

IC 8

TITLE 8. UTILITIES AND TRANSPORTATION

IC 8-1

ARTICLE 1. UTILITIES GENERALLY

IC 8-1-1

Chapter 1. Utility Regulatory Commission

IC 8-1-1-1

"Commission" defined; references to public service commission

Sec. 1. (a) As used in this article, "commission" refers to the Indiana utility regulatory commission.

(b) After June 30, 1987, any reference to the public service commission of Indiana shall be construed as a reference to the commission.

(Formerly: Acts 1941, c.101, s.1.) As amended by P.L.59-1984, SEC.1; P.L.23-1988, SEC.12; P.L.220-2011, SEC.183.

IC 8-1-1-2

Creation of commission; membership; term of office; chairman

Sec. 2. (a) There is created the Indiana utility regulatory commission which shall consist of five (5) members, at least one (1) of whom shall be an attorney qualified to practice law before the supreme court of Indiana and not more than three (3) of whom belong to the same political party.

(b) The members of the commission and all vacancies occurring therein shall be appointed by the governor from among persons nominated by the nominating committee in accordance with the provisions of IC 8-1-1.5.

(c) The members may be removed at any time by the governor for cause.

(d) The governor shall appoint one (1) member as chairman.

(e) The members of the commission shall be appointed for a term of four (4) years, except when a member is appointed to fill a vacancy, in which case such appointment shall be for such unexpired term only. All members of said commission shall serve as such until their successors are duly appointed and qualified, and while so serving shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out their duties as commissioners.

(f) A member of the commission or any person appointed to any position or employed in any capacity to serve the commission, may not have any official or professional relationship or connection with, or hold any stock or securities or have any pecuniary interest in any public utility operating in Indiana.

(g) Each member appointed to the Indiana utility regulatory commission shall take and subscribe to an oath in writing that he will

faithfully perform the duties of his office, and support and defend to the best of his ability the Constitution and laws of the state of Indiana and of the United States of America, and such oath shall be filed with the secretary of state.

(h) The chairman of the commission shall assign cases to the various members of the commission or to administrative law judges for hearings.

(Formerly: Acts 1941, c.101, s.2; Acts 1945, c.46, s.1; Acts 1963, c.326, s.1.) As amended by Acts 1981, P.L.104, SEC.1; P.L.43-1983, SEC.3; P.L.113-1987, SEC.1; P.L.78-1988, SEC.1.

IC 8-1-1-3

Organization of commission; administrative law judges; investigation and hearing; bond; powers and duties

Sec. 3. (a) The members of the commission shall meet and organize the commission. The commission may, subject to the approval of the governor, appoint a secretary of the commission.

(b) The salaries of the members and secretary of the commission shall be fixed by the governor, subject to the approval of the budget agency; however, the salaries of the chairman and the members shall not be less than the following annual minimum amounts:

- (1) For the chairman, sixty-five thousand dollars (\$65,000).
- (2) For the members, sixty thousand dollars (\$60,000) each.

(c) The commission may appoint one (1) or more administrative law judges who shall be responsible to and serve at the will and pleasure of the commission. While serving, the administrative law judges shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out their duties as administrative law judges. The salary of each administrative law judge shall be fixed by the commission subject to the approval of the budget agency but may not be less than the following annual amounts:

- (1) For the chief administrative law judge, forty-five thousand dollars (\$45,000).
- (2) For all other administrative law judges, forty thousand dollars (\$40,000).

(d) A majority of the commission members shall constitute a quorum.

(e) On order of the commission any one (1) member of the commission, or an administrative law judge, may conduct a hearing, or investigation, and take evidence therein, and report the same to the commission for its consideration and action; however, a hearing concerning a request for a general increase in the basic rates and charges of a utility in an amount exceeding twenty million dollars (\$20,000,000) may only be conducted by one (1) or more commission members.

(f) Each member of the commission shall give bond in the sum of ten thousand dollars (\$10,000) for the faithful performance of his duties. Such bond shall be filed with the secretary of state.

(g) The commission shall formulate rules necessary or appropriate to carry out the provisions of this chapter, and shall perform the duties imposed by law upon them.

(h) The commission may:

(1) employ, with the approval of the governor and the state budget agency, sufficient professional staff, including but not limited to specialists, technicians, and analysts, who are exempt from the job classifications and compensation schedules established under IC 4-15; and

(2) purchase, lease, or otherwise acquire for its internal use sufficient technical equipment necessary for the commission to carry out its statutory duties.

(Formerly: Acts 1941, c.101, s.3; Acts 1943, c.211, s.1; Acts 1963, c.326, s.2.) As amended by Acts 1979, P.L.84, SEC.1; P.L.43-1983, SEC.4; P.L.23-1988, SEC.13; P.L.92-1993, SEC.1.

