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LSA Staff:

Sarah Burkman, Attorney for the Committee
Jessica Harmon, Fiscal Analyst for the Committee

Authority: IC 8-1-2.5-9

REGULATORY FLEXIBILITY COMMITTEE

Legislative Services Agency
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Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

MEETING MINUTES[1]

Meeting Date:	**September 4, 2013**
Meeting Time:	**10:00 A.M.**
Meeting Place:	**State House, 200 W. Washington St., Senate Chamber**
Meeting City:	**Indianapolis, Indiana**
Meeting Number:	**1**

Members Present: **Sen. James Merritt, Co-Chairperson; Sen. Rodric Bray; Sen. Michael Crider; Sen. Dennis Kruse; Sen. Jean Leising; Sen. Jean Breaux; Sen. Lonnie Randolph; Rep. Eric Koch, Co-Chairperson; Rep. Heath VanNatter; Rep. Dale DeVon; Rep. Jack Lutz; Rep. Alan Morrison; Rep. Timothy Neese; Rep. Edmond Soliday; Rep. Christina Hale; Rep. Shelli VanDenburgh.**

Members Absent: **Sen. James Tomes; Sen. Carlin Yoder; Sen. John Broden; Rep. Robert Behning; Rep. David Frizzell; Rep. Kreg Battles; Rep. Matthew Pierce.**

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[1] These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at http://www.in.gov/legislative Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for hard copies.

Representative Eric Koch and Senator James Merritt, Co-Chairmen of the Regulatory Flexibility Committee (Committee), convened the meeting at 10:00 a.m.

(1) Indiana Utility Regulatory Commission (IURC) Annual Reports:

James Atterholt, Chairman of the IURC, opened the meeting by introducing his fellow IURC Commissioners and recognizing a group of IURC staff members in attendance. He explained the nominating process for the IURC's five Commissioners and noted that the nominating committee is a bi-partisan body.[2] Chairman Atterholt then indicated that he would describe the IURC's recent work and summarize the agency's annual reports[3] on the electricity and natural gas industries, while Commissioner Carolene Mays would present the reports on the water and wastewater industries. Commissioner Larry Landis would report on the communications industry at a subsequent meeting of the Committee.

First, Chairman Atterholt noted that SEA 560-2013 (P.L.133-2013) granted utilities the authority to temporarily implement a proposed increase in their rates and charges if the IURC does not issue a decision on the proposed increase within 300 days after the filing of the case in chief supporting the increase. In response to the legislation, the IURC established a 300-day time line for rate cases, to expedite the ratemaking process and to avoid temporary rates from going into effect. Chairman Atterholt described the new expedited process and set forth the various deadlines along the time line.

Electric industry:

Chairman Atterholt acknowledged that there has been discussion about restructuring the way that retail electric service in Indiana is regulated. In Indiana, electricity utilities are vertically integrated and traditionally regulated. Chairman Atterholt explained that there are three main components of electric service: the generation of electricity from various fuel sources at power plants, the transmission of electricity from power plants to substations along high-voltage lines, and the distribution of power from substations to the end user along lower-voltage lines. In states with "deregulated" retail service, only the generation component is deregulated.

Chairman Atterholt also noted that Indiana's generation portfolio is in transition. Electric utilities are shifting away from coal as a fuel source for generation in response to new federal environmental regulations. Instead of retrofitting aging coal-fired plants to comply with these requirements, utilities are increasingly turning to natural gas and wind power as generation sources. Chairman Atterholt reported that the new environmental regulations will likely affect electricity prices for Indiana consumers. He cited a 2012 study by the State Utility Forecasting Group (SUFG) that projected that prices would be about 14% higher as a result of the regulations.

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[2]The nominating process for commissioners of the IURC is governed by IC 8-1-1.5, which establishes a nominating committee consisting of seven members, not more than four of whom may belong to the same political party.

[3]See Exhibit 1. The full text of the IURC's annual report to the Regulatory Flexibility Committee on the natural gas, electricity, communications, and water and wastewater industries is available at:

http://www.in.gov/iurc/files/2013_IURC_Annual_Report_to_the_Regulatory_Flexibility_Committee.pdf

Chairman Atterholt then displayed and discussed various maps and charts concerning the following:[4]

- the generating facilities of each of Indiana's five investor owned electric utilities
- the locations of Indiana's municipally owned electric utilities and the service territories of Indiana's rural electric membership cooperatives
- the age-profile of Indiana's coal-based power plants
- Indiana's fuel source portfolio for electric generation in 2012, along with a comparison of the portfolios for the years 2010, 2011, 2012
- various specifications for Indiana's wind farms, including location, nameplate capacity, estimated peak hour generation, and completion date
- the U.S. fuel source portfolio for electric generation in 2012
- the average retail electricity prices among all states in 2012, with Indiana's ranking (12th lowest) noted, along with the rankings of neighboring states.
- cost comparisons for individual customer classes (i.e., residential, commercial, and industrial) at the national level from 1991-2012
- a comparison of commodity prices for coal versus natural gas nationwide from 1991-2012

Chairman Atterholt concluded his report on the electric industry by highlighting the IURC's revised net metering[5] rule for small renewable generating facilities. The revised rule, which went into effect in July 2011, expanded eligibility to participate to all customer classes (i.e., industrial, commercial, and residential) from just K-12 schools and residential customers. It also increased the maximum capacity of an eligible facility from 10kW to 1MW. The rule further increased maximum aggregate participation levels under utilities' net metering tariffs. As a result of these changes, there was a 95% increase in participation in net metering from 2010 to 2012.

Natural gas industry:

Chairman Atterholt began his report on the natural gas industry by reminding the Committee that the IURC regulates only the distribution of natural gas in Indiana and has no jurisdiction over the wholesale natural gas market. The IURC has authority over 19 natural gas distribution utilities, which serve 1.6 million customers.

Chairman Atterholt then displayed and discussed various charts and graphs concerning the natural gas industry,[6] while highlighting the following:

- Indiana ranked 13th lowest in the nation for residential gas rates among all

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[4]All maps and charts described are included in Exhibit 1.

[5]Net metering allows customers to supply their own electricity by installing certain renewable energy facilities, such as wind or solar facilities, at the customer's location. The electric utility serves as a back-up provider. If the customer receives more electricity from the utility than the customer delivers to the utility, the customer is charged for the difference. If the customer delivers more electricity to the utility than the customer receives from the utility, the difference is credited on the customer's next bill. The IURC's net metering rule is codified at 170 IAC 4-4.2.

[6]All charts and graphs described are included in Exhibit 1.

states.
• Due to lower commodity costs, Indiana's residential customers experienced a decrease in their bills from 2012 to 2013, with the average monthly bill (for 200 therms consumed) decreasing from $177.23 to $168.20.
• Industrial consumers accounted for 54% of the natural gas consumed in Indiana in 2012, making Indiana the fourth highest state for industrial natural gas consumption in the United States.

Chairman Atterholt pointed to the recent boom in hydraulic fracturing (or "fracking"), in which to natural gas is extracted from shale, as a factor in falling natural gas prices. Noting the importance of manufacturing to the Indiana economy, Chairman Atterholt discussed a recent *Wall Street Journal* article[7] that predicted the nation's manufacturing sector would experience a resurgence as a result of lower energy costs.

Chairman Atterholt concluded his remarks on the natural gas industry by commenting on Indiana's pipeline safety program. He explained that the IURC regulates 90 intrastate natural gas and hazardous liquid pipeline operators. In the summer of 2013, the IURC notified three natural gas utilities of major pipeline safety violations, in which the operators failed to follow procedures and keep accurate maps and records of their underground facilities. The IURC has proposed $180,000 in penalties for the violations.

Water and wastewater industry reports:

Commissioner Carolene Mays delivered the IURC's annual water and wastewater industry reports.[8] She explained that the IURC acts as an "administrative utility court," hearing and determining issues concerning utilities' rates and charges, rules and regulations, and service quality. The IURC also hears territorial disputes between utilities. However, Commissioner Mays pointed out that many water and wastewater utilities either have withdrawn from the IURC's jurisdiction, as allowed under Indiana law, or are not subject to the IURC's jurisdiction under Indiana law. The IURC regulates 92 of Indiana's 555 water utilities and 44 of Indiana's 547 wastewater utilities.

Commissioner Mays stressed that Indiana's water and wastewater infrastructure is in need of significant investment, with needs totaling $14 billion over the next 20 years. Infrastructure investments are needed in order to comply with federal environmental mandates, including requirements to remediate combined sewer overflows. Still, transmission and distribution projects constitute a large portion of the need. While there are numerous state and federal funding options for infrastructure investment, funding challenges do exist for some utilities. Commissioner Mays recommended expanding Indiana's existing distribution system improvement charge (DSIC)[9] for water utilities to

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[7]James R. Hagerty, U.S. Manufacturers Gain Ground, WALL ST. J., Aug. 19, 2013, at A1.

[8]See Exhibit 2. The full text of the IURC's annual report to the Regulatory Flexibility Committee on the natural gas, electricity, communications, and water and wastewater industries is available at:

http://www.in.gov/iurc/files/2013_IURC_Annual_Report_to_the_Regulatory_Flexibility_Committee.pdf

[9]See IC 8-1-31.

include wastewater utilities as well.

Finally, Commissioner Mays reported that many small water utilities continue to face challenges with their financial, managerial, and technical capabilities. Accordingly, in December 2012, the IURC's Water and Wastewater Division completed a strategic plan that includes 11 action steps to assist small utilities in meeting these challenges.

(2) Indiana Water Resource Data:

Commissioner Carolene Mays:

Commissioner Mays presented the results of the IURC's first annual inventory of Indiana's water resource data,[10] as required under SEA 132-2012 (P.L.87-2012), for the calendar year 2012. Under SEA 132-2012, each water utility in Indiana is required to submit to the IURC an annual report on: (1) the water resources used to provide water service to Indiana customers; and (2) the utility's operations and maintenance costs in providing that service. Commissioner Mays noted that the purpose of the act was to compile necessary data in a single report to enable policymakers to make informed decisions about Indiana's water supply needs. Although the law requires all water utilities, including those not regulated by the IURC, to provide the specified data, the law does not re-regulate or place withdrawn utilities back under the IURC's jurisdiction.

Commissioner Mays reported that all large utilities and all regulated utilities, except for one, provided data. The majority of the utilities that did not participate were smaller in size. From among Indiana's 555 water utilities, the IURC received 487 responses, 374 of which were deemed complete. Commissioner Mays summarized the IURC's findings as follows:

- Little research has been done on the nexus between water resources and economic development.
- Better coordination is needed between state agencies, local communities, and utilities in devising a plan for developing and using Indiana's water resources.
- Strategic planning is lacking for many medium and small water utilities.

In response to these findings, the IURC recommends the following action steps to Indiana policymakers:

- Develop rules or laws to establish procedures for additional significant withdrawals from aquifers and surface waters and for inter-basin transfers.
- Begin to implement integrated water resources management practices, such as those used in California, Florida, Minnesota, New Mexico, New York, Oregon, and Washington.
- Promote efficiency, sound management, and best practices for water utilities. Encourage utilities to use economies of scale through water purchase agreements, shared ownership of treatment and production facilities, and purchasing cooperatives. Require minimal educational requirements for clerk-treasurers in municipalities that own or operate

[10]See Exhibit 2. The full text of the IURC's water resources report is available at:

http://www.in.gov/iurc/files/Water_Utility_Resource_Report-_FINAL-_8282013_with_cover(2).pdf

utilities.
• Require drought planning by water utilities.
• Improve the managerial, financial, and technical requirements for forming water and wastewater utilities. Curb the proliferation of small utilities by preventing them from forming if demand can be met through alternatives.
• Evaluate the adequacy of existing water supply monitoring performed by the Department of Natural Resources (DNR) and the U.S. Geological Survey.
• Use existing and underutilized water resources in southern Indiana.
• Conduct an annual water symposium to include both regulated and unregulated utilities.
• Evaluate the scope and adequacy of existing laws governing water resources.

After concluding her presentation, Commissioner Mays fielded several questions from Committee members. Representative Jack Lutz noted that the Water Resources Study Committee also received a report on the IURC's findings from the study. He questioned whether this represented a duplication of efforts on the part of both the IURC and legislators. Commissioner Mays responded that the interest shown by both committees presents an opportunity for the respective chairmen to work together on the issues raised.

Senator Lonnie Randolph pointed out that power plants use large amounts of water. He asked how this demand affects water resource planning. Commissioner Mays indicated that withdrawals of 100,000 or more gallons of water per day must be reported to the DNR.

Senator Jean Breaux asked about how the IURC planned to obtain cooperation in the planning process from those water utilities that did not respond to the IURC's water resources survey. Commissioner Mays stated that the Indiana Association of Cities and Towns is working with the IURC to obtain data from those municipal utilities that did not participate in the survey.

Senator Jean Leising expressed concern that many rural areas in Indiana are not served by a water utility. She wondered whether any mapping has been done to show how water is being distributed throughout Indiana. Commissioner Mays acknowledged that a lack of service is a problem in some rural areas. She indicated that Dr. Jack Wittman, who would address the Committee next, would display maps showing where Indiana's water resources are concentrated.

Expressing concern about additional bureaucracy, Representative Alan Morrison asked whether the IURC was seeking authority over unregulated water utilities. Commissioner Mays replied that the IURC was not necessarily recommending that more water utilities be regulated; rather, the IURC wants rules to be in place to ensure that all utilities have the managerial, technical, and financial resources to operate in a safe and efficient manner.

The Committee recessed for lunch at 11:35 a.m.

The Committee reconvened at 1:00 p.m.

Jack Wittman, Ph.D.

Dr. Jack Wittman introduced himself as a groundwater hydrologist and a water supply specialist. He formerly worked for Layne Christensen, a global water management, construction, and drilling company, and has performed ground water modeling for Indiana University.

Dr. Wittman began his presentation[11] by noting that water resources are not available evenly across the United States. He indicated that Indiana has more abundant resources than many other states, particularly those in the West, where drought conditions have existed for over a decade. He then explained the difference between water laws in the eastern and western United States. In Indiana and in states in the eastern part of the country, riparian water rights exist: water rights run with the land, and landowners only need to report on the use of the water. In western states, water rights are a distinct interest sold separately from the land. Western states have rules and adjudicative systems governing water rights, while eastern states use planning to make decisions concerning water.

Dr. Wittman next displayed and discussed maps[12] showing where competition for water exists in the United States and where aquifers have been depleted in the United States. Shifting his focus to Indiana, he then explained the water concerns and needs for various sectors of the economy:

- Agriculture: Amid growing demand and profit, there is a need for increased irrigation. The sector wants assurance that wells will be spaced properly and that aquifers will recover adequately in times of drought and high usage.
- Industry: Concentrated near Lake Michigan, Indiana's industrial sector wants certainty that water will be available constantly.
- Municipalities: Municipalities want the flexibility to manage and operate their own resources. However, municipalities need to coordinate planning for inter-basin transfers. Municipalities face both supply challenges and political challenges in planning for their water needs.
- Power providers: The energy industry needs low-flow water resources to support its use and discharge of cooling water.

Dr. Wittman displayed maps showing Indiana's surface water and ground water resources, noting that such resources are abundant in northern Indiana and limited in southern Indiana. He then described the particular water constraints on the following regions: the Lake Michigan Basin, the Kankakee and Wabash River region, the Wabash and White River region, and southern Indiana.

Dr. Wittman then turned to the issue of whether the water supply will match demand in the future. He stressed that it is important that water be available in the parts of Indiana where population growth and economic growth are expected. He displayed maps showing the population changes for each Indiana county from 2000-2009. Dr. Wittman pointed out that supplies are available at the regional level but can be limited at the local level, particularly in central and south central Indiana, where demand is growing and resources are limited.

Dr. Wittman concluded his presentation by suggesting that policymakers consider the following as they plan for Indiana's future water needs:

- There needs to be better coordination between the IURC, the DNR, and the Indiana Department of Environmental Management (IDEM) in regulating and planning for the use of Indiana's drinking water resources.
- There has been limited analysis of the availability of groundwater versus

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[11] See Exhibit 3.

[12] The maps are included in Exhibit 3.

the need for it in different parts of Indiana.
• Central Indiana needs additional water supplies to meet increasing demand resulting from its population and economic growth.
• Power plants need adequate water supplies.
• Investment in water infrastructure is needed in southern Indiana.
• Continuous monitoring is needed to establish a baseline of available resources for planning purposes. The state has the resources to collect use data; the federal government could help collect supply data.
• Collaboration, rather than regulation, is the solution to Indiana's water resource challenges.

