experience significant challenges with formal or informal participation in a docket. The CA can facilitate this process or help translate community needs to the PUC, thereby introducing novel evidence and perspectives to the case.

“You’ve got to tell the story in a way that the commission can understand. It’s not a matter of just making adjustments in a rate case and defending those on the technical grounds. I think we have to be able to explain why: How this relates to policy? How does it relate to longer term decisions of the commission? How it is in line with the way we regulate? My team is going to do the best if the evidence supports us, but the narrative and the story of the case supports us too. Where I’ve got good evidence and I’m losing the narrative, it’s hard to win. Or I have good narrative, but the evidence doesn’t support that narrative, I’m not going to win.”

– Bob Jenks, Oregon Citizens’ Utility Board

Joint Opportunities

Establish and maintain shared credibility. When the CA and PUC acknowledge each other’s position, perspectives, and hard work, both entities benefit, and regulatory efforts are streamlined. Because the PUC manages proceedings, it can ensure the CA has sufficient time and attention to adequately present their full case in a proceeding. Both the CA and the PUC are staffed by incredibly hard-working professionals, and it pays to acknowledge this.

“Something I didn’t really appreciate as an incoming Commissioner was the range of things that the Consumer Advocate actually deals with day to day, but that don’t ever rise to the level where they require a commission decision, commission action, or commission intervention. The things we see as Commissioners are only a very small slice of the work that they do.”

– Commissioner Dan Clodfelter, North Carolina Utilities Commission

Communicate frequently and proactively, when possible. There are intentional limitations on the communications that can happen in an active regulatory proceeding, as defined by ex parte rules. However, both the CA and PUC representatives interviewed emphasized the value of regular communications between the two parties, when possible. This engagement can help to build relationships, illuminate one another’s perspectives, and address and prioritize emerging issues outside of docketed proceedings.

“Finding out what’s important to the commission can help the consumer advocate to focus where they want to allocate their resources in any particular case, particularly in smaller offices. Having a dialogue and understanding what is important to each other, really helps make cases smoother. Any time the two entities can align in the best interest of consumers, it’s a good thing.”

– Chris Ayers, North Carolina Utilities Commission Public Staff

“We want to help CUB focus its resources on the most challenging issues. We want to know if there is some little problem causing challenges, that can disproportionately impact the ability to represent the consumers’ interests. We talk informally with the CUB and others to take care of any of these little building issues. I call these my ‘pressure release valve meetings.’ If any tensions are building, let’s talk about things and let that pressure out so we can all focus resources on the more important issues.”

– Michael Grant, Oregon Public Utility Commission

Invite each other and participate in joint learning opportunities. As noted, PUCs and CAs are all grappling with the increasing complexity and pace of change across the electricity system. Various organizations at the state, regional, and national levels offer learning opportunities for commissioners and staff of PUCs and CAs to support their education about new technologies, analyses, planning and ratemaking approaches, and more. In November each year, The National Association of State Consumer Advocates (NASUCA) and The National Association of Regulatory Utility Commissioners (NARUC) co-locate their annual meetings, which include many educational sessions and discussion opportunities. NCEP, DOE, and the DOE National Laboratories provide educational materials and offer training events for members of NARUC and NASUCA (in addition to other state agencies). Increasingly, many NARUC trainings on electricity system issues have been open to NASUCA members as well. PUCs and CAs can spread the word within their state and region to encourage their counterparts to attend these events.

Additionally, some states or regional nonprofits offer educational events. In Illinois, the commission hosts regular summer and winter policy sessions and recently started to invite the attorney general's office and other consumer advocates, in addition to the utilities, to talk about how the utility systems are running. During one event, the CA pointed out that NARUC and NASUCA both had adopted a resolution concerning affordability, which the commission took interest in.

“We participate whenever we’re invited. We participate, give presentations, and have open discussion in conferences and policy sessions, which frequently yield progress on shared topics.”
 – Susan Satter, Illinois Attorney General’s Office

Collaborate on transmission issues. Both CAs and PUCs face resource and time constraints to engage in RTO processes or FERC proceedings. In some states, like Kentucky and Illinois, the CA and PUC have shared the responsibility of tracking FERC proceedings, engaging in information sharing, and where possible, split up the issues to tackle. Both PUCs and CAs have created regional coalitions of their own members to engage with RTOs, such as the Organization of PJM States¹³ and the Consumer Advocates of PJM States.¹⁴ Additionally, NARUC and NASUCA sponsor regional collaboration through task forces and workshops.