IC 8-1-1-4

Repealed

(Repealed by Acts 1981, P.L.104, SEC.7.)

IC 8-1-1-4.1

Payment of expenses

Sec. 4.1. Any expense incurred by the commission, either upon complaint against any public utility, or upon petition of any public utility shall be charged and paid in the manner provided in IC 8-1-2-70 or IC 8-1-6, whichever is appropriate under the circumstances.

As added by Acts 1981, P.L.104, SEC.2.

IC 8-1-1-5

Impartiality of commission; evidence; record; utility consumer counselor; ex parte communications; executive sessions; violations

Sec. 5. (a) The commission shall in all controversial proceedings heard by it be an impartial fact-finding body and shall make its orders in such cases upon the facts impartially found by it. The commission shall in no such proceeding, during the hearing, act in the role either of a proponent or opponent on any issue to be decided by it. All evidence given in any such proceeding shall be offered on behalf of the respective parties to, or appearing in, the proceeding and not in the name or behalf of the commission itself.

(b) Any report, audit, examination, or analysis prepared by the commission staff at the request or direction of the commission may be made a part of the record of the proceeding, subject to cross-examination by any party of the person who performed or directed the preparation of the report, audit, examination, or analysis.

(c) If in any such proceeding the public interest is not otherwise adequately represented by counsel, in the opinion of the commission, it shall be the duty of the utility consumer counselor, if requested by the commission, to make adequate preparation for the presentation of the interests of the public in such proceeding and the utility

consumer counselor shall at the hearing represent the public interests therein involved.

(d) However, nothing in this section prevents the commission from instituting, prosecuting, hearing, or determining any investigation or proceeding which it is authorized to do, or make, on its own motion by any law with the administration of which it is charged.

(e) Except as otherwise provided in this chapter, no member or employee of the commission assigned to make findings of fact and conclusions of law in a formally docketed evidentiary proceeding may communicate in connection with any issue of fact or law disputed in that proceeding with any party or any party's representative, except on notice and with opportunity for all parties to participate.

(f) In addition to holding an executive session in the instances described in IC 5-14-1.5-6.1(b), the commission may hold an executive session to deliberate on a proposed order if all the following are satisfied:

(1) All evidence on the matter has been received by the commission.

(2) The deliberations are preparatory to taking final action on an order subject to judicial review.

(3) Only the following are permitted to participate in the executive session:

(A) Commission members.

(B) Commission employees who are formally assigned to advise or assist in preparing the order, including the commission's technical staff and attorneys.

IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to an executive session held under this subsection.

(g) A person who violates this section commits a Class C infraction.

(Formerly: Acts 1941, c.101, s.5.) As amended by Acts 1978, P.L.55, SEC.1; P.L.43-1983, SEC.5; P.L.23-1988, SEC.14; P.L.30-2006, SEC.1.

IC 8-1-1-6

Repealed

(Repealed by Acts 1978, P.L.6, SEC.36.)

IC 8-1-1-7

Survival, actions, or appeals pending before abolished commission

Sec. 7. Where in any statute or rule provision is made for an appeal from, or action against, the public service commission, or an appeal from, or action against, the public service commission of Indiana, such appeals or actions may be taken from or brought against the Indiana utility regulatory commission. Wherever in any statute or rule in force after July 1, 1987, there appears in any provision the name "public service commission" or the name "public service commission of Indiana" the name "Indiana utility regulatory

commission" is in each case substituted in its place.
(Formerly: Acts 1941, c.101, s.7.) As amended by P.L.59-1984, SEC.2; P.L.113-1987, SEC.2; P.L.23-1988, SEC.15.

IC 8-1-1-8

Hearings; publication of notice

Sec. 8. (a) Notwithstanding any other statute relative to the publication of notice of hearings to be held by the utility regulatory commission, publication of notice of hearings to be held by the commission shall be made only in accordance with this chapter.

(b) Whenever the utility regulatory commission shall order a hearing in any proceeding instituted by or against any public utility, notice of the hearing shall be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in two (2) newspapers of general circulation published in one (1) county wherein reside patrons or customers of the public utility who might be affected by an order made by the commission pursuant to the hearing. If two (2) newspapers of general circulation are not published in the county, then one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in one (1) newspaper of general circulation published in the county shall be sufficient. If no newspaper of general circulation is published in the county, then the commission shall cause notice of the hearing to be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in two (2) newspapers of general circulation published in a county adjoining the county wherein reside patrons or customers of the public utility who might be affected by the order.