Dr. Wittman then invited questions from the Committee. Noting the large supply of water in northern Indiana and the need for water in central and southern Indiana, Senator Randolph asked whether there were plans to move water from one region to the other. Dr. Wittman responded that the costs of the transmission infrastructure needed to move water across regions would be high. He suggested that building such infrastructure is probably not necessary at this point, and that existing assets in southern Indiana could be tapped to meet the growing demand in that part of the state.

Representative Morrison asked whether the use of water for irrigation by the agricultural sector is a new development. Dr. Wittman answered that agriculture is one sector of the economy that has grown through the recent recession, resulting in an increased demand for water for irrigation. In addition, farmers' ability to obtain federal loans is linked to the use of irrigation systems. Drought also contributes to the need for irrigation. While farmers in western states are prepared for drought, drought is a relatively new phenomenon in Indiana. As population density increases, the effects of drought become more severe. Finally, irrigation has always been needed for agriculture, because part of the water used is retained by the crops that are grown and is not released back into the atmosphere through evaporation.

John Hardwick:

John Hardwick, Chair of the Water Utility Council (WUC) of the Indiana Section of the American Water Works Association (InAWWA), addressed the Committee.[13] Mr. Hardwick explained that InAWWA has over 1,200 members representing the utilities, vendors, and consulting professionals that make up Indiana's drinking water community. The WUC is the body within InAWWA that seeks to ensure the reasonable and productive regulation of the water industry by monitoring the industry and assisting legislators and regulators in developing prudent policy. Mr. Hardwick reported that InAWWA assisted the IURC in compiling the water resource data report required under SEA 132-2012. He further expressed InAWWA's willingness to be an active participant in developing a comprehensive plan for addressing Indiana's water supply needs.

Vince Griffin:

Vince Griffin, Vice President of Environmental & Energy Policy for the Indiana Chamber of Commerce, spoke to the Committee about the importance of water to Indiana's economy.[14] According to Mr. Griffin, water and electricity constitute the backbone of any economy. Many businesses have chosen to locate in Indiana, because Indiana has

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[13]See Exhibit 4.

[14]See Exhibit 5.

enjoyed an adequate, reliable, and affordable water supply. However, fresh water is not a limitless resource. Mr. Griffin reported that only three percent of the Earth's water is fresh. Of that amount, 68.7% is trapped in icecaps and glaciers, leaving only 31.3 % of the Earth's fresh water available in ground and surface waters.

Mr. Griffin then discussed the Great Lakes-St. Lawrence River Basin Water Resources Compact. He explained that under the compact, all new or increased diversions of water from the Basin are prohibited except as provided for in the Compact.[15] Mr. Griffin stressed the importance of the Great Lakes in meeting the region's water needs, noting that the Great Lakes account for 20% of the world's fresh water.

Mr. Griffin concluded his remarks by describing the water plan statement included in *Vision 2025*, the Indiana Chamber's long-range economic development plan. From the plan, Mr. Griffin highlighted the following recommended actions for policymakers to take in planning for Indiana's future water requirements:

- Survey Indiana's available water resources.
- Identify areas in the state that will have significant water needs.
- Identify regional, statewide, and local practices that maximize the value and minimize the cost of water use.
- Develop infrastructure investment priorities.
- Identify constitutional, statutory, administrative, or other policy changes needed to create an effective water resource management system.
- Develop and implement a comprehensive, long-range plan to address both water and wastewater needs, while promoting economic development.

(3) Video Service Franchise Fees:

Commissioner Larry Landis:[16]

Commissioner Larry Landis explained that franchise fees are payments by video service providers to local government units for access to public rights-of-way and use of the community's property. Under HEA 1280-2012 (P.L.152-2012), the IURC was charged with annually collecting and compiling the following information from local units that receive franchise fees under one or more state-issued or local video service franchises:

- The amount of franchise fees paid under each franchise.
- The account into which the franchise fees were deposited.
- The purposes for which the franchise fees were used.

Commissioner Landis reported that for the calendar year 2012, the first year in which the data was collected, 403 local units submitted responses, which indicated that there were 496 franchises in effect in the reporting units and $34.4 million in reported franchise fees

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[15]The Great Lakes-St. Lawrence River Basin Water Resources Compact, codified at IC 14-25-15, provides an exception to this prohibition for intra-basin transfers and for transfers by "straddling communities," or municipalities whose corporate boundaries are partly within the Basin or partly within two Great Lakes watersheds. (See IC 14-25-15-1.)

[16]See Exhibit 6.

collected by the units.[17] The fees collected were spent on general operating expenses, roads, community infrastructure, maintenance and repair of public rights-of-way, and public safety.

Mayor Huck Lewis, City of Lebanon:[18]

Speaking on behalf of his own city and the Indiana Association of Cities and Towns, Mayor Huck Lewis of the City of Lebanon emphasized the importance of franchise fees to local governments. Mr. Lewis stressed that after property tax caps were fully implemented in 2010, local units have increasingly relied on other revenue sources, including income taxes and fees, for funding. Franchise fees are among those fees used by local units for general government purposes. Mr. Lewis argued that because video service providers use public rights-of-way to provide their services, they should pay "rent" for this use in the form of franchise fees. He explained that local units must maintain rights-of-way, and that the expenses incurred in doing so are usually paid from the a unit's general fund. He testified that most local units deposit their franchise fee revenue into their general funds.

Todd Lard:[19]

John Ruckelshaus, former Executive Director of the Indiana Cable Telecommunications Association (ITCA), told Committee members that franchise fees are, in essence, a tax on their constituents. He then introduced Todd Lard, an attorney with Sutherland Asbill & Brennan LLP, who testified on behalf of the ICTA.

Mr. Lard explained that while cable and telephone companies that provide video service pay franchise fees to local units, direct broadcast satellite companies do not. According to Mr. Lard, this disparity is the result of a federal tax loophole contained in the federal Telecommunications Act of 1996.[20] However, while Congress restricted the right of local governments to impose taxes and fees on satellite companies, Congress did not prevent states from imposing and collecting taxes on satellite companies and distributing the proceeds to local governments. Mr. Lard noted that the Indiana General Assembly has considered legislation that would equalize the taxes and fees that cable subscribers and satellite customers pay.[21] Eleven states have enacted this type of legislation. Some states provide credits to cable providers based on the franchise fees they pay, while others impose equivalent excises on satellite companies.

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[17]The full text of the IURC's video franchise fee report is included in Appendix A of the IURC's annual report to the Regulatory Flexibility Committee:

http://www.in.gov/iurc/files/2013_IURC_Annual_Report_to_the_Regulatory_Flexibility_Committee.pdf

[18]See Exhibit 7.

[19]See Exhibit 8.

[20]P.L.104-104, 110 Stat. 56 (1996).

[21]Mr. Lard cited HB 1382 (2011) and HB 1278 (2009).

Mr. Lard also summarized the results of an analysis of the franchise fee data collected by the IURC under SEA 1280-2012.[22] Conducted by the Indiana University Public Policy Institute on behalf of the ICTA, the analysis revealed that franchise fees are primarily used for general government purposes and not for right-of-way maintenance. Mr. Lard maintained that the data does not support the satellite industry's argument that satellite providers should not have to pay franchise fees because such fees are in essence payments for the usage of rights-of-way. Mr. Lard stressed that the ICTA was not advocating for restrictions on how localities use their franchise fees. Rather, he urged legislators to enact measures to ensure that functionally equivalent video services are treated similarly.

Damon Stewart:[23]

Damon Stewart, Vice President of State Government Affairs for DIRECTV, argued that franchise fees are a form of rent paid by cable companies to local governments for the right to dig up public streets and sidewalks and string wires from utility poles. He stated that satellite providers use technology that does not require them to dig up streets and sidewalks to deliver service. Mr. Stewart testified that despite lobbying efforts by the cable industry, since 2009 no state has enacted legislation taxing satellite companies; rather, the trend has been for state legislatures to reject proposals to tax satellite service.

(4) Annual Report by the State Utility Forecasting Group:

Doug Gotham, Director of the State Utility Forecasting Group (SUFG), summarized the SUFG's annual renewable energy resources study.[24] He displayed graphs showing renewable energy consumption in the United States and in Indiana, along with graphs showing the role of renewable resources in electricity generation both nationally and in Indiana. He discussed some of the barriers to the use of renewable energy resources. He also described the use and associated costs of specific forms of renewable energy.

Mr. Gotham also previewed the SUFG's biennial electricity forecast, which is expected to be released in the fall. He reported that the forecast indicated demand for electricity in Indiana will grow by 0.64% over the next twenty years. This projected growth in demand can be met by additional conservation measures, contractual energy purchases by utilities, purchases of existing generation assets, or the construction of new generation facilities.

The Co-Chairmen adjourned the meeting at 3:30 p.m.

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[22]See Exhibit 9 for a summary of the study.

[23]See Exhibit 10.

[24]See Exhibit 11.

Exhibit 1
Regulatory Flexibility Committee
9/04/13

Presentation to the *Regulatory Flexibility Committee* of the Indiana General Assembly

9.4.2013

Jim Atterholt

Chairman

Indiana Utility Regulatory Commission

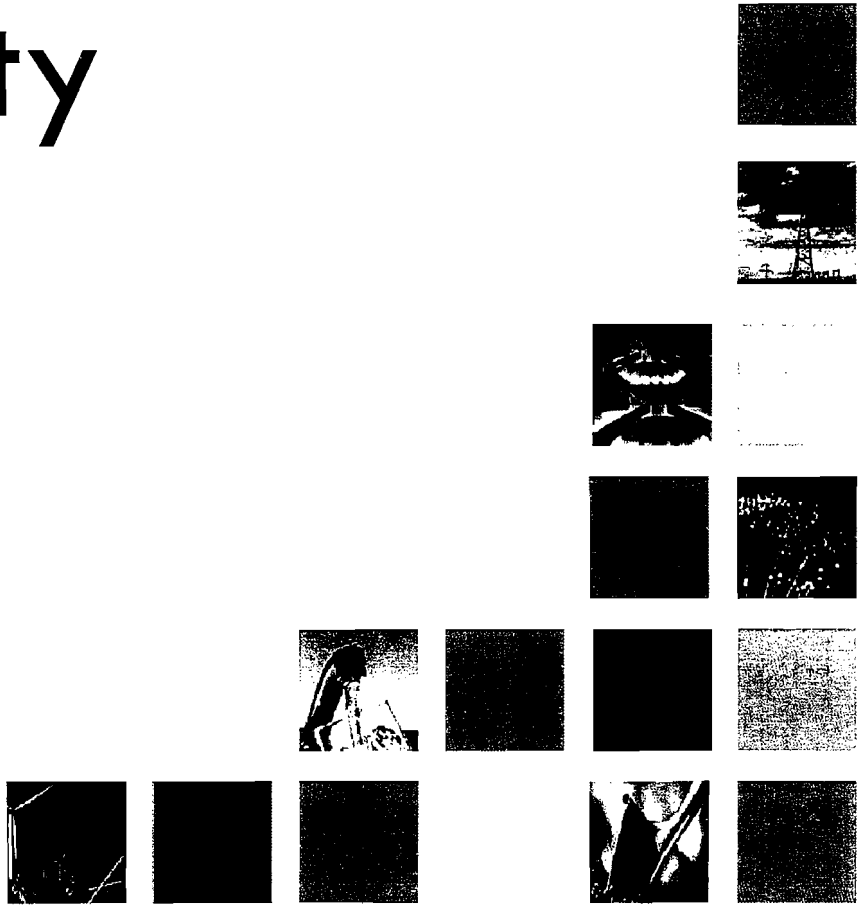
Celebrating a century of service to the Hoosier state.

Indiana Utility Regulatory Commission

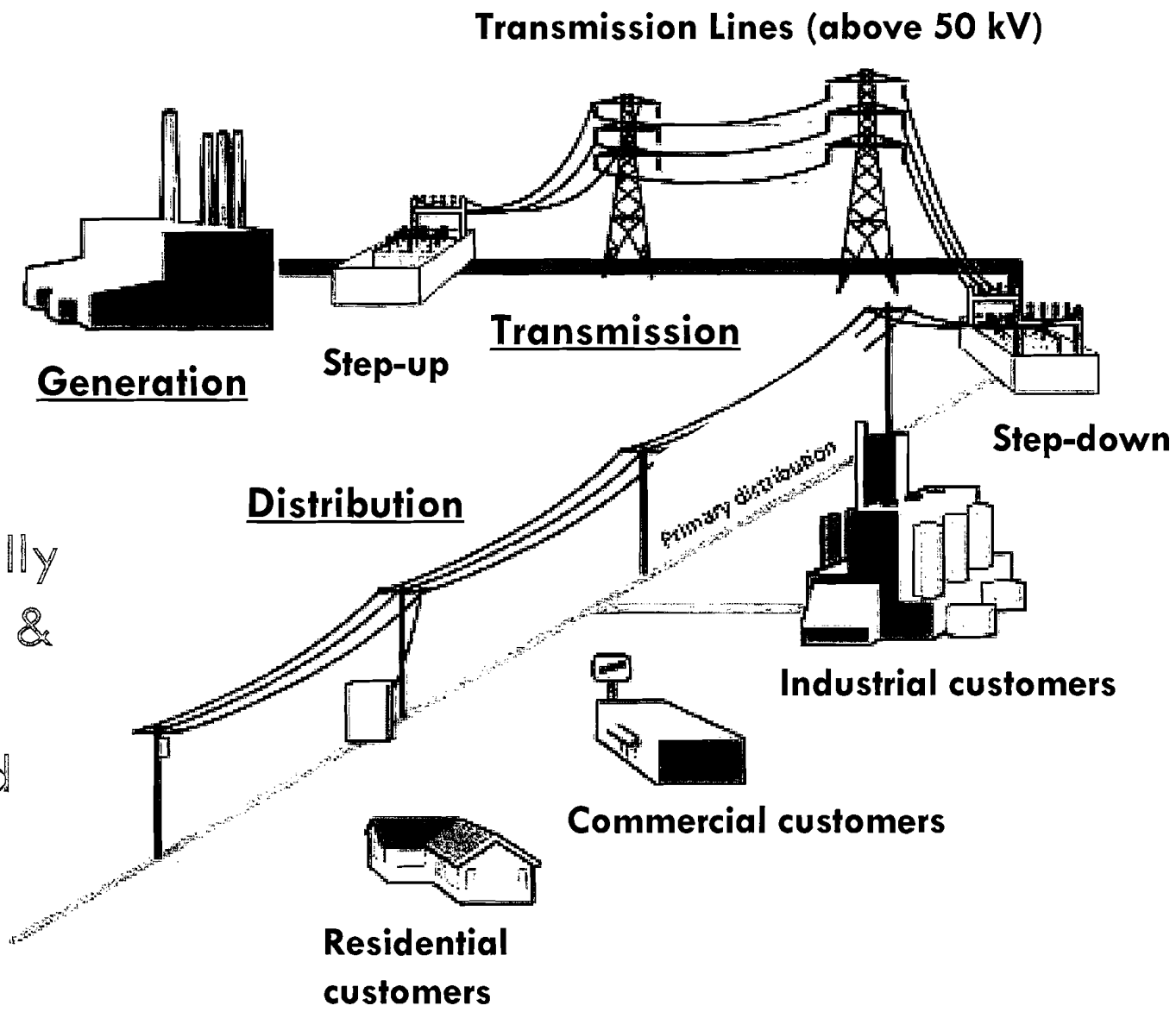
IURC

Day (Week)	Filing/Event
The IURC requires entities to file a notice of intent with the Commission 30 days prior to filing a rate case. This helps give notice to all parties involved and prevents any ex parte contacts between those parties.	
0 (Week 1)	Petition filed/Petitioner Case-in-Chief/Proposed Schedule
28 (Week 4)	Prehearing Conference
49 (Week 7)	Technical Conference(s)
77 (Week 11)	Field Hearing (if applicable)
98 (Week 14)	OUCC and Intervenor Case-in-Chief filed
126 (Week 18)	Petitioner Rebuttal; OUCC and Intervenor Cross-Answering Testimony
133 (Week 19)	Settlement Agreement (if applicable)
147-161 (Weeks 21& 22)	Evidentiary Hearing
182 (Week 26)	Petitioner Final Filings/Proposed Order
203 (Week 29)	OUCC and Intervenor Final Filings/Proposed Order
210 (Week 30)	Petitioner Reply Brief; OUCC and Intervenor Cross-Answering Replies
300 (Week 43)	Order Issued