MINI GUIDE EXAMPLES

To give commissions and consumer advocates a more complete idea of how these relationships work in practice, the following section presents condensed excerpts from interviews with consumer advocates, commissioners, and commission leaders from three states in 2021: Illinois, North Carolina, and Oregon. This second edition adds Ohio and Maine.

Table 3. Mini Guide Interviews

Name	Position	Organization	Organization Type
David Kolata	Executive Director (former)	Illinois Citizens Utility Board	Nonprofit
Susan Satter	Chief	Illinois Attorney General: Public Utilities Bureau	Attorney General
Jim Zolneirek	Chief (former)	Illinois Commerce Commission: Public Utilities Bureau	PUC
Chris Ayers	Executive Director	North Carolina Utilities Commission – Public Staff	State Agency
Dan Clodfelter	Commissioner (former)	North Carolina Utilities Commission	PUC
Bob Jenks	Executive Director	Oregon Citizens’ Utility Board	Nonprofit
Michael Grant	Executive Director (former)	Oregon Public Utility Commission	PUC
Jenifer French	Chair	Ohio Public Utilities Commission	PUC
Maureen Willis	Consumer Counsel and Director	Office of the Ohio Consumers’ Counsel	State Agency
Patrick Scully	Commissioner	Maine Public Utilities Commission	PUC
Heather Sanborn	Public Advocate	Maine Office of the Public Advocate	State Agency

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.

13 Organization of PJM States, Inc. <https://opsi.us/>

14 Consumer Advocates of the PJM States. <http://www.pjm-advocates.org/>

Illinois (2021)

There are two consumer advocates in Illinois: Illinois Public Utilities Bureau of the Attorney General's Office and the nonprofit Illinois Citizen's Utility Board.

The following text is an abridged transcript of interviews conducted with David Kolata, Executive Director of the Citizens Utility Board; Susan Satter, Chief of the Public Utilities Bureau of the Office of the Illinois Attorney General; and Jim Zolneirek, Chief of the Illinois Commerce Commission Public Utilities Bureau in 2021.

Can you share some examples of the working relationship between the Commission and Consumer Advocate?

Susan Satter, Illinois Attorney General's Office: Recently, the commission started to invite my office and other consumer advocates to twice-annual policy sessions, in addition to the utilities. We talked about affordability because rates were going up. We pointed out that NARUC and NASUCA both had adopted a resolution concerning affordability and our commission took significant interest in the issue, and we have made good progress. Now, is the topic of affordability completely addressed? No. But we're gathering public data. That is very important, and my hat is off to the commissioners for opening that door and letting us walk through it.

Jim Zolneirek, Illinois Commerce Commission Public Utilities Bureau: If the commission staff and the attorney general's office can work on issues together, we can often knock out issues completely. For example, every four years our utilities need to create an energy efficiency plan to govern how they're going to implement their efficiency programs over the next four years. In the most recent iteration, the utilities shared a proposal and all the parties got together and went through the plans in detail. We ended up reaching agreement on the plans for all our major utilities before they submitted the plans to the commission. There was no litigated issue because everything got worked out beforehand, which was great.

How has your organization responded to the increased complexity and pace of the modern utility regulatory environment?

David Kolata, Citizen's Utility Board of Illinois: We feel comfortable about our capacity to engage; but we don't have the magic bullet to solve all the issues at hand because they are so enormous and complicated. In addition to the policy complexity, there are other factors like politics and the nuance of the utility business model. I see a risk that just and equitable policies won't develop unless Consumer Advocates and other stakeholders advocate at the start to put a ratepayer-focused framework in place. For example, we have done significant modeling to show that electric vehicles could be a benefit to customers, but this won't happen automatically. If we have the right kinds of policies, we can envision a world in which we implement equitable grid optimization policies, and all consumers will be better off as a result — even those who don't drive or own an EV.