(c) Whenever the department of state revenue orders a hearing in any proceeding instituted by or against a motor vehicle carrier, notice of such hearing shall be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for such hearing in two (2) newspapers of general circulation published in the county where such motor vehicle carrier has its principal office or place of business. If two (2) newspapers of general circulation are not published in such county, then one (1) publication appearing not less than ten (10) days prior to the date fixed for such hearing in one (1) newspaper of general circulation published in such county shall be sufficient. If no newspaper of general circulation is published in the county, the department of state revenue shall cause notice of such hearing to be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for such hearing in two (2) newspapers of general circulation published in a county adjoining the county where such motor vehicle carrier has its principal office or place of business. If the motor vehicle carrier has no office or place of business in Indiana, then such notice shall be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in two (2) newspapers of general circulation published in Marion County.

(d) In addition to the published notice, the commission shall mail

notice of the hearing and notice of the filing of applications or proceedings to persons, firms, limited liability companies, or corporations having competitive interests involved and to the representatives of any city or town affected by the hearing, application, or proceeding. Failure to mail the notices shall not be deemed to be jurisdictional, but may be ground for rehearing.

(Formerly: Acts 1941, c.101, s.8; Acts 1943, c.244, s.1.) As amended by P.L.59-1984, SEC.3; P.L.384-1987(ss), SEC.1; P.L.99-1989, SEC.2; P.L.8-1993, SEC.104.

IC 8-1-1-9

Suggested orders; filing exceptions

Sec. 9. In every case where any law to be administered by the commission created by this chapter provides that a party to a proceeding before the commission shall have a time in which to file written exceptions to a suggested order before the same may become the final order of the commission, it shall be the duty of the commission to promptly mail to each party having such right a copy of such suggested order, and the time for filing such exceptions as provided by law shall in each case commence to run on the day of mailing of such copy of such suggested order.

(Formerly: Acts 1941, c.101, s.9.) As amended by P.L.59-1984, SEC.4.

IC 8-1-1-10

Survival, actions, or proceedings pending before former commission

Sec. 10. Section 7 of this chapter shall not affect actions on or proceedings pending on June 30, 1987, brought by or against the people of the state of Indiana or the public service commission of Indiana or by any other person, firm, or corporation, under the provisions of the statutes establishing or conferring power upon the public service commission of Indiana, but the same may be prosecuted and defended with the same effect as though the name of the commission had not been changed, except the same shall be continued and carried on by the Indiana utility regulatory commission.

(Formerly: Acts 1941, c.101, s.10.) As amended by P.L.59-1984, SEC.5; P.L.23-1988, SEC.16.

IC 8-1-1-11

Staff of commission

Sec. 11. The commission is authorized to employ such counsel or attorneys, engineers, administrative law judges, experts, clerks, accountants and other assistants as it may deem necessary, at such rates of compensation as it may determine upon, subject, however, to the approval of the governor.

(Formerly: Acts 1941, c.101, s.11; Acts 1945, c.46, s.3.) As amended by Acts 1979, P.L.84, SEC.2.

IC 8-1-1-12**Repealed**

(Repealed by P.L.99-1989, SEC.37 and P.L.3-1989, SEC.44.)

IC 8-1-1-13**Repealed**

(Repealed by P.L.4-1988, SEC.7.)

IC 8-1-1-14**Annual report**

Sec. 14. (a) The chairman of the commission shall prepare an annual report and file it with the governor and the chairman of the legislative council before October 1 of each year. A report filed under this subsection with the chairman of the legislative council must be in an electronic format under IC 5-14-6. The chairman shall include in the report information for the fiscal year ending June 30 of the year in which the report is due.

(b) The annual report required under subsection (a) must include the following:

- (1) A statement of the commission's revenues by source and expenditures by purpose.
- (2) Statistics relevant to the workload and operations of the commission.
- (3) A description of the commission's goals, legal responsibilities, and accomplishments.
- (4) Comments on the state of the commission and the various kinds of utilities that it regulates.
- (5) Suggestions for new legislation and the rationale for any proposals.
- (6) Any other matters that the chairman wishes to bring to the attention of the governor and the general assembly.
- (7) Any comments or proposals that any member of the commission gives to the chairman for inclusion in the annual report.

As added by P.L.33-1988, SEC.2. Amended by P.L.28-2004, SEC.69.

IC 8-1-1-15**Implementing rules; duration**

Sec. 15. A rule that the commission adopts under section 3(g) of this chapter that is necessary to implement a state or federal statute, rule, or regulation is void sixty-one (61) days after the expiration of that statute, rule, or regulation, unless the commission makes a written finding prior to the sixty-first day that it is necessary to retain the rule.

As added by P.L.37-1989, SEC.2.