

IC 8-1-1.1

Chapter 1.1. Office of the Utility Consumer Counselor

IC 8-1-1.1-1

Definitions

Sec. 1. As used in this chapter:

"Council" means the advisory council to the office of utility consumer counselor created under section 7 of this chapter.

"Counselor" means the consumer counselor established under section 2 of this chapter.

"Deputy consumer counselor" means the deputy consumer counselor for Washington affairs that may be established under section 9.1 of this chapter.

"Utility" means any public utility, municipally owned utility or subscriber owned utility under the jurisdiction of the commission.

As added by Acts 1981, P.L.104, SEC.3. Amended by P.L.43-1983, SEC.6; P.L.23-1988, SEC.18; P.L.1-1990, SEC.91.

IC 8-1-1.1-2

Creation; administration

Sec. 2. There is created the office of utility consumer counselor. The office shall be administered by the consumer counselor appointed under section 3 of this chapter.

As added by Acts 1981, P.L.104, SEC.3.

IC 8-1-1.1-3

Consumer counselor

Sec. 3. The governor shall appoint a consumer counselor, for a term of four (4) years at a salary to be fixed by the governor. The counselor shall serve at the will and pleasure of the governor. The counselor shall be a practicing attorney, and qualified by knowledge and experience to practice in utility regulatory agency proceedings. The counselor shall apply the counselor's full efforts to the duties of the office and may not engage in any occupation, practice, profession or business that would conflict with the duties of the office.

As added by Acts 1981, P.L.104, SEC.3. Amended by P.L.27-2006, SEC.2.

IC 8-1-1.1-4

Repealed

(Repealed by P.L.1-1990, SEC.92.)

IC 8-1-1.1-4.1

Powers and duties

Sec. 4.1. (a) The consumer counselor may appear on behalf of ratepayers, consumers, and the public in:

- (1) hearings before the commission, the department of state revenue, or the Indiana department of transportation;
- (2) appeals from the orders of the commission, the department of state revenue, or the Indiana department of transportation;

and

(3) suits and actions in a court that may involve rates for service, services, extensions, and contracts for service, valuations of utilities, applications of utilities for authority to issue securities, applications for mergers and sales, and in all other proceedings, including proceedings before federal agencies, and suits and actions in which the subject matter of the action affects the consumers of a utility, motor carrier, or railroad doing business in Indiana.

(b) The counselor shall decide whether to appeal an order of the commission, the department of state revenue, or the Indiana department of transportation and may on the counselor's own motion initiate an appeal.

As added by P.L.1-1990, SEC.93.

IC 8-1-1.1-5

Repealed

(Repealed by P.L.1-1990, SEC.94.)

IC 8-1-1.1-5.1

Proceedings before commission, department, or court; powers and duties of consumer counselor

Sec. 5.1. (a) The commission, the department of state revenue, or the Indiana department of transportation shall immediately notify the counselor of the institution of any proceeding before the commission, the department of state revenue, or the Indiana department of transportation in which the counselor is authorized to appear and shall transmit to the counselor a copy of the petition or complaint filed.

(b) The commission, the department of state revenue, or the Indiana department of transportation may not proceed to hear a petition, complaint, or proceeding in which the counselor is entitled to appear until the counselor has been given at least ten (10) days notice, unless the counselor waived the notice.

(c) The consumer counselor may call the counselor's own witnesses to testify before a proceeding or hearing in which the counselor makes an appearance, and may require the production for examination of books and papers relating to a matter under investigation and in question before the commission, another agency, or a court.

(d) The consumer counselor has the right, with the consent of the petitioners or complainants, whenever a petition is filed on behalf of the ratepayers, consumers, or the public, to make amendments to the petition or complaint that the counselor considers advisable.

(e) In all proceedings before the commission, the department of state revenue, or the Indiana department of transportation and in a court in which the consumer counselor shall appear, the consumer counselor shall have charge of the interests of the ratepayers and consumers of the utility, motor carrier, or railroad involved. The counselor may give notice of the hearings to all municipalities,

corporations, or organizations and persons that are parties to the proceedings, suit, or action other than the utility, motor carrier, or railroad.

As added by P.L.1-1990, SEC.95.

IC 8-1-1.1-6

Repealed

(Repealed by P.L.1-1990, SEC.96.)

IC 8-1-1.1-6.1

Professional and other employees; access to records; charge and payment of expenses

Sec. 6.1. (a) The consumer counselor may employ and fix the compensation of, with the approval of the governor and the budget agency, accountants, utility economists, engineers, attorneys, stenographers, or other assistance necessary to carry out the duties of the office. The compensation of the consumer counselor and the counselor's staff shall be paid from an appropriation made for that purpose by the general assembly, or with the approval of the governor and the budget agency, from a contingency fund established under IC 8-1-6-1.

(b) The consumer counselor may make use of engineers, experts, and accountants employed by the commission or the Indiana department of transportation and direct them to make appraisals and audits in the performance of the consumer counselor's duties under this chapter and IC 8-1-1 and IC 8-1-2. In so doing, the consumer counselor shall have access to the records and files of the commission or the Indiana department of transportation.