Susan Satter, Illinois Attorney General's Office: In my opinion, this regulatory environment is no more challenging than past regulatory environments. Electricity regulation has always been a challenging field and has always been changing. I was in the industry when the 'complexity of the day' was nuclear plants and when it was restructuring. The only thing that's different now is an effort to shoehorn some environmental issues such as electrification and electric vehicles. Consider this: we had virtually no air conditioning in the 60s and 70s and now everybody has air conditioning. That's an enormous increase in electric use. Will EVs do that? I don't know. But why are utility customers being asked to carry this transformation through rate-based EV infrastructure? At the end of the day, my job is to protect the utility customer, and I think we should look critically at every single proposal to use ratepayer capital and ask if it is in their best interest.

How has the growing importance of non-litigated, informal engagement affected the relationship between the ICC and the Illinois consumer advocates?

Jim Zolneirek, Illinois Commerce Commission: It definitely helps that we can all get together, maybe with the utilities or maybe without the utilities, to talk through issues when they arise to see if we can find points of commonality. We don't always agree and sometimes we won't, but we can work out many issues before they reach the commissioners and narrow down the number of issues where folks don't agree. It makes litigation more efficient to be focused just on areas of disagreement. Once litigation gets to the commission, it's a lot harder to negotiate and resolve issues within a case. So, initial informal interaction is very productive.

For example, when COVID-19 hit, the question many utility commissions faced was what to do in response, how to protect consumers, etc. We immediately started discussions with our utilities, the attorney general's office, and other stakeholders. The attorney general was instrumental in working with us and the utilities to find common solutions that we then brought to the commission; a lot of that was done informally, prior to the commissioners' involvement.

North Carolina (2021)

The consumer advocate, the North Carolina Public Staff (NCPS), is an independent state agency with a large staff that participates in nearly all cases before the North Carolina Utilities Commission (NCUC).

The following text is an abridged transcript of interviews conducted with Commissioner Dan Clodfelter, North Carolina Utilities Commission and Chris Ayers, Executive Director, North Carolina Utility Commission Public Staff in 2021.

Can you describe the working relationship between the Commission and Consumer Advocate?

Chris Ayers, North Carolina Public Staff: In North Carolina, there are two aspects to that working relationship: as a party to a case and in a collaborative role in non-litigated projects. First, the bulk of our working relationship is as a party before the Utilities Commission, just like any other intervenor in a docket. When a utility files a rate case, a new program, or other filing, the public staff is responsible for investigating and auditing that file. For example, in rate cases, we go through the filing and issue hundreds of discovery requests. We review data and documents and then put a case together with an eye towards what is best for consumers. We present that case to the commission, along with other intervenors and the utility, and then we go to hearing in front of the commission. The public staff is bound by the same ex parte rules as all the other parties before the commission. We have to function just like a party, and then we await a decision from the commission just like everyone else.

The second part of our relationship covers the various times when we work in a collaborative manner with the commission on special projects. For example, we may be asked to evaluate proposed legislation in the state, participate in a workgroup like the NARUC-NASEO Task Force on Comprehensive Electricity Planning as part of a North Carolina team, or work on federal issues.

When is the relationship between the PUC and the Consumer Advocate at its best?

Chris Ayers, NCPS: The relationship functions at its best when the PUC and the CA both have tremendous credibility and trust with one another. Our organization is a party in proceedings and thus has a burden that is wrapped up in credibility, competency, expertise, transparency, and accuracy. When the consumer advocate is credible and competent, the commission can take a great deal of confidence in relying on evidence brought forward by the Advocate. Similarly, when the commission treats all parties equitably and provides the CA the opportunity to fully present their case, then the CA can trust their work will be valued, evidence will be input into, and the commission will render a decision accordingly. What makes a real difference is not how many or how few people you have, but that you are credible on an issue and with the evidence that you're putting before the Commission.

How have the PUC and CA responded to the increased complexity and frequency of the utility regulatory environment?

Commissioner Clodfelter, North Carolina Utilities Commission: Fifteen years ago, the universe of the parties who were providing input into the regulatory process was much more limited. In North Carolina, we have a very rich and diverse group of participants now. In any given docket of significance, we may have seven or more interest groups appear in front of us. That means that sometimes we'll have a particular intervenor in a case who is advocating for a particular point of view and course of action. To some extent, that lets the public staff separate themselves and focus on other items because that viewpoint is covered. The more parties at the table, the more flexibility the consumer advocate has about choosing which particular issues they want to focus in on any particular regulatory proceeding. I think that's a real benefit.