Electricity

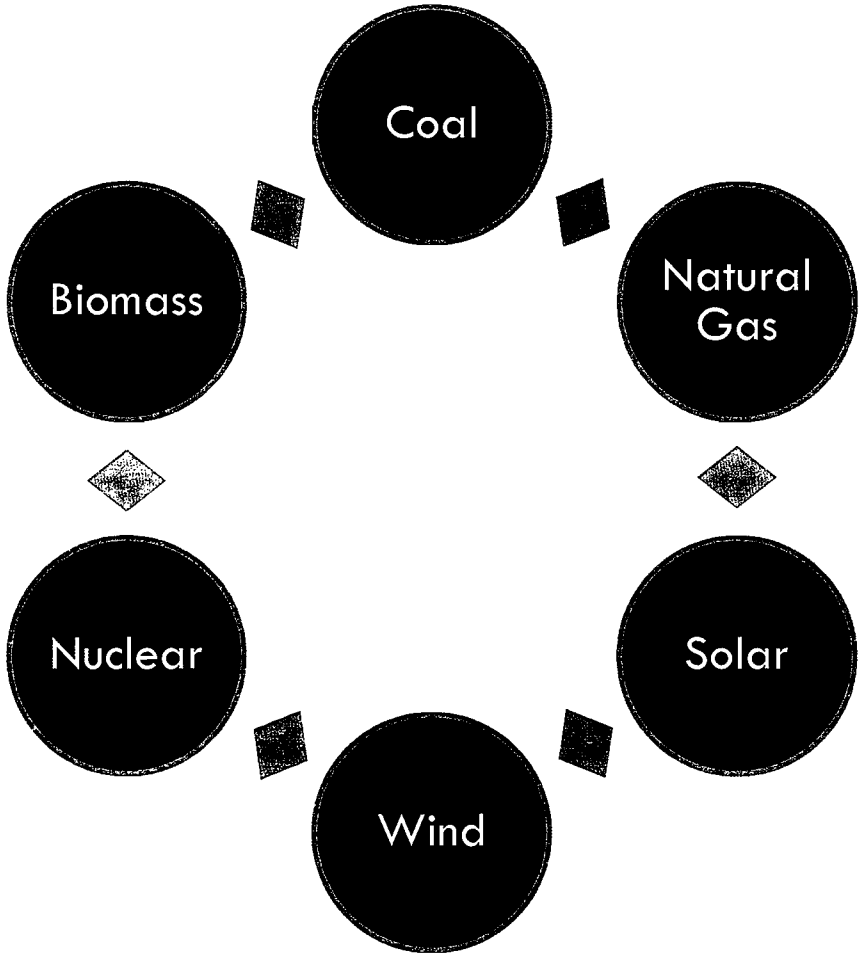


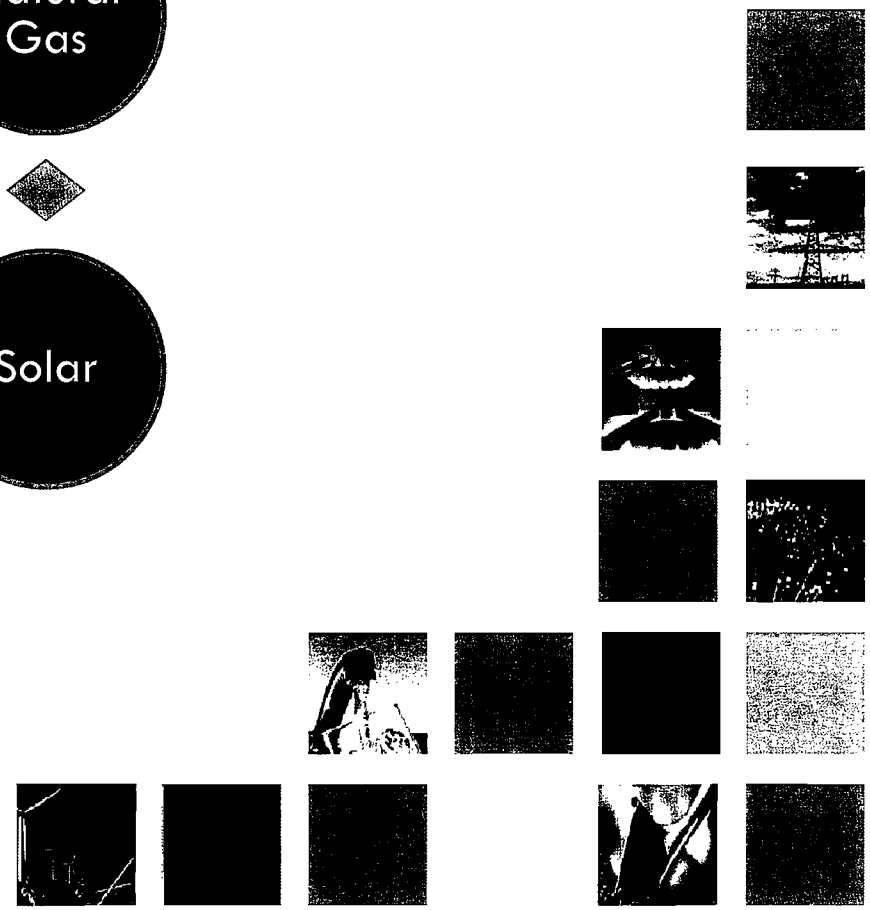
The Structure



Traditionally regulated & Vertically integrated

A Generation Portfolio in Transition





U.S. EPA Regulations

- The State Utility Forecasting Group (SUFG) released a study entitled "The Impacts of Federal Environmental Regulations on Indiana Electric Prices" in January 2012.
- The study analyzed how the Cross State Air Pollution Rule (CSAPR), Mercury and Air Toxics Standards Rule (MATS), greenhouse gas, cooling water, and coal ash regulations would affect Indiana.
- The SUFG projected that prices would be about 14% higher than a scenario absent U.S. EPA regulations.
- MISO announced in July 2013 that capital investment of $33 billion in the MISO footprint will be required to retrofit and/or replace units. It also stated that average energy prices could increase by approximately 13%.

U.S. EPA Compliance Plans

- Indiana's investor-owned utilities are preparing by:
  - Installing pollution controls
  - Retiring older, smaller coal units when compliance is economically unfeasible
  - Diversifying their generation portfolios with more natural gas and wind

MISO Deals with Impact

- John Bear. "*MISO Deals with Complexity.*" energy biz, May 13/June 13, 2013.

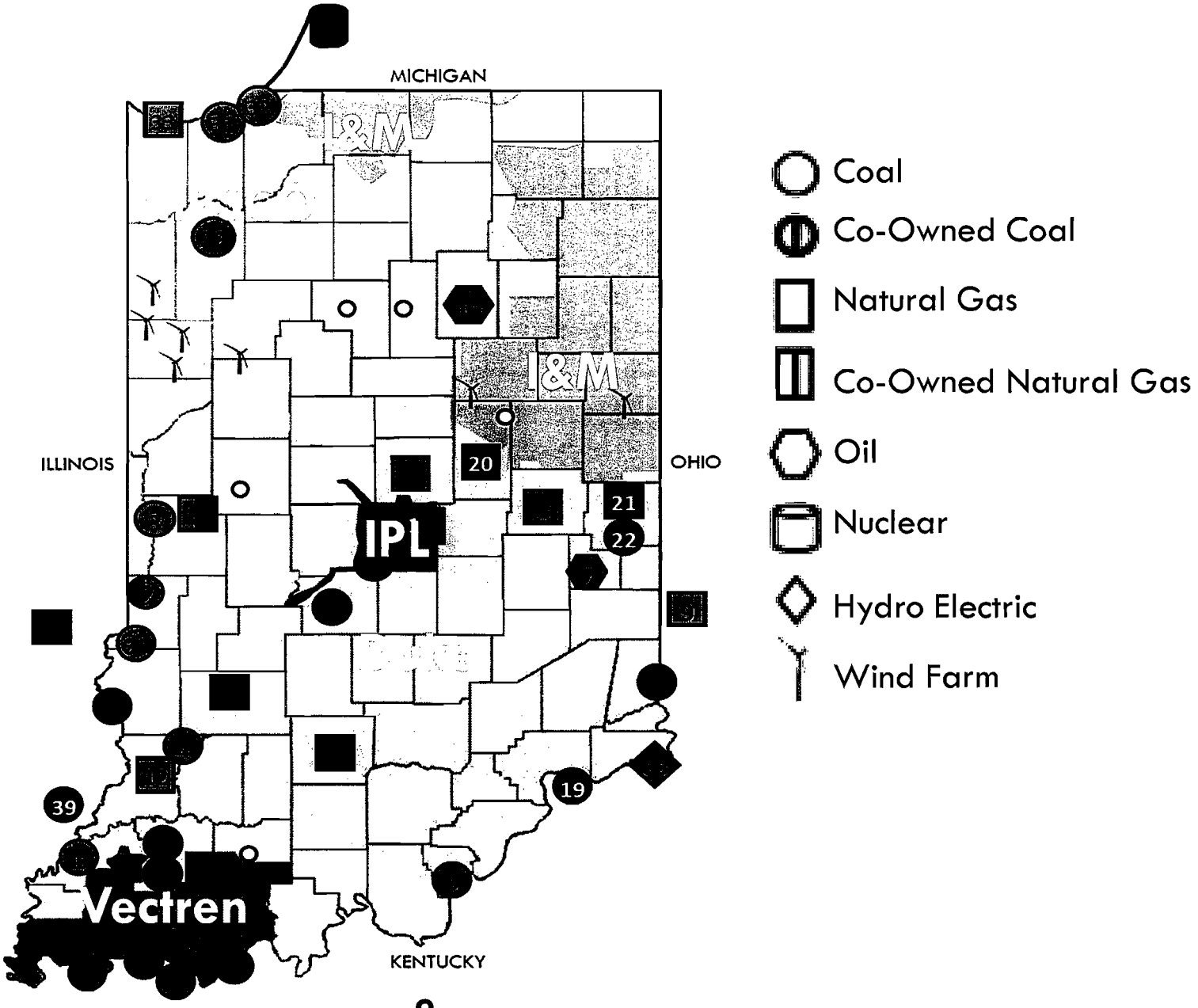
Our most recent quarterly survey indicated that three-quarters of the coal-fired generation in MISO's footprint – or 49.2 gigawatts, the equivalent energy output to serve 49 million homes – is affected by the regulations, particularly the Mercury and Air Toxics Standards. This equates to approximately 37% of MISO's total generation capacity.

With a 2015 deadline for compliance pressing in on the industry, lack of action or delay could challenge wholesale reliability. MISO has historically had excess generation capacity, but the retirements of units will remove most, if not all, of the excess reserves on the system.

Indiana Electricity Generation

Summer MW Ratings

Duke Energy Indiana		
1	Gibson	3,132
2	Wabash River	668
3	Cayuga	1094
4	Edwardsport	618
5	Gallagher	280
6	Noblesville	285
7	Connersville	86
8	Henry County	129
9	Madison (OH)	576
10	Miami Wabash	80
11	Vermillion 1-5	355
12	Wheatland	460
38	Markland	52
Hoosier Energy		
13	Merom	998
14	Holland (IL)	314
15	Ratts	241
16	Lawrence	176
17	Worthington	172
Indiana Municipal Power Agency		
18	Georgetown 2&3	158
19	Trimble County (KY)	66
20	Anderson	167
21	Richmond	181
22	Whitewater Valley	99
39	Prairie State	100
O	Other Cities	
Indiana Michigan Power		
23	Rockport	2,600
24	Cook (MI)	2,223
25	Tanners Creek	980
Indianapolis Power & Light		
26	Petersburg	1,747
27	Harding Street	1,091
28	Eagle Valley	338
18	Georgetown 1&4	158
Northern Indiana Public Service Co.		
29	Schahfer	1,780
30	Sugar Creek	535
31	Bailly	511
32	Michigan City	469
33	Mitchell	17
Vectren		
34	Warrick	150
35	Brown	640
36	Culley	360
37	Broadway/Northeast	135
Wabash Valley Power		
2	Wabash River 1 IGCC	210
11	Vermilion 6-8	213
14	Holland (IL)	314
16	Lawrence	86



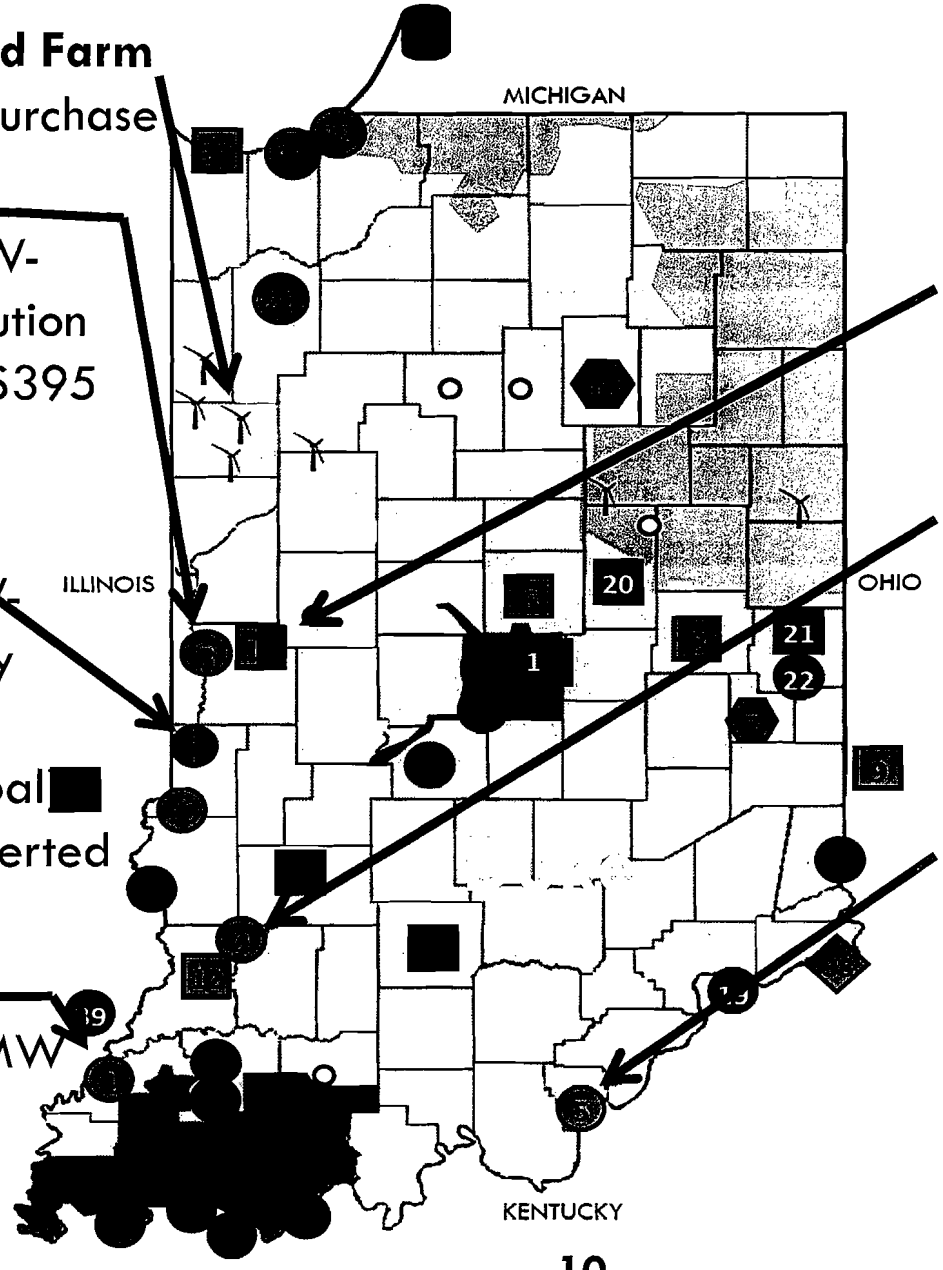
Generation Overview for DUKE ENERGY®

Benton County Wind Farm
- 100 MW power purchase

Cayuga
- Units 1-2 (995 MW-coal) New coal pollution control equipment ($395 million)