(c) The consumer counselor may employ, with the approval of the governor and the budget agency, additional stenographers, examiners, experts, engineers, assistant counselors, accountants, and consulting firms with expertise in utility, motor carrier, or railroad economics or management or both, at salaries and compensation and for a length of time as the governor and the budget agency may approve for a particular case or investigation. The compensation for the additional personnel together with the cost of transportation, hotel, telegram, and telephone bills while traveling on public business shall be paid from the expert witness fee account, or, with the approval of the governor and the budget agency, from a contingency fund established under IC 8-1-6-1 on warrants drawn by the auditor of state, sworn to by the parties who incurred the expenses.

(d) Expenses incurred by the regular staff of the office and approved by the consumer counselor, or an expense incurred by the commission or the Indiana department of transportation under subsection (b), 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.

(e) Nothing in this chapter may be construed to prevent a party interested in a proceeding, suit, or action from appearing in person

or from being represented by counsel.

(f) Persons hired by the consumer counselor as provided by this section are exempt from the job classifications and compensation schedules established under IC 4-15.

(g) The consumer counselor may purchase, lease, or otherwise acquire sufficient technical equipment necessary for the consumer counselor to carry out the consumer counselor's statutory duties.

As added by P.L.1-1990, SEC.97.

IC 8-1-1.1-7

Advisory council

Sec. 7. (a) There is created the advisory council to the office of the utility consumer counselor. The council consists of ten (10) members. Each Indiana congressional district must be represented by at least one (1) individual appointed under this section who is a resident of that congressional district.

(b) Members of the council, including those filling vacancies occurring in the council membership, shall be appointed by the governor. All members shall be appointed to a term of four (4) years, except those who have been appointed to fill a vacancy in the council whose term will be the unexpired portion of the term. All members shall serve until their successor has been duly appointed and qualified.

(c) The membership shall be representative of the various sectors of Indiana economy, including, but not limited to: agriculture, business and industry, labor, and local government.

(d) The members shall annually elect of themselves a chairman.

(e) Members are entitled to receive per diem and travel expense reimbursement at the standard rates provided for state employees for expenses they incur in the performance of their duties under this chapter subject to the approval of the consumer counselor.

As added by Acts 1981, P.L.104, SEC.3. Amended by Acts 1982, P.L.1, SEC.23; P.L.170-2002, SEC.56.

IC 8-1-1.1-8

Repealed

(Repealed by P.L.1-1990, SEC.98.)

IC 8-1-1.1-8.1

Meetings; duties

Sec. 8.1. (a) The council shall meet at the call of the chairman or the consumer counselor.

(b) The council shall receive, review, and advise the consumer counselor with respect to problems and concerns of ratepayers and consumers arising from the regulation of utilities, motor carriers, or railroads in Indiana. The office of consumer counselor shall provide necessary clerical and staff assistance for the council.

As added by P.L.1-1990, SEC.99.

IC 8-1-1.1-9

Repealed

(Repealed by P.L.1-1990, SEC.100.)

IC 8-1-1.1-9.1

Deputy consumer counselor for Washington affairs

Sec. 9.1. (a) The governor may appoint a deputy consumer counselor for Washington affairs. The utility consumer counselor may advise the governor in the appointment of a deputy consumer counselor for Washington affairs.

(b) The deputy consumer counselor shall serve for a term of four (4) years at a salary to be fixed by the governor. The deputy shall serve at the pleasure of the governor. The deputy consumer counselor shall be a practicing attorney, and qualified by knowledge and experience to practice in utility regulatory agency proceedings. The deputy consumer counselor shall apply full efforts to the duties of the office and may not be actively engaged in any other occupation, practice, profession, or business.

(c) The deputy consumer counselor may appear on behalf of ratepayers, consumers, and the public in:

- (1) hearings before the federal energy regulatory commission;
- (2) appeals from the orders of the federal energy regulatory commission; and
- (3) all other proceedings, including proceedings before federal agencies, and suits and actions in which the subject matter of the action affects the consumers of a utility, motor carrier, or railroad doing business in Indiana.

(d) The deputy consumer counselor may establish and maintain an office in Washington, D.C. The deputy consumer counselor may, with the approval of the consumer counselor, the governor, and the budget agency employ and fix the compensation of accountants, utility economists, engineers, attorneys, stenographers, or other assistance necessary to carry out the duties of the office of the deputy consumer counselor. The compensation of the deputy consumer counselor and the staff shall be paid from an appropriation made for that purpose by the general assembly, or with the approval of the governor and the budget agency, from the contingency fund established under IC 8-1-6-1.

(e) The deputy consumer counselor may employ, with the approval of the consumer counselor, the governor, and the budget agency, additional stenographers, examiners, experts, engineers, assistant counselors, accountants, and consulting firms with expertise in utility, motor carrier, or railroad economics or management or both, at salaries and compensation and for a length of time as the consumer counselor, the governor, and the budget agency may approve for a particular case or investigation. The compensation for additional personnel together with the cost of transportation, hotel, telegram, and telephone bills while traveling on public business shall be paid from the expert witness fee account, or, with the approval of the governor and the budget agency, from the contingency fund established under IC 8-1-6-1 on warrants drawn by the auditor of

state, sworn to by the parties who incurred the expenses.

(f) Any expenses incurred by the regular staff of the office of the deputy consumer counselor and approved by the deputy consumer counselor shall be charged and paid from the contingency fund established under IC 8-1-6-1.

As added by P.L.1-1990, SEC.101.