Chris Ayers, NCPS: Dealing with complexity is sometimes an issue of expertise and sometimes an issue of workforce capacity. Many regulatory processes are becoming increasingly complex and granular. One example: whereas seven or eight years ago, we had a tariff that defined a fairly simple avoided cost rate, now, we have more dynamic avoided cost rates that are responsive to the cost of energy on the system between seven and eight in the morning on January 1, versus a 102-degree day on August 15. Resource and system planning is increasingly complex and data dependent. Fortunately, we have staff right now that speak the language and are capable of tackling the increasing complexity and presenting recommendations to the Commission. However, that is not always the case. When we do not have the necessary expertise on staff, we go out and get some additional expertise or capacity to get the job done.

What should incoming commissioners know about their CA?

Commissioner Clodfelter, NCUC: What I didn't really appreciate as an incoming commissioner was the range of things that the public staff deals with that don't ever rise to the level of a commission decision, commission action, or commission intervention. I didn't appreciate the number of informal things they handle: inquiries, questions they fulfill, requests for advice they get from other advocates and the utilities, like "What do you think we should do about this?" or, "How do you think the commission would look

at that?” or “What do you think the reaction would be if we did a, b, and c?” Questions like that come in on an hourly basis, and the public staff processes and reacts to those. I do not think I had any appreciation for that work before I came onto the commission; it’s really critical. The things we see as commissioners are only a very small slice of the work that they do.

Oregon (2021)

The Citizens’ Utility Board (CUB) is recognized in statute as the entity designated to represent the interests of residential customers in the state of Oregon.

The following text is an abridged transcript of interviews conducted with Bob Jenks, Executive Director of the Citizens’ Utility Board of Oregon and Michael Grant, Executive Director of the Oregon Public Utility Commission in 2021.

Can you describe the working relationship between the CUB and the PUC in Oregon?

Bob Jenks, Oregon Citizens’ Utility Board: Oregon is probably one of the least litigious states related to utility regulation: most dockets have settled for many years. I’ve been doing this now for about 30 years; I’ve only taken the commission to court twice over their decisions during that time span. In most cases, we sit down with the staff of the commission and the utilities and are able to work out a reasonable compromise on most issues. In that respect, I think the stakeholders try to cooperate to get to fair energy policy. It helps that we know we’ve had a good commission, in my mind, for consumers.

For example, the commission did some really good stuff on COVID last year. We had asked them to extend the moratorium through the winter. We suggested that they ask each utility to put aside 1 percent of its revenue requirement as a fund to help manage the arrearages that the customers had built up in COVID, so that was a significant amount of money — \$39 million among the utilities in Oregon. On a whole series of issues, the commission has set good policies, even as the commission has changed.

Michael Grant, Oregon Public Utility Commission: At any given time, we probably have 30 to 40 major proceedings going on at the agency. One thing that I’ve appreciated about CUB is that they focus on both the short-term and the long-term interests of customers. They haven’t taken an approach of just focusing on the lowest rate possible but instead look at the bigger picture. Oregon has been leading a lot of transition in the energy sector and CUB has recognized that maybe a little investment now could help reduce costs to a greater extent in the future, so the long-term interest would favor this transition to renewables, for example. CUB has been on the cutting edge of a lot of discussions about greenhouse gas reductions — transformational policy work in addition to a lot of the nuts and bolts of ratemaking.

When is the relationship between the PUC and the consumer advocate at its best?

Michael Grant, OPUC: I think the relationship works best when the consumer advocate can clearly articulate and define its top priorities and focus attention and allocate resources on those priorities. Usually, getting into the evidentiary hearing stage is not good for anybody, because it takes a lot of resources and may force the commission to make hard decisions that could be avoided if folks were able to get together and come up with informal resolutions of dockets that everyone can live with. CUB has done a really good job partnering with the industrial customer group on joint issues, and they have even divided up issues of common interest in rate proceedings. That helps everybody because it’s a more efficient use of resources and streamlines issues for consideration on the commission’s behalf. I think having an approach of problem solving, focusing on your key priorities, and developing partnerships with other entities helps facilitate informal resolution of cases.

Would you say the relationship between the CA and PUC is unique, compared to other participants in regulatory processes in your state?