Wabash River
- Units 2-5 (350 MW-coal) to be retired by 2015
- Unit 6 (318 MW-coal) to be retired or converted to natural gas 2018

Gibson
- Units 1-5 (3,132 MW-coal) New coal pollution control equipment



***Feed-In Tariff/ Green Energy**
- Up to 30 MW solar/wind proposed in 8/30/2013 settlemen

Vermillion
- Purchased 400 MW (natural gas)

Edwardsport IGCC
- Newly built 618 MW coal plant
- Replaced 160 MW coal plan

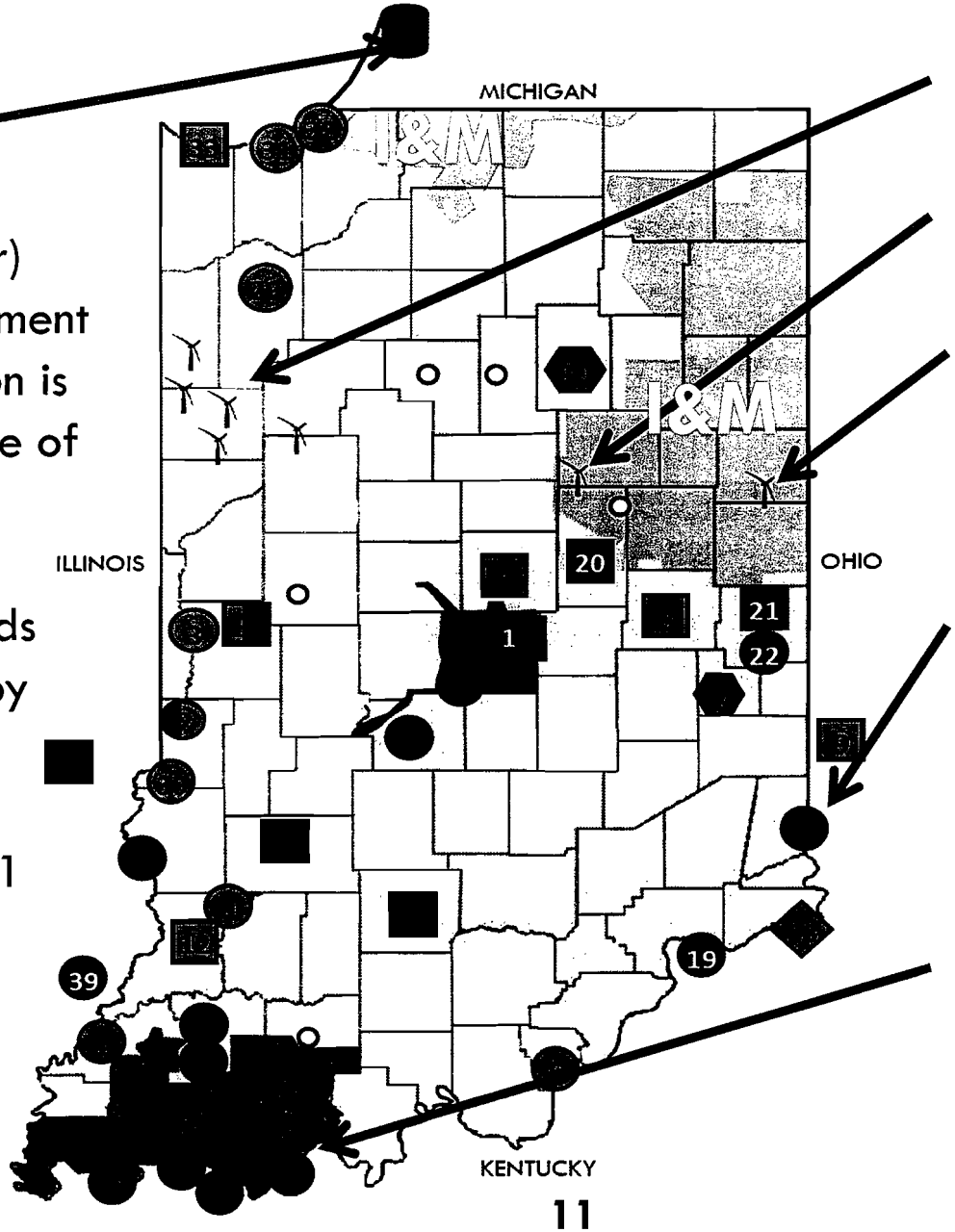
Gallagher
- Units 1 & 3 – Retired in 2012 (280 MW-coal)
- Units 2 & 4 (280 MW-coal) New coal pollution control equipment ($16 million)

Generation Overview for AEP INDIANA MICHIGAN POWER®

A unit of American Electric Power

Cook Nuclear

- Units 1 & 2 (2,155 MW-nuclear) Life-Cycle Management Project ($741 million is Indiana's 65% share of the $1.17 billion project)
- This project extends the plant's life 20 by years
- Costs are tracked pursuant to SEA 251 passed in 2011



Fowler Ridge Wind Farm

- 150 MW power purchase

Wildcat Wind Farm

- 100 MW power purchase

Headwaters Wind Farm (Proposed)

- 200 MW power purchase to comply with consent decree

Tanners Creek

- Units 1-3 (485 MW-coal) retiring in 2014 or 2015.
- Unit 4 – (495 MW-coal) To be converted to natural gas or retired

Rockport

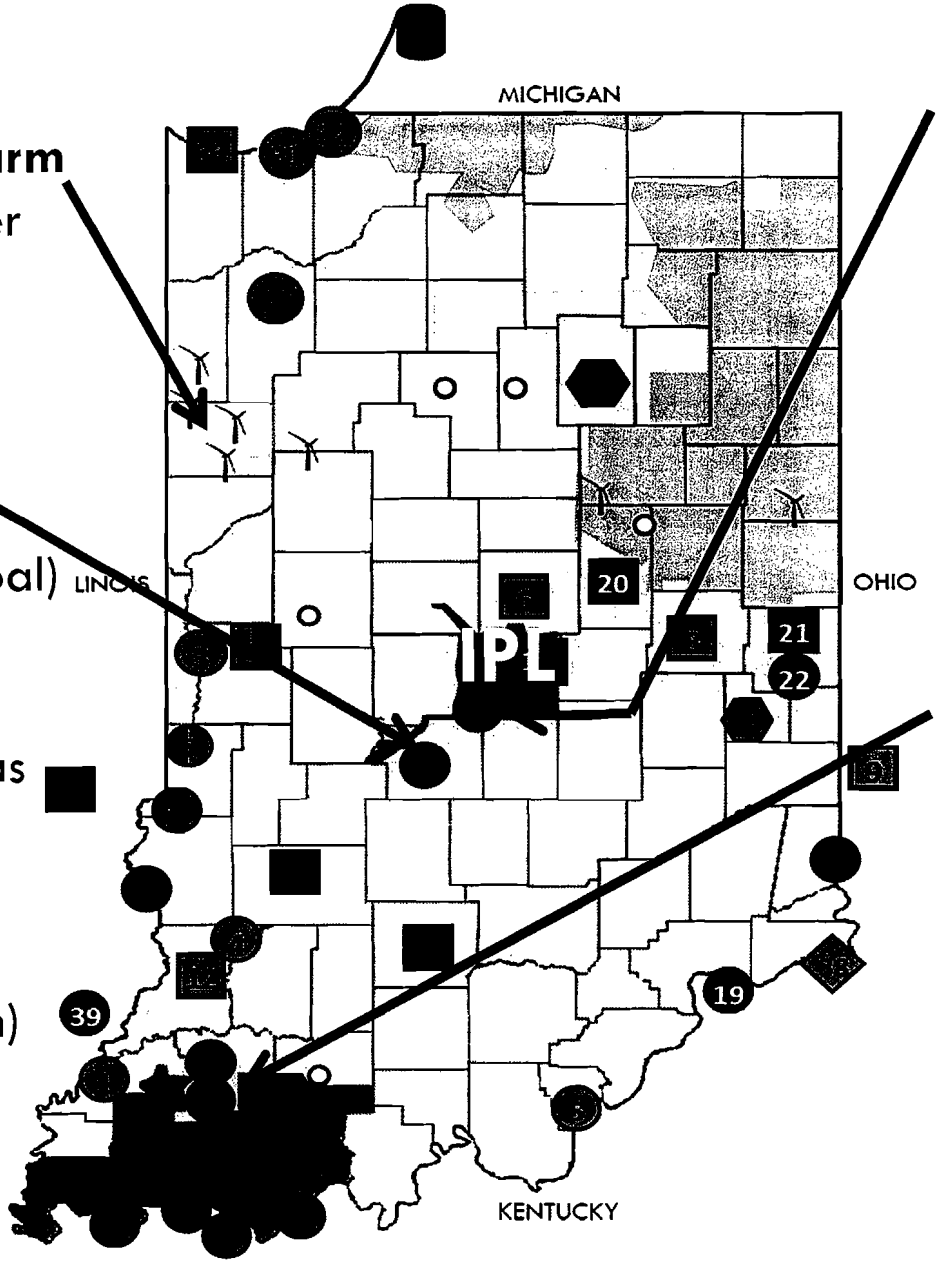
- Units 1 & 2 (2,600 MW-coal) - New coal pollution control technology proposed ($285 million)

Generation Overview for IPL

an AES company

Hoosier Wind Farm
- 106 MW power purchase

Eagle Valley
- Units 1-6 (338 MW–oil/coal) to be retired in 2014-2015
- New natural gas generation (550-725 MW) is proposed (est. $631 million)



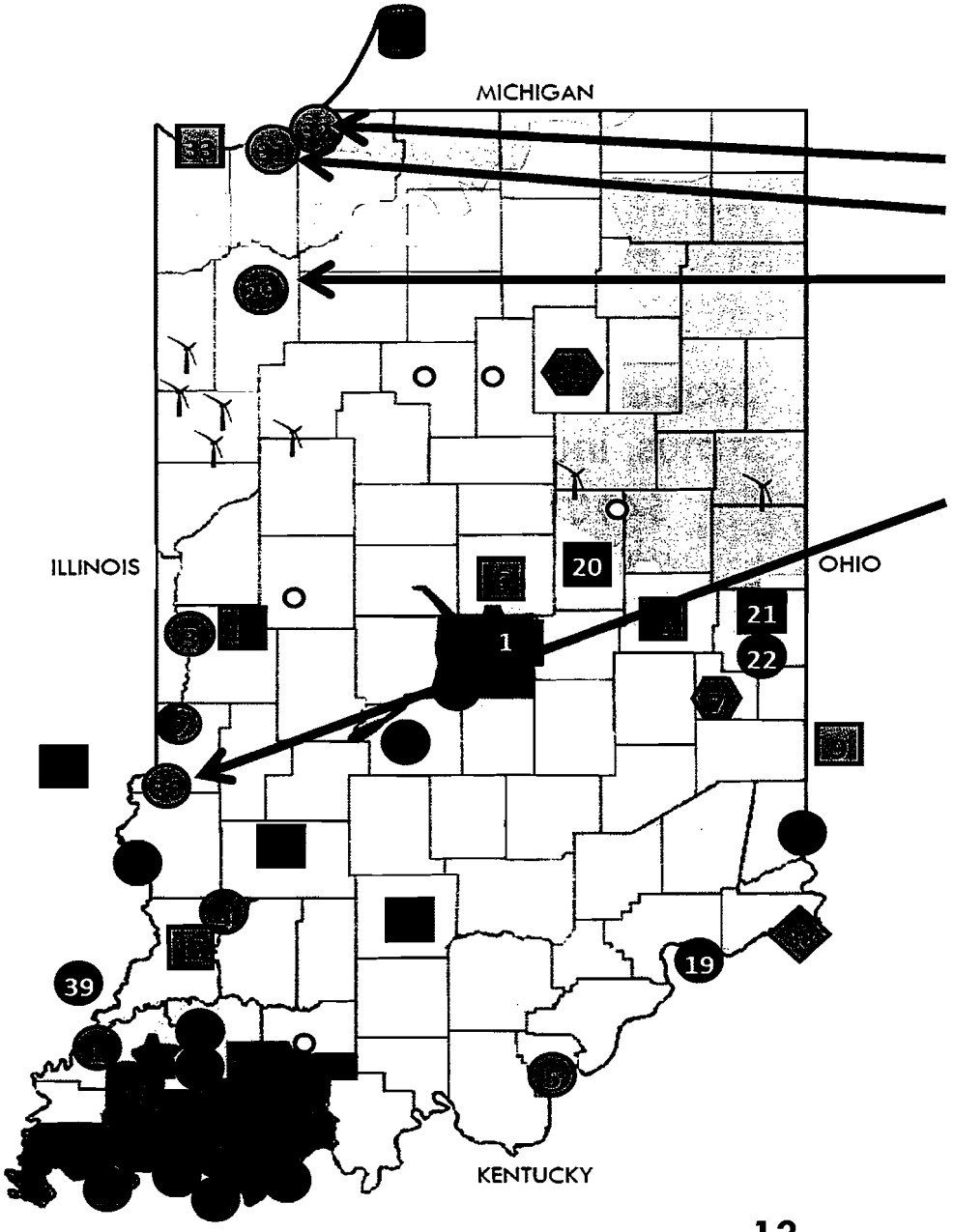
Harding Street
- Units 3-4 (70 MW-oil) to be retired in 2014-2015
- Units 5-6 (212 MW-coal) proposed to be converted to natural gas
- Unit 7 (427 MW-coal) – New coal pollution control equipment proposed (approx. $54 million)

Petersburg
- Units 1-4 (1,747 MW-coal) New coal pollution control equipment (approx. $457 million)

***Wind Power Purchases**
Out-of-state (201 MW)

***Feed-In Tariff Participation**
100 MW solar subscribed

Generation Overview for NIPSCO



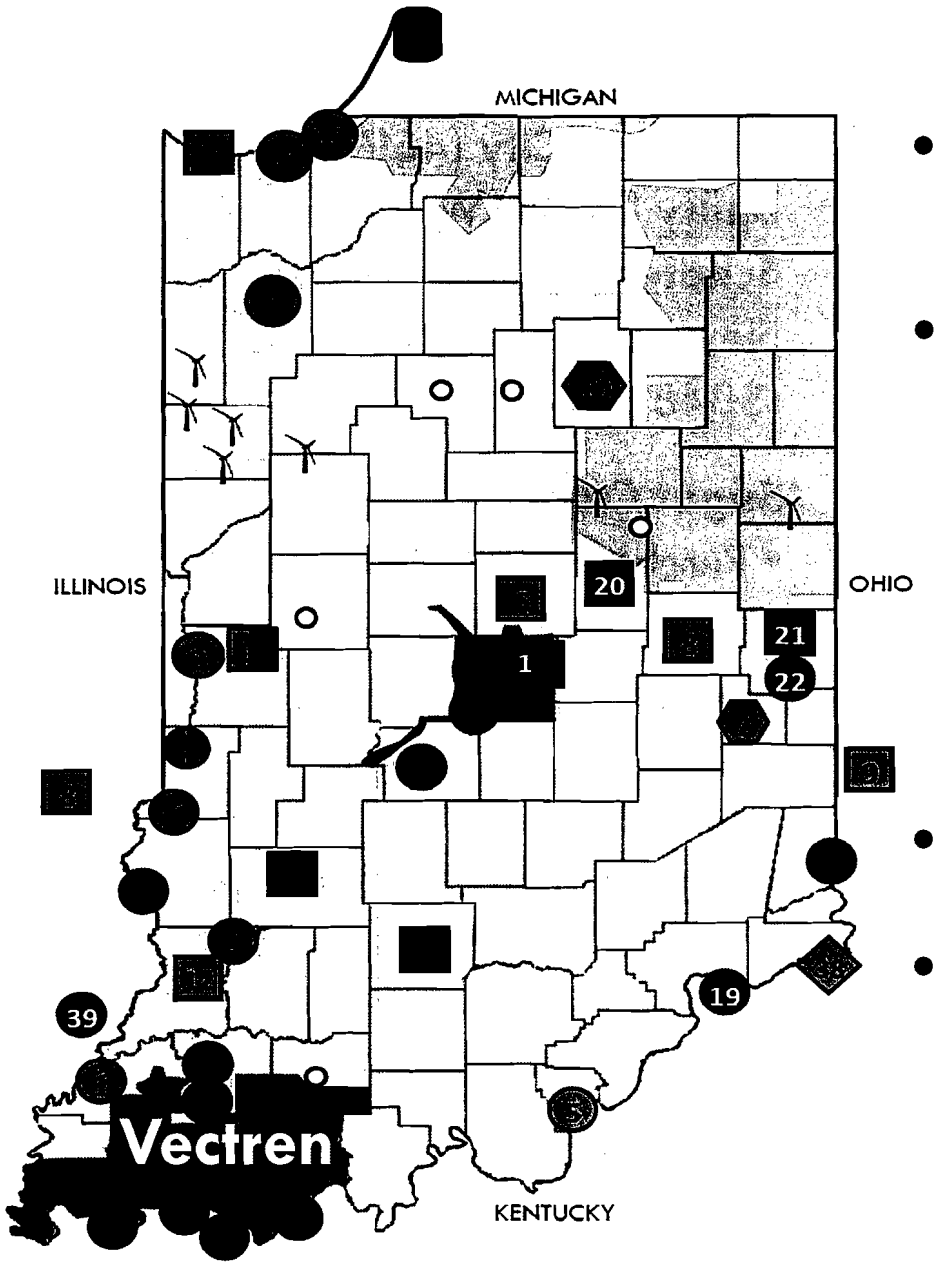
Michigan City (469 MW-coal)
Bailly (480 MW-coal)
Schafer (1,625 MW-coal)
New coal pollution control equipment ($848 million)