Bob Jenks, OCUB: I generally think the role of the consumer advocate is unique. I have always thought that the utilities and industrial customers are, first and foremost, looking out for their bottom line. While we are also looking out for customers’ economic interests, it’s not the same. We’re dealing with people who are struggling to pay bills, and we’re trying to get policies in place that make sense for those people. The consumer advocate is the party that tends to wear our hearts on our sleeves a little bit. The PUC staff does some of that as well, but they operate from more of a purely technical position, and it’s just not the same.

For example, we recognize that we’ve got to make a transition because of climate change. We can’t ignore it, and if we do it in a thoughtful manner, it’s going to be more affordable for customers. Industrial customers, on the other hand, focus on short-term economic benefit according to their incentive structure. They don’t want to accelerate depreciation of a coal plant to retire it early because that could push up rates in the short-term, even though it’s also a long-term reduction in stranded cost and litigation risks.

Michael Grant, OPUC: If you'd asked me that question 10-15 years ago, I would probably say no, the relationship is not unique because all the folks who participated in our proceedings then had worked together for a long time and had good working relationships that helped resolution of disputes. Now, we have a whole lot of new players before us representing various and new interests, and some of those (particularly those with discrete financial interests) are taking a more traditional, litigious role and may not be focused so much on public policy problem solving. The consumer advocate's approach stands apart from many new players due to their focus on customer welfare.

What should new participants at the PUC know about the regulatory process?

Bob Jenks, OCUB: The regulatory process is slow and does not respond immediately. There's a level of impatience among new folks coming in. The commission must build evidence and make decisions, which is a legalistic process, and folks aren't necessarily ready for that. In the natural gas docket, for example, there are a lot of folks who want to immediately ban new gas hook-ups. However, it is not clear the commission could even do that on the back end of this docket. Regardless, it can't do that without first exploring all sides of the important questions: What is the risk of those new gas hook-ups? What impact does that have on customers? What costs are being incurred? The parties need to build an evidentiary case first before starting to propose policies.

Ohio (2026)

The Office of the Ohio Consumers' Counsel (OCC) is recognized in statute as the entity designated to represent the interests of residential customers in the state of Ohio.

The following text contains the abridged responses of Maureen Willis, Consumers' Counsel of Ohio and Director of the Office of the Ohio Consumers' Counsel and Jenifer French, Chair of the Ohio Public Utilities Commission, to written questions in 2026.

Can you describe the working relationship between the OCC and the Ohio PUC (PUCO)?

Maureen Willis, OCC: In Ohio, the relationship between the Commission and the Consumer Advocate is independent, structured, and intentional. The Public Utilities Commission of Ohio (PUCO) is the adjudicatory body charged with regulating public utilities in the public interest, while the Office of the Ohio Consumers' Counsel (OCC) is the statutorily designated advocate for residential utility consumers under Ohio Revised Code.

OCC participates as a full party in proceedings before the Commission. We conduct discovery, present expert testimony, cross-examine witnesses, and submit legal briefing. The Commission evaluates the record and issues decisions. While the roles are distinct, both institutions contribute to a regulatory process designed to produce lawful, evidence-based outcomes.

Jenifer French, PUCO: Consumer advocates typically intervene in regulatory proceedings. They are in regular contact with agency technical staff, participate in working groups, and share information. As they are interveners in cases, they and the commissioners are subject to ex-parte laws and cannot meet to discuss pending matters before the Commission.

When is the relationship between the Ohio PUC and the consumer advocate at its best?

Maureen Willis, OCC: The relationship is at its best when each entity fully respects the other's statutory role and the integrity of the regulatory process. That includes a shared commitment to a complete and transparent evidentiary record, adherence to established legal standards such as "just and reasonable" rates, and professional engagement even where there are sharp disagreements on policy or outcomes.

Jenifer French, PUCO: It is best when we each focus on our own roles and statutory missions. At the end of the day it's important both organizations have recognition that both entities are ultimately looking for similar end results: fair, transparent and cost-effective utilities services. As a commission, we want entities practicing before us to have ample opportunity to make their case on the record so the commissioners can be well informed. At the same time, all entities should understand we have to handle our cases efficiently and within statutorily mandated timeframes.

How has your organization responded to the increased complexity and pace of the modern regulatory environment?

Jenifer French, PUCO: Recent legislation has redesigned the rate case process. PUCO has been hard at work to craft the required and appropriate administrative rules to meet the timeline requirements. So, we're not only looking at the regulations themselves, but also our own processes on how we comply with said regulations.

It's so important that advocates are engaged in this rulemaking so they can effectively inform the commission, and we can make well-reasoned decisions based upon this information.

We work closely with local governments to ensure their new role in the siting process is as smooth as possible. Recent legislation provided local governments with increased opportunities to review certain major utility facilities. Helping this new audience to acclimate and navigate the complex utility regulatory environment can pay dividends in the long run.

State commissions are typically only one piece of the regulatory environment. We place a strong emphasis on our federal engagement through our dedicated federal energy advocate to ensure Ohioans are represented at FERC, FCC, US EPA and other federal regulatory agencies.

Maureen Willis, OCC: OCC has adapted by expanding reliance on specialized expert testimony in finance, engineering, grid modernization, and affordability analysis; using data-driven bill-impact modeling; engaging earlier in proceedings; and applying long-standing Ohio regulatory principles such as “used and useful” and “prudent investment” to modern utility proposals. This has proved to be challenging with our limited budget.

How has the growing importance of non-litigated, informal engagement affected the relationship between the Commission and consumer advocates?

Maureen Willis, OCC: Informal engagement can be constructive when it supplements rather than replaces the formal adjudicatory process. Decisions affecting consumer bills must ultimately be supported by evidence in the record and subject to the procedural protections required by Ohio administrative law.

Jenifer French, PUCO: We are sharing more information with OCC (e.g. consumer complaint data). Additionally, we often have our technical staff engaged regarding the enforcement work in the retail energy space so we can have better outcomes from the beginning, rather than issuing orders and going through highly litigated hearing and rehearing processes. Finally, both OCC and PUCO share and can cooperate on consumer education and interaction.

What should incoming Commissioners know about their Consumer Advocate?

Maureen Willis, OCC: Incoming commissioners should understand that OCC is statutorily independent and represents only the interests of residential utility consumers. OCC brings institutional knowledge, historical context, and rigorous analysis that strengthens Commission decisions and supports long-term regulatory credibility.

Jenifer French, PUCO: The regulatory process is created by statutes enacted by the legislature. Regulators’ powers are only those afforded by the statutes, as supervisory courts regularly determine. Commissioners act as regulatory judges and are charged with balancing the interests of all parties by acting as a neutral decision maker. Consumer advocates represent an important class of customers who can bring valuable perspectives to regulatory proceedings.

Maine (2026)

The Maine Office of the Public Advocate (OPA) represents the interests of Maine utility customers in state and federal regulatory and court proceedings, primarily before the Maine Public Utilities Commission.

The following text contains the abridged responses of Heather Sanborn, Maine Public Advocate, and Commissioner Patrick Scully of the Maine Public Utilities Commission (Maine PUC) to written questions in 2026.

Can you describe the working relationship between the OPA and the Maine PUC?

Heather Sanborne, OPA: The current working relationship between the Office of the Public Advocate and Public Utilities Commission is excellent. The OPA believes that the Maine PUC takes its arguments seriously and considers them carefully in reaching its decisions. The agencies also communicate effectively in matters that are not the subject of litigation before the PUC, such as with respect to state and federal policy issues.

Patrick Scully, Maine PUC: It has varied over time depending on the person serving as Consumer Advocate. In the past, one Consumer Advocate was relatively adversarial and frequently litigated issues that did not appear to be important to the statutory role of the Consumer Advocate. The Commission’s relationship with the current Consumer Advocate is more balanced in general and is meaningfully more positive and collaborative on regional issues. Recently, the relationship has been most positive when the two offices work on regional issues, such as collaborating to challenge excessive transmission spending in the ISO-NE region.

When is the relationship between the Maine PUC and the consumer advocate at its best?

Heather Sanborne, OPA: The relationship between commission and consumer advocate is best when they share mutual respect. Each agency has its own unique role under the State's statutory scheme. However, the value provided by each agency is enhanced when they respect the competency and integrity of the other in performing their respective roles. The relationship breaks down when respect is lost, potentially putting the agencies in a position adverse to each other that could undermine the effectiveness of the regulatory scheme.

How has your organization responded to the increased complexity and pace of the modern regulatory environment?