Sugar Creek
- Purchased 535 MW (natural gas)

***Wind Power Purchases**
- Out-of-state (100 MW)

***Feed-In Tariff Participation**
Approx. 30 MW total enrolled
15.2 MW-solar
14.3 MW-biomass/biogas
0.2 MW-wind

Generation Overview for VECTREN

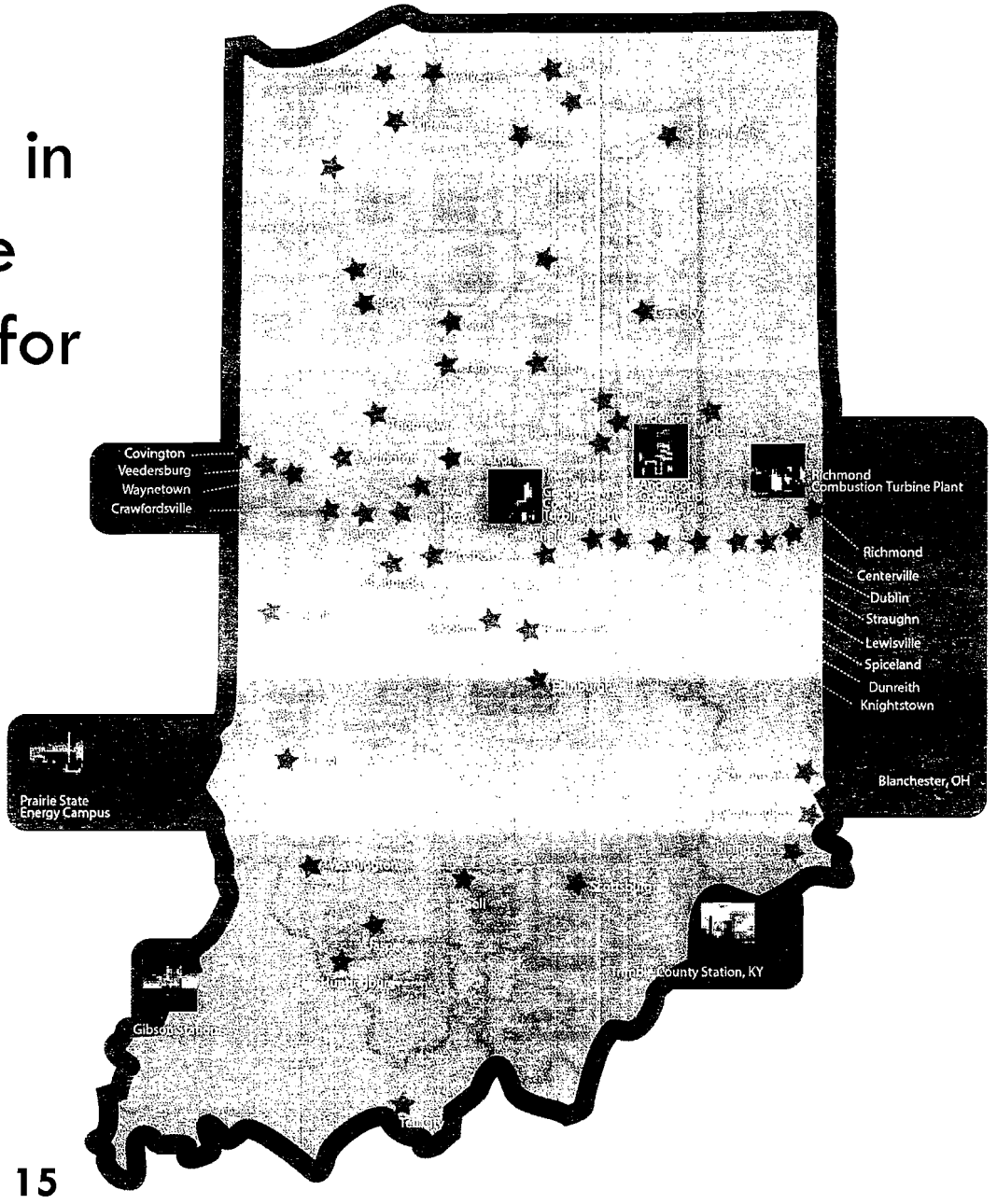


- Vectren's electric utility serving southern Indiana is currently in compliance with U.S. EPA regulations
- Vectren's investments in pollution control property have helped it achieve this status, including:
  - $410 million in air compliance technology (since 2004)
  - $22 million in dry fly ash equipment (since 2009)
  - Small additional control technology may be needed
- No power plant retirements are currently forecast
- Vectren utilizes 80 MW of generation through power purchase agreements with Indiana wind farms

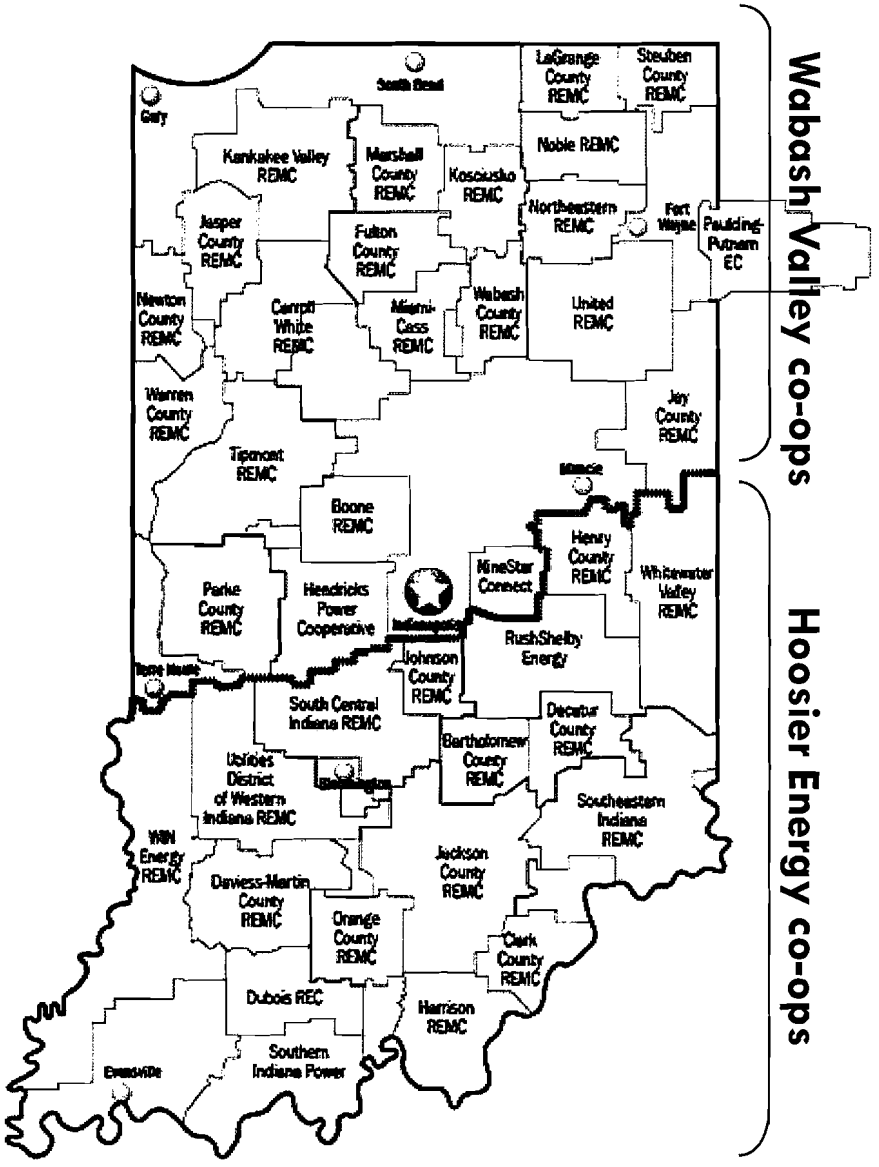
Municipally-Owned Utilities

9 of the 72 municipally-owned utilities operating in Indiana remain under the Commission's jurisdiction for rate regulation

Jurisdictional Utilities	
Anderson	Knightstown
Auburn	Lebanon
Crawfordsville	Richmond
Frankfurt	Tipton
Kingsford Heights	



Rural Electric Membership Cooperatives

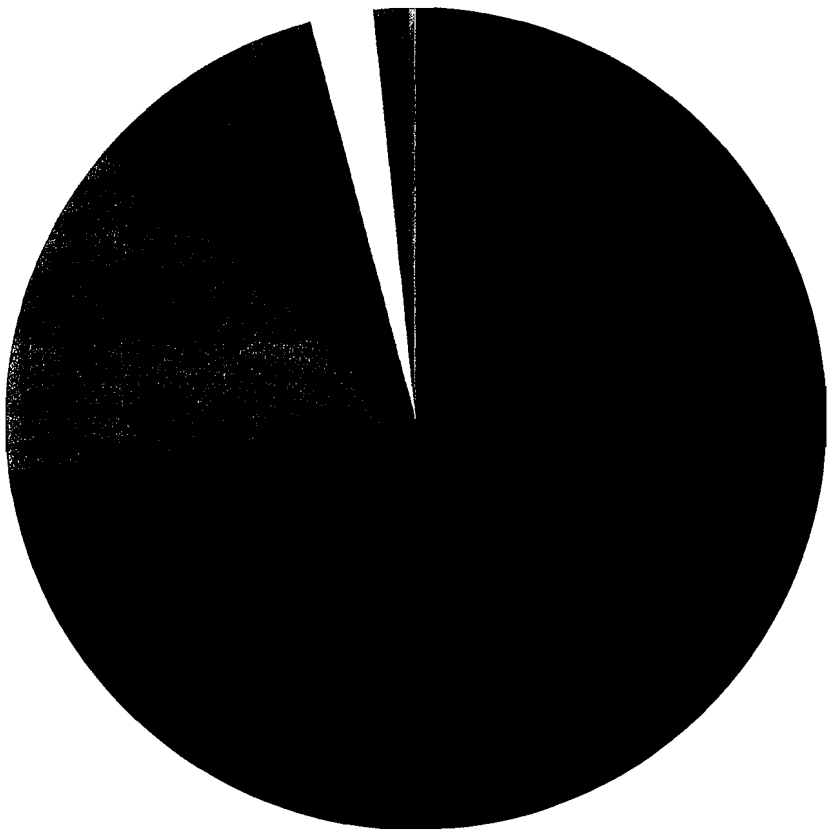


- The Commission's regulation of Hoosier Energy and WVPA is primarily limited to decisions to purchase, build, or lease generation facilities
- In addition, the Commission retains jurisdiction over WVPA's long-term financing

Age-Profile of Coal-Based Generating Units

Years Old	Number of Coal-Based Units	Mw of Generation (Summer Rating)	Percent of Total Coal-Based Generation
50+	26	1,703.7	11.2%
40-50	17	3,906.0	25.6%
30-40	11	5,772.0	37.8%
20 -30	8	3,595.7	23.5%
10-20	0	0.0	0.0%
0-10	3	296.0	1.9%
Total	65	15,273.4	100%

2012 Indiana Generation Mix



- Coal (92,577 GWH, 73.0%)
- Natural Gas (16,840 GWH, 13.3%)
- Nuclear (12,171 GWH, 9.6%)
- Wind (3,163 GWH, 2.5%)
- Oil (1,333 GWH, 0.7%)
- Hydro (445 GWH, 0.4%)
- Other (345 GWH, 0.3%)
- Biomass (347 GWH, 0.3%)

Source: U.S. Energy Information Administration

Fuel Type Comparison
2010 vs. 2011 vs. 2012

	2010		2011		2012
Coal:	82.6%	↓	77.7%	↓	73.0%
Natural Gas:	6.3%	↑	9.1%	↑	13.3%
Nuclear:	7.9%	↑	8.9%	↑	9.6%
Wind:	2.2%	↑	2.5%	↔	2.5%
Oil:	0.1%	↑	1.0%	↓	0.7%
Hydro:	0.3%	↔	0.3%	↑	0.4%
Other:	0.3%	↔	0.3%	↔	0.3%
Biomass:	0.2%	↑	0.3%	↔	0.3%

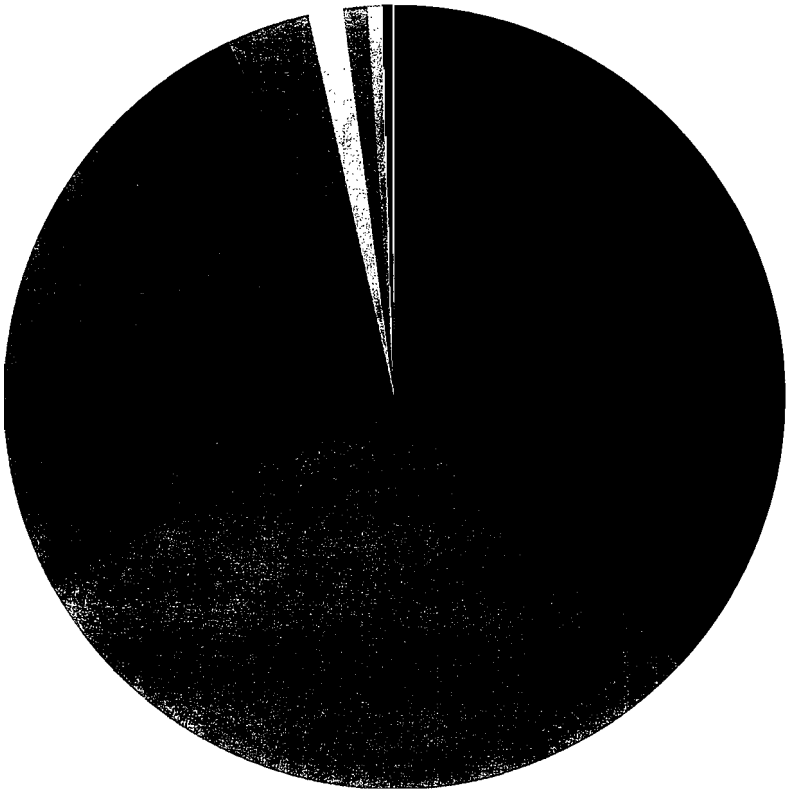
Specifications of Indiana Wind Farms

Wind Farms	County	Nameplate Capacity (MW)	Peak Hour Estimated Generation (MW)	Completion Date
Benton County	Benton	130.5	17.4	2008
Fowler Ridge I	Benton	301.3	39.2	2009
Fowler Ridge II	Benton	199.5	25.9	2009
Fowler Ridge IV	Benton	150.0	0	Approved
Fowler Ridge III	Benton	99.0	12.9	2009
Hoosier	Benton	106.0	14.1	2009
Meadow Lake I	White	199.7	26.0	2009
Meadow Lake II	White	99.0	12.9	2010
Meadow Lake III	White	103.5	13.5	2010
Meadow Lake IV	White	98.7	12.8	2010
Meadow Lake V	White	100.8	0	Approved
Spartan	Newton	197.8	0	Approved
Wildcat I	Madison/Tipton	100.0	26.0	2012
Bluff Point	Jay/Randolph	119.0	0	Approved
Wildcat II	Grant/Howard	200.0	0	Approved
Headwaters	Randolph	200.0	0	Approved
Total (approx)	--	2,505	201	--