Heather Sanborne, OPA: The OPA has taken a number of steps in this regard. It has increased the size of its staff modestly. It has done its best to prioritize the deployment of resources to address those issues of greatest value to ratepayers. It has expanded its participation in state and regional matters, in which key decisions regarding a number of high priority issues are made. It has engaged outside professionals to assist the office with complex issues to supplement its own internal knowledge. Finally, the office has supported the professional development of its own staff with respect to emerging issues.

Patrick Scully, Maine PUC: We have significantly increased our staffing, particularly in our legal and electricity divisions. We have also increased our regional activity, working collaboratively with other New England states on issues such as transmission planning and spending, resource adequacy, capacity market reforms and procurement of new resources.

How has the growing importance of non-litigated, informal engagement affected the relationship between the Commission and consumer advocates?

Patrick Scully, Maine PUC: In the context of regional issues, collaboration and joint engagement by our two offices has significantly increased. In traditional in-State matters, the relationship is still fairly adversarial. It could benefit from more frequent meetings outside of litigated matters to enhance communication and find more areas of collaboration. Collaborating to present a more unified approach before our Legislature would enhance both offices.

What should incoming Commissioners know about their Consumer Advocate?

Heather Sanborne, OPA: The OPA is charged with representing the interests of utility customers in a variety of forums in which their interests are affected. Because we are frequently the only agency whose primary responsibility is the affordability of utility service, the OPA emphasizes this in the positions that it develops. Therefore, our positions are not always aligned with those of the Commission, who is charged with balancing the interest of utilities and customers, as well as balancing the competing policy goals of cost, reliability, and environmental considerations. The lack of perfect alignment, however, is a feature, not a bug, in the regulatory process. The OPA respects the role that the PUC plays and the OPA endeavors to earn the same respect from the PUC in performing its role.

Patrick Scully, Maine PUC: The relationship between the Commission and the Consumer Advocate's office depends to a great extent on the personal style of the CA and the Commissioners and their senior staff. Regular informal communication is very important.

What should new participants know about the regulatory process?

Heather Sanborne, OPA: The process is very complicated! Aside from the procedural rules, it is important for participants to be aware of the statutory requirements applicable to matters that the commission is considering. Occasionally, for instance, new participants do not understand the role that the PUC plays, as opposed to environmental or siting agencies, federal agencies, or the legislature. Under Maine law, part of the OPA's role is to assist any customer seeking to participate before the PUC in understanding the procedural requirements applicable to PUC proceedings.

Patrick Scully, Maine PUC: At its simplest level, it involves quite complex issues but fairly predictable administrative litigation and rulemaking. But to be effective at ensuring good, reliable utility service at reasonable rates at a time of increasing loads and a massive change in the resource mix requires much more than routine processing of cases. It requires regular and active engagement and participation by the Commission regionally with the RTO and neighboring states, with the Legislature, with the Consumer Advocate, and with the utilities and other stakeholders.

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About the Institute for Market Transformation

The Institute for Market Transformation (IMT) is a national

501(c)(3) nonprofit organization that catalyzes widespread and sustained demand for energy-efficient buildings. Founded in 1996 and based in Washington, D.C., IMT specializes in driving the intersection of real estate and public policy to make buildings more productive, affordable, valuable, and resilient.



About 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 community includes representatives from state public utility commissions, air and environmental regulatory agencies, governors' staffs and energy offices, legislatures, and consumer advocates. NCEP is administered by the National Association of Regulatory Utility Commissioners (NARUC) Center for Partnerships and Innovation (CPI).



NARUC

National Association of Regulatory Utility Commissioners

About the NARUC Center for Partnerships & Innovation

NARUC CPI identifies emerging challenges and connects state utility commissions with expertise and strategies to navigate their complex decision-making. CPI builds relationships, develops resources, and delivers training to assist state commissions. CPI is funded by cooperative agreements with offices throughout the U.S. Department of Energy (DOE) and DOE National Laboratories. CPI works across five key energy areas: generation, transmission, distribution, customers, and critical infrastructure, cybersecurity, and resilience.



About the National Association of State Utility Consumer Advocates

Founded in 1979, NASUCA is an association of 62 consumer advocates in 45 states and the District of Columbia, Barbados, Puerto Rico, and Jamaica. NASUCA's members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. NASUCA's associate and affiliate members are organizations that represent utility customers before regulatory agencies but are not the statutorily designated advocate for the state. NASUCA members address issues affecting electricity, natural gas, water, and telecommunications consumers.