Indiana has approved 2,505 MW in nameplate capacity wind generation

2012 U.S. Generation Mix

- Coal (37%)
- Natural Gas (30%)
- Nuclear (19%)
- Hydropower (7%)
- Wind (3.46%)
- Biomass (1.42%)
- Petroleum (1.0%)
- Other Gases (0.6%)
- Geothermal (0.41%)
- Solar (0.11%)



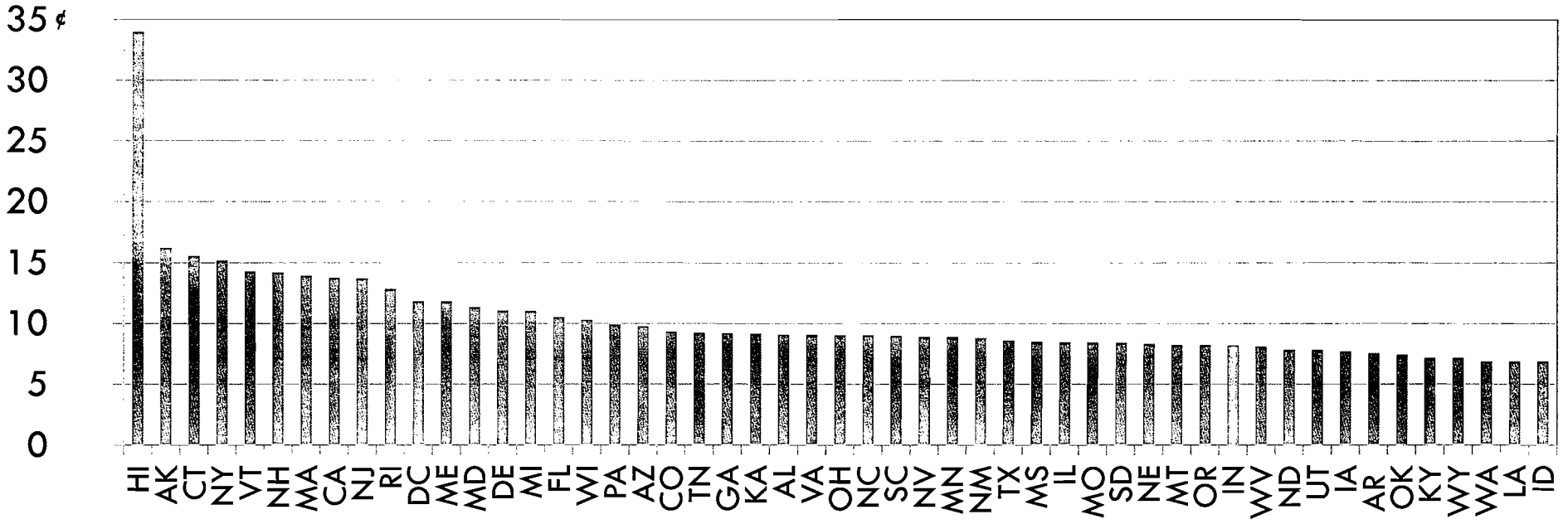
Source: U.S. Energy Information Administration

"The Quest"

- Excerpt from "*The Quest*" by Daniel Yergin in "*How is Energy Remaking the World?*," July/August 2012

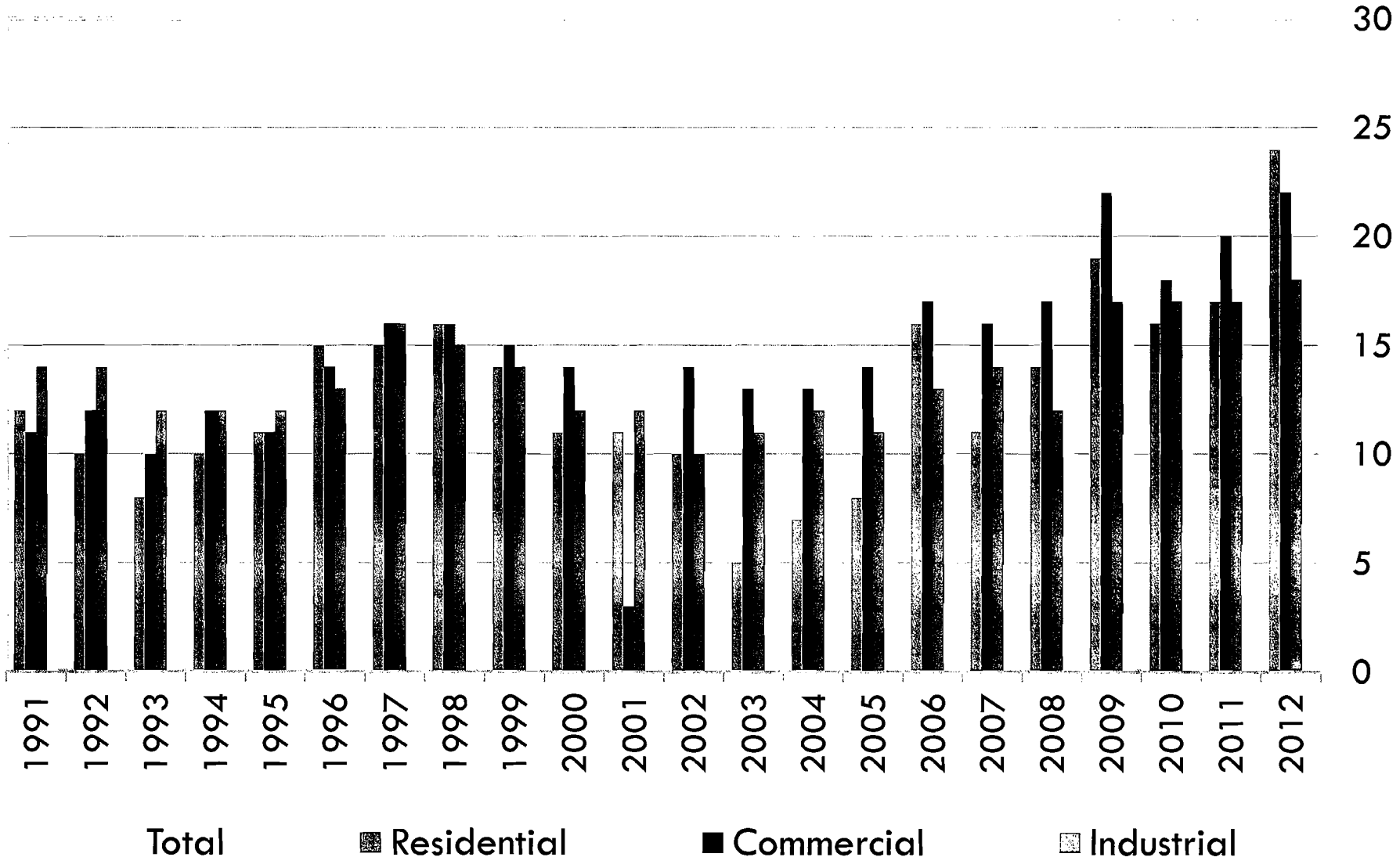
- First, based on what is known and can be foreseen today, global energy demand will increase about 35 percent over the next two decades.
- Second, while renewable will grow in absolute terms, so will conventional energy, owing to the continuing surge in coal, oil, and natural gas consumption in emerging markets like China.
- Thus, on a worldwide basis, the mix in energy demand will not be too different from what it is today. The real changes in the composition will come after 2030.

2012 State Average Electricity Prices



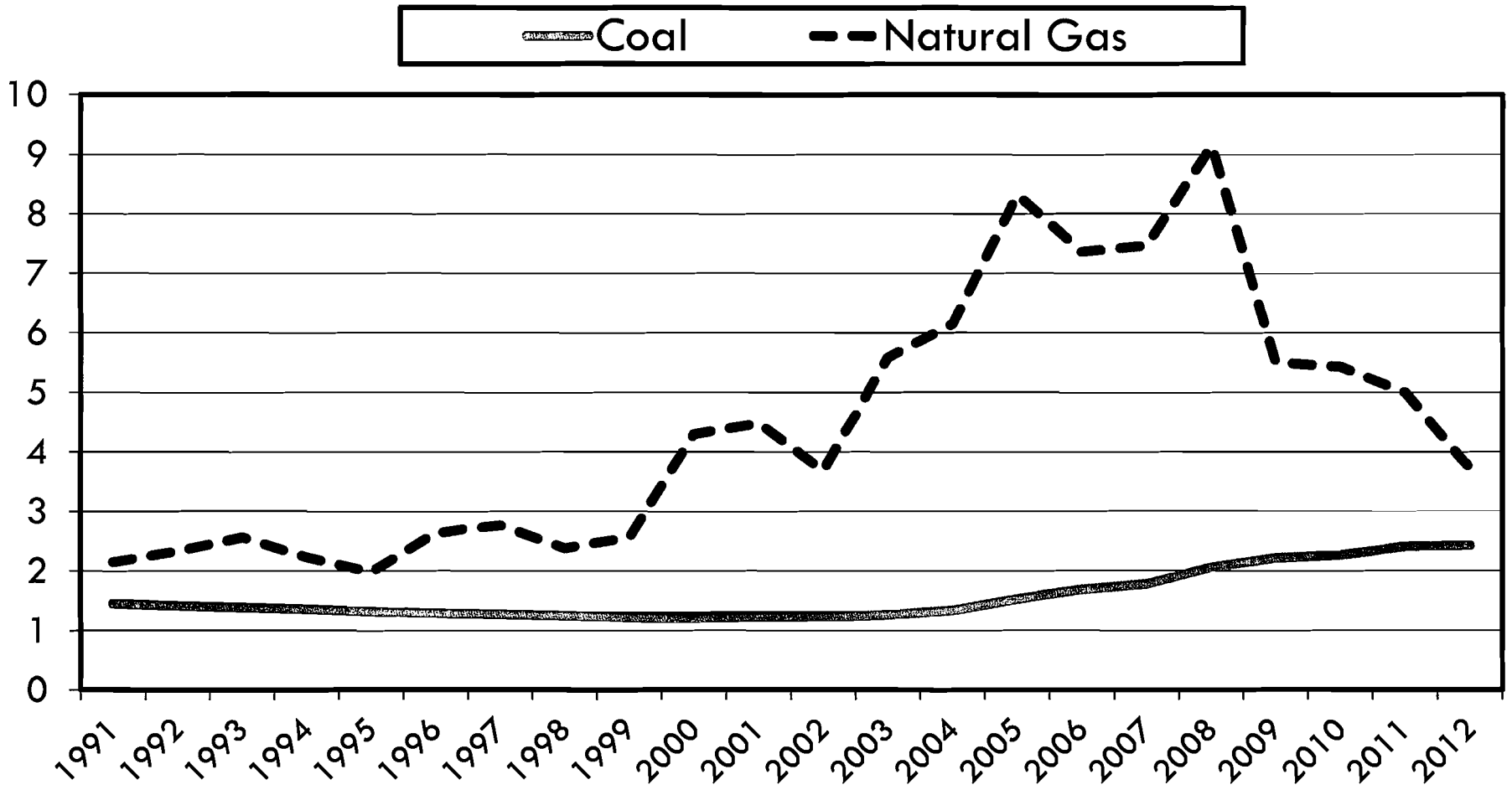
- Indiana ranked 12th lowest in 2012
- Neighboring states rank as follows: Kentucky (5th), Illinois (18th), Ohio (26th), and Michigan (37th)

Retail Customer Rate National Ranking



Coal vs. Natural Gas Pricing

Annual Average Commodity Price for Electric Utilities Nationwide ($/mmBTU)



Rise in U.S. Gas Production Fuels Unexpected Plunge in Emissions

-Russell Gold. Front Page– Wall Street Journal, April 19, 2013 (excerpt)

Energy-related emissions of carbon dioxide have fallen 12% in the U.S. between 2005 and 2012 and are at their lowest level since 1994. Last year, 30% of power in the U.S. came from burning natural gas, up from 19% in 2005, driven by drilling technologies that have unlocked large and inexpensive new supplies of the fuel.

The U.S. trend hasn't led to a global decline in carbon emissions, which increased 15% from 2005 through 2011, according to federal statistics. An International Energy Agency (IEA) report concluded that China's rising reliance on coal to fuel economic growth jeopardizes progress toward what the IEA calls "a low-carbon future." But the U.S., which has decreased its carbon-dioxide output tonnage more than any other nation, demonstrates that market forces car have an impact on greenhouse gases even as politicians continue to disagree over what, if any, federal regulations are needed to force industries to reduce their emissions.

As the U.S. has reduced its coal consumption, it has increased its coal exports to Europe, which rose 23% in 2012 from a year earlier, according to federal statistics.

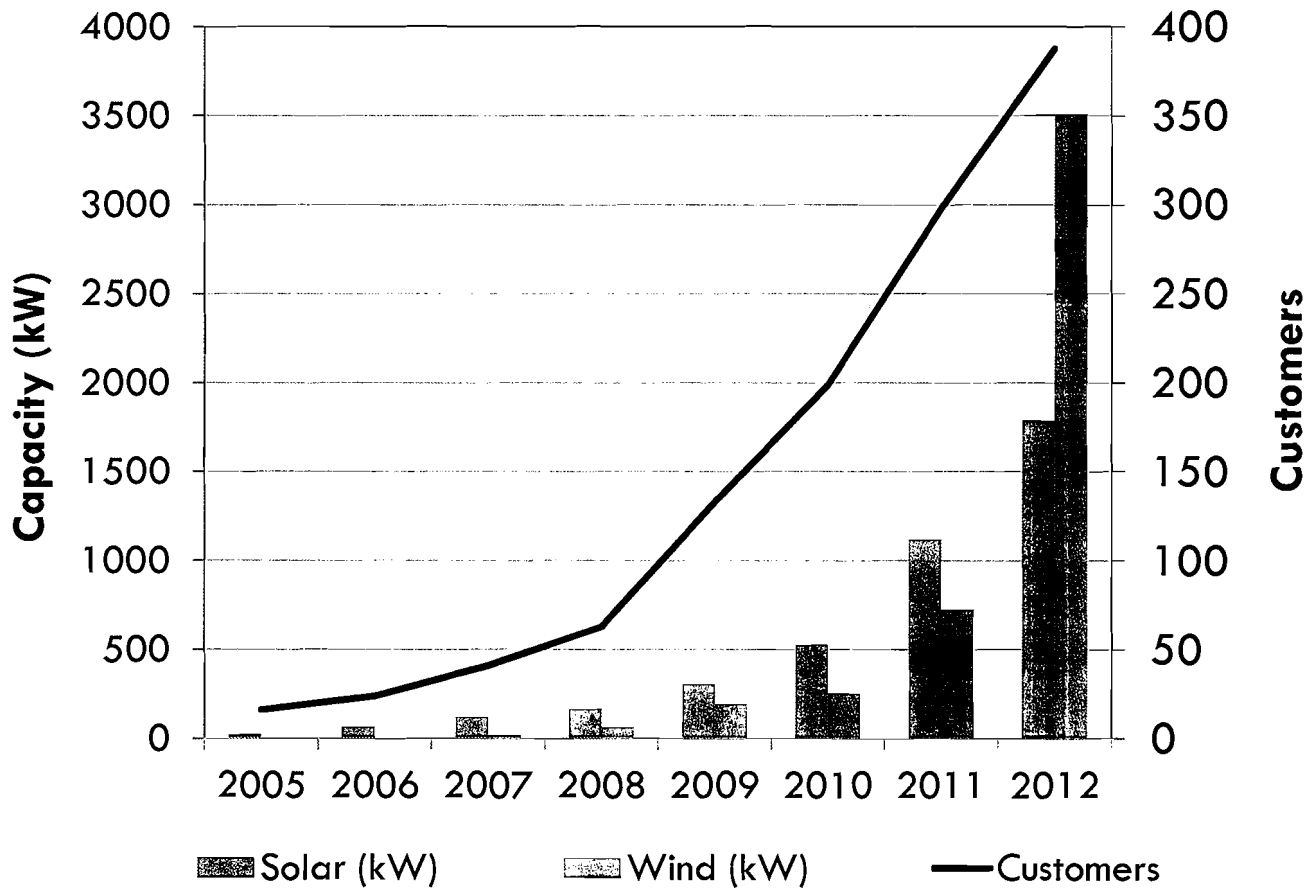
Net Metering Rule

The net metering rulemaking, initiated by the IURC in June 2010, went into effect in July 2011. Significant changes stemming from the rulemaking include:

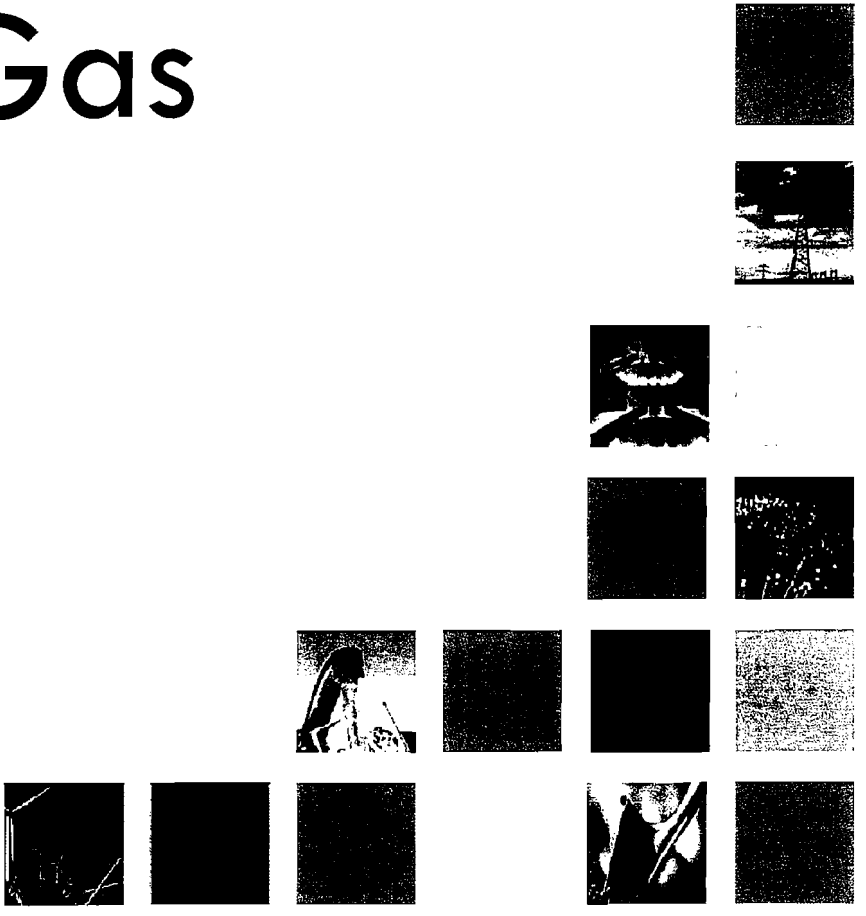
1. A 9,900% increase in the maximum size of an eligible facility from 10 kW to 1 MW;
2. Expanded eligibility to all customer classes (industrial, commercial, and residential) from just K-12 schools and residential customers; and
3. A 900% increase in the aggregate sales level under each utility's net metering tariff from 0.1% to 1% of annual kWh sales.

Net Metering Capacity & Participation

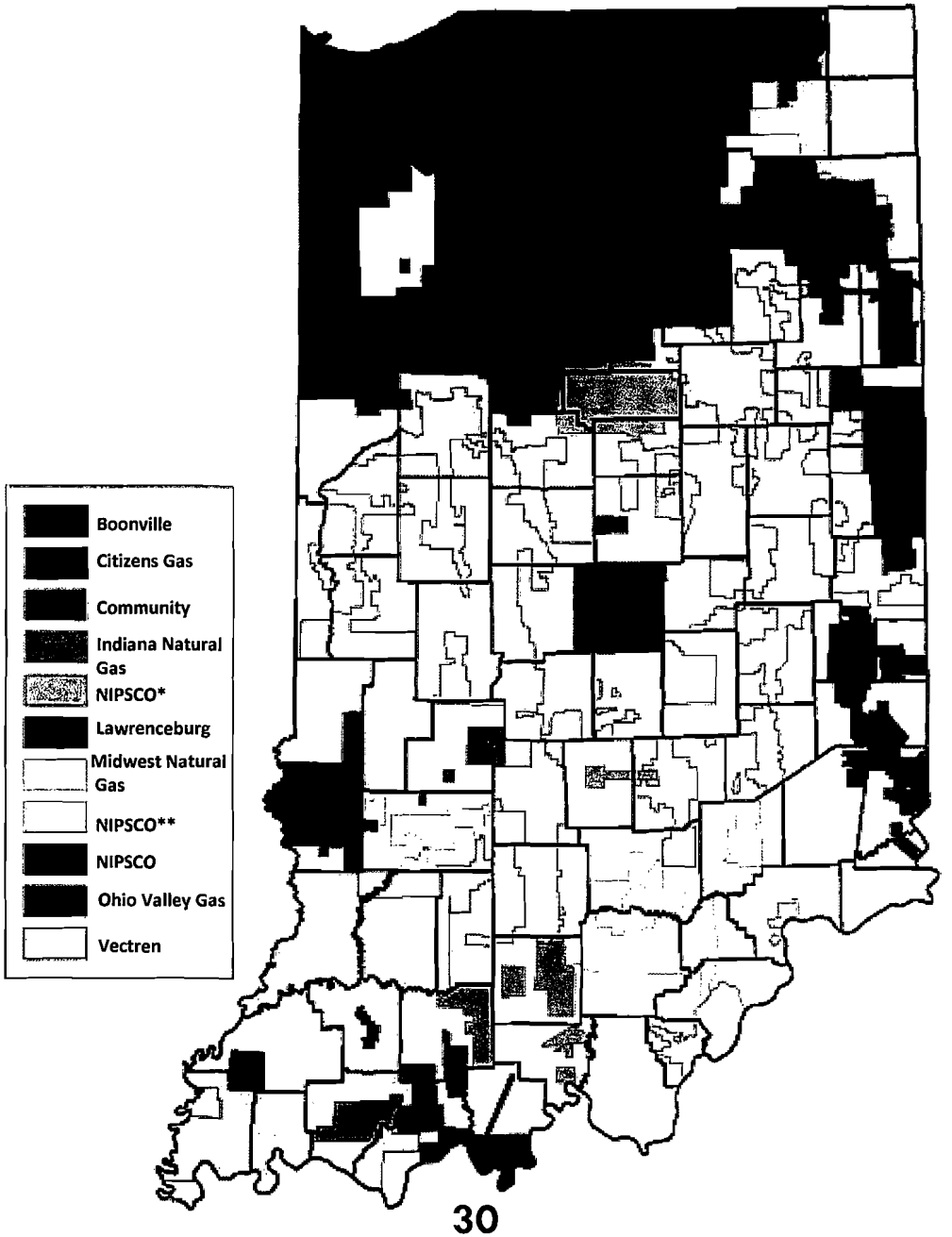
At the end of 2012, there was a 95% increase in participation in net metering, from 199 net metering customers in 2010 to 388 customers last year.



Natural Gas

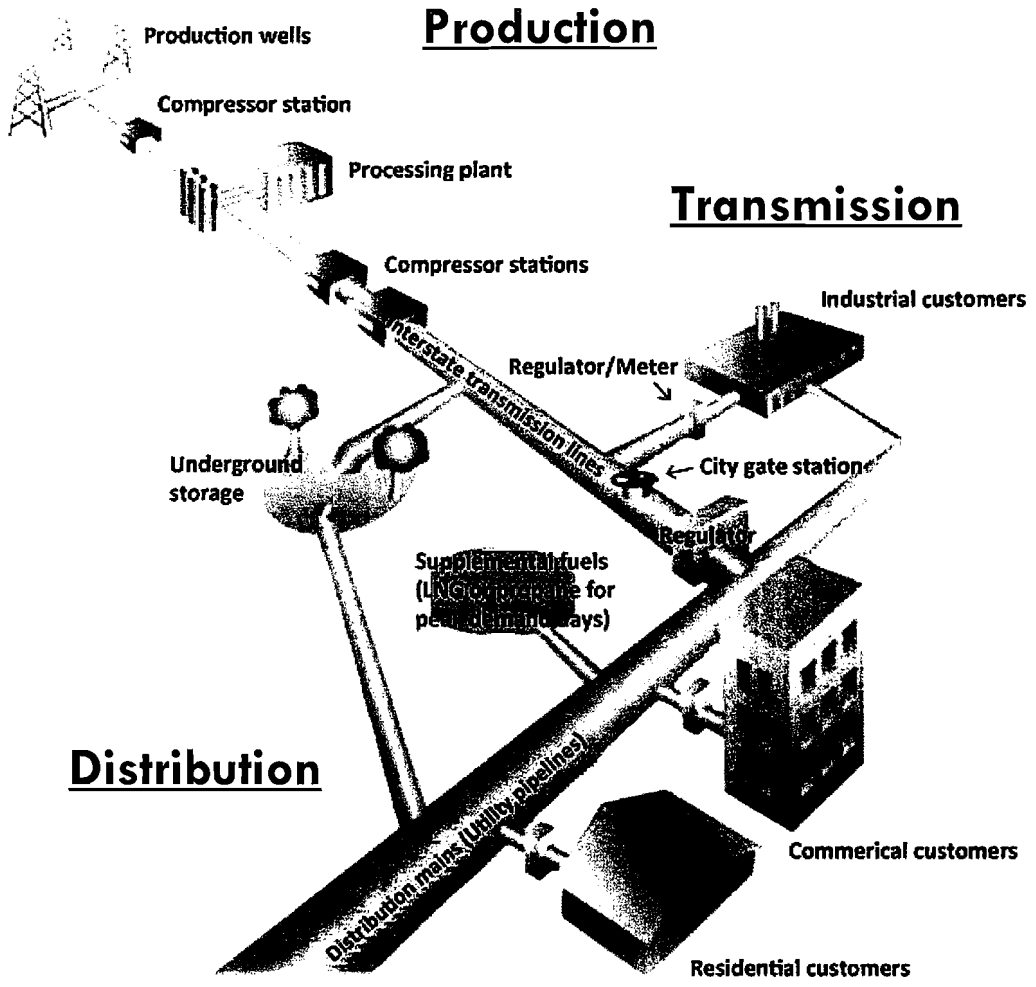


Natural Gas Service Territories



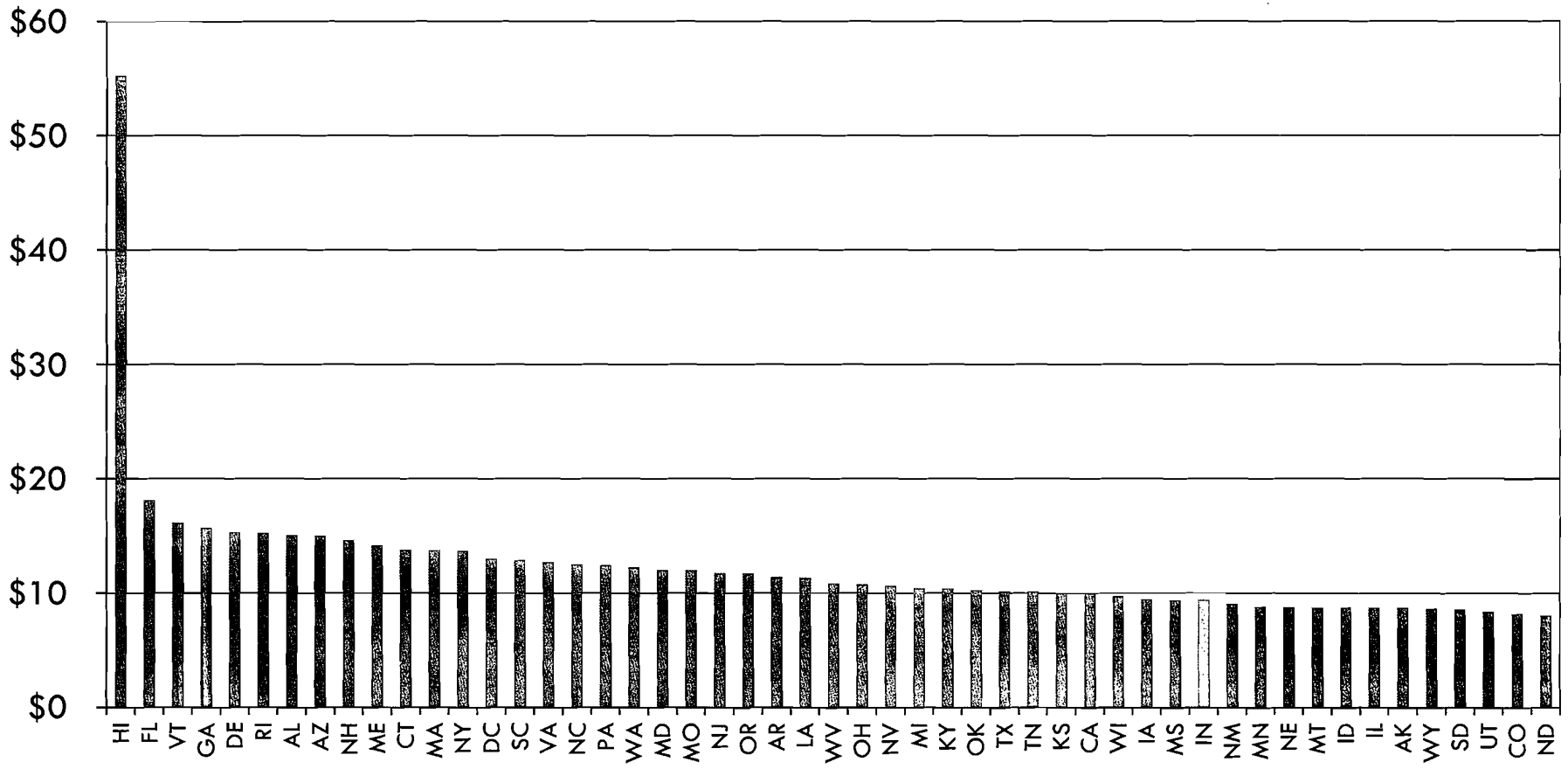
The Structure

The Commission has regulatory authority over 19 natural gas distribution utilities in Indiana, which serve roughly 1.6 million customers



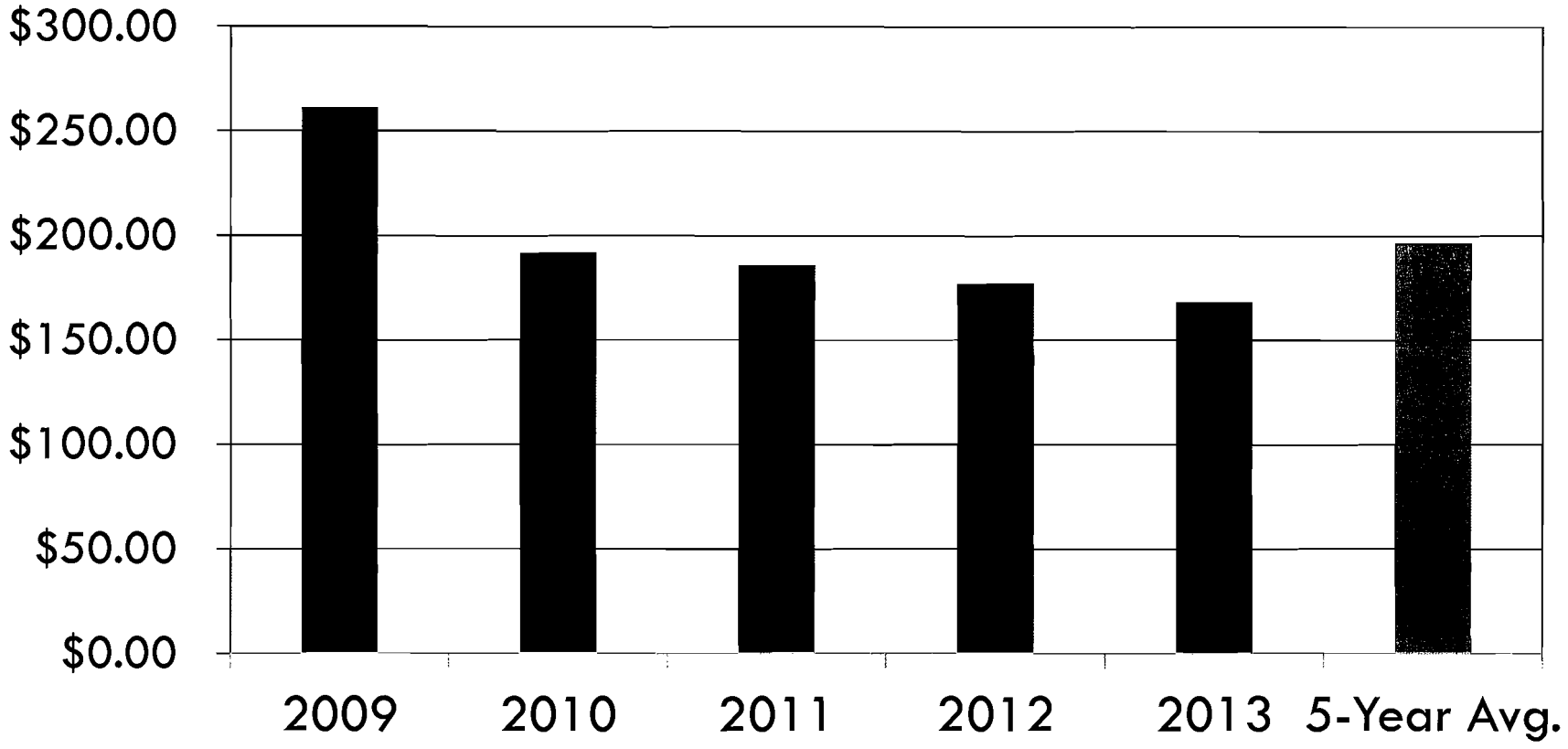
Residential Gas Rate Comparison

($/thousand cubic ft.)



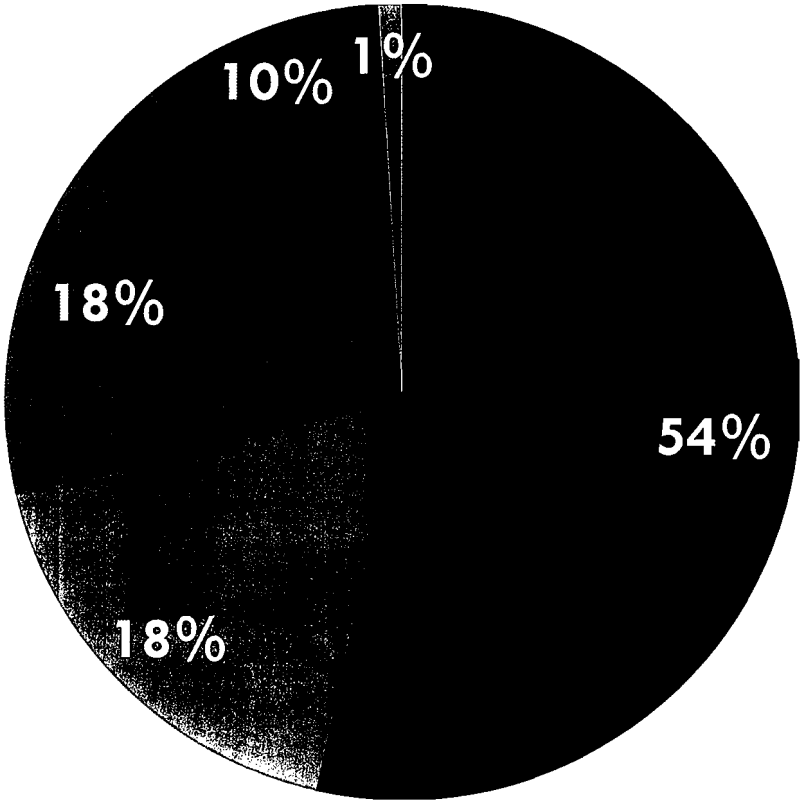
Indiana ranked 13th lowest nationally

Residential Gas Bill Comparison



Due to lower commodity costs, natural gas residential customers, on average, experienced a decrease in their bills in 2013. In 2012, a residential customer using 200 therms would have received a bill for $177.23. In 2013, this bill would have decreased to $168.20.

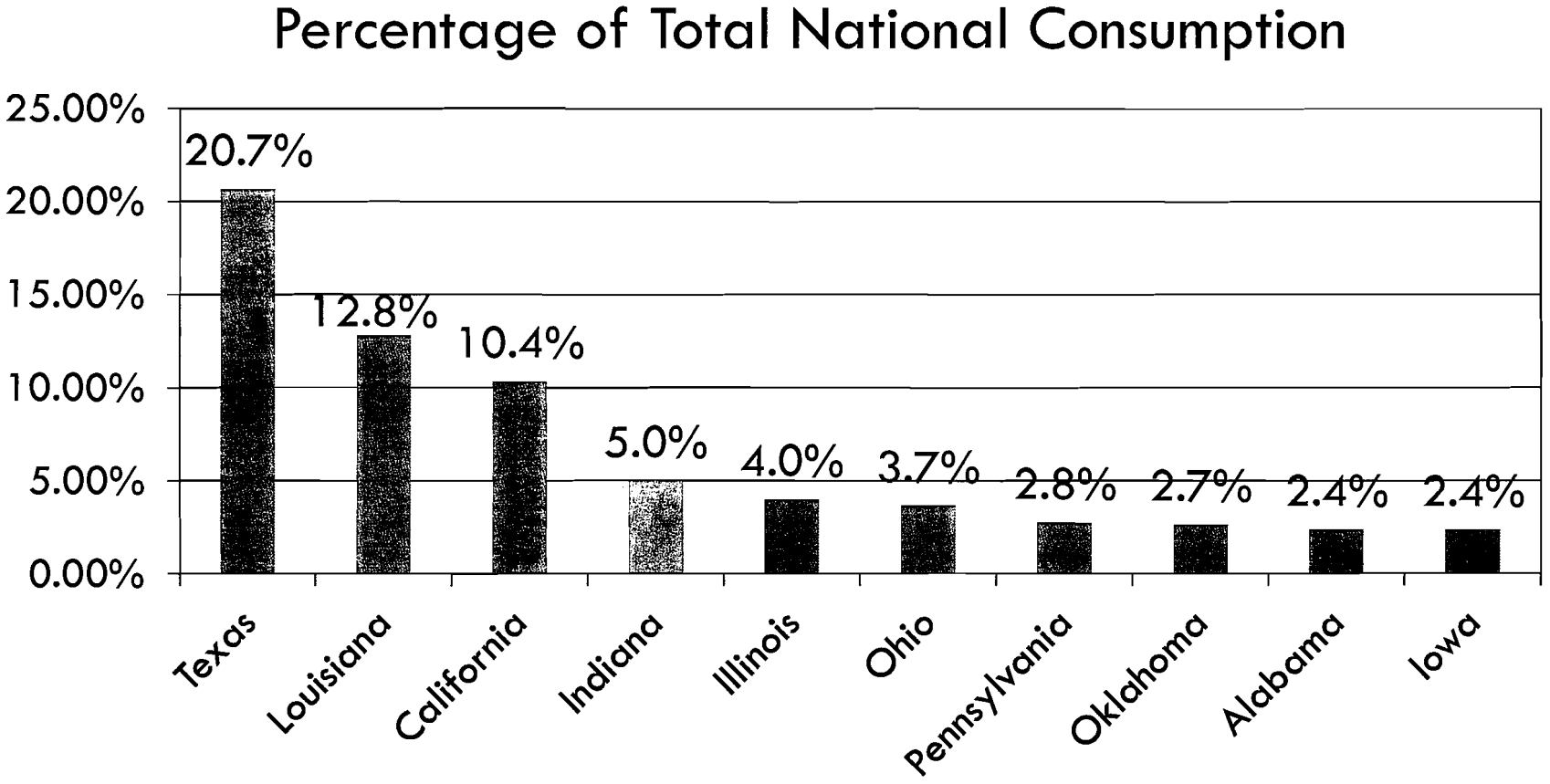
Consumption by Sector in Indiana



- Industrial (54%)
- Residential (18%)
- Electric Power (18%)
- Commercial (10%)
- Vehicle Fuel (1%)

Source: U.S. Energy Information Administration

Top 10 States for Industrial Consumption



Industrial customers accounted for 54%, or 356 million Dth, of the state's total volumes delivered, making Indiana the 4th highest state for industrial natural gas consumption in the U.S.

Manufacturers Gain Ground

Narrower Trade Gap Is Sign of a New Competitive Edge on U.S. Factory Floor

-James R. Hagerty. Front Page– Wall Street Journal, August 19, 2013

After more than a decade of losing ground to China and other export powerhouses, U.S. manufacturers are finally showing signs of regaining their competitive edge.

The U.S. deficit on trade of manufactured goods in this year's first half shrank to $225 billion from $227 billion a year earlier. The improvement, while slight, came after years of ballooning deficits as the U.S. lost manufacturing business to China, South Korea and other nations.

U.S. manufacturing will come roaring back –a surge in U.S. exports is predicted, partly helped by lower energy costs.

-more-

Manufacturers Gain Ground

Narrower Trade Gap Is Sign of a New Competitive Edge on U.S. Factory Floor

Rising exports and "reshoring" of production to the U.S. from China "could create 2.5 million to five million American factory and service jobs associated with increased manufacturing" by 2020. That, could reduce the unemployment rate, currently 7.4%, by as much as two to three percentage points.

As the boom in shale "fracking" lowers natural-gas and electricity prices in the U.S.,"the U.S. is steadily becoming one of the lowest-cost countries for manufacturing in the developed world." The U.S. will have an edge over rival manufacturing nations in energy costs, along with lower productivity-adjusted labor costs than Germany, Japan, France, Italy and Britain, the report said. That will allow the U.S. to grab a larger share of global manufacturing sales.

"This is a fundamental economic shift."

Did you know?

For the twelve months ending July 2013, an Indiana residential propane customer paid roughly $1,200 more than a NIPSCO residential natural gas customer.

Pipeline Safety

Indiana's Pipeline Safety Program

- The IURC regulates all intrastate natural gas and hazardous liquid pipeline operators. In total, there are 90 intrastate pipeline operators in Indiana, including:
  - 18 privately owned
  - 18 municipal LDCs
  - 42 master meter operators
  - 12 transmission operators

Fines for Pipeline Safety Violations

- This summer the IURC's Pipeline Safety Division notified three major natural gas utilities – Citizens, NIPSCO, and Vectren – of multiple pipeline safety violations and a total of $180,000 in proposed penalties.
- Operators failed to follow procedures and keep accurate maps and records of their underground facilities.
  - These violations resulted in either mislocating or a failure to locate pipelines.

Exhibit 2
Regulatory Flexibility Committee
9/04/13

Presentation to the *Regulatory Flexibility Committee* of the Indiana General Assembly

9.4.2013

Carolene Mays

Commissioner

Indiana Utility Regulatory Commission

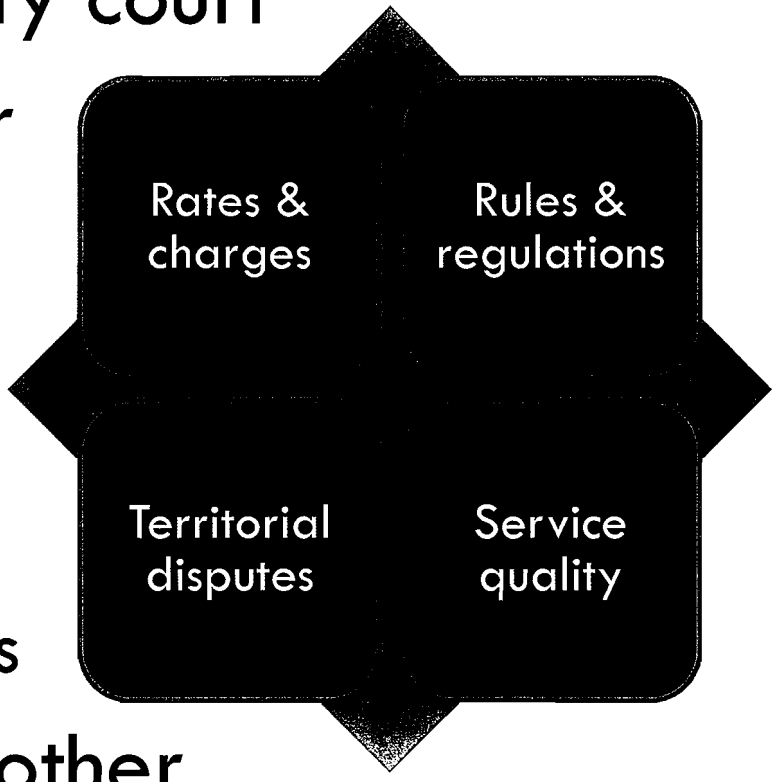
Celebrating a century of service to the Hoosier state.

Indiana Utility Regulatory Commission

IURC

Overview

- Administrative utility court
- Economic regulator
- Regulated utilities
  - 92 of the 555 water utilities
  - 44 of the 547 wastewater utilities
- Coordination with other state agencies is key



Jurisdiction

Jurisdictional and Withdrawn Water and Wastewater Utilities

Type of Utility	Number of Jurisdictional Utilities	Number of Withdrawn Utilities
Municipal Water	31	363
Not-For-Profit Water	33	58
Investor-Owned Water	7	1
Conservancy District Water	6	1
Not-For-Profit Wastewater	6	12
Investor-Owned Wastewater	23	9
Not-For-Profit Water/Wastewater	2	4
Investor-Owned Water/Wastewater	13	2

Commission Jurisdicion Based on Utility Type

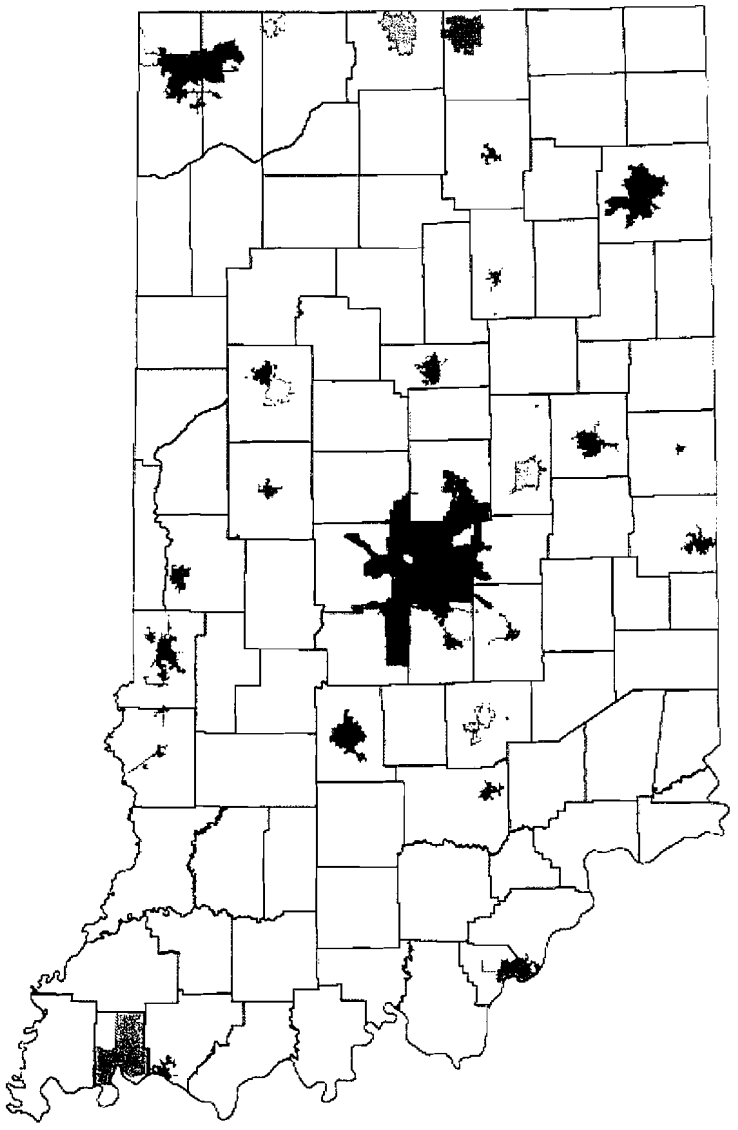
Type of Utility	Rates and Charges	Rules and Regulations	Ability to Withdraw from Jurisdiction	No Jurisdiction	CTA
Investor-Owned Water*	✓	✓	✓		
Investor-Owned Wastewater*	✓	✓	✓		✓
Not-for-Profit Water	✓	✓	✓		
Not-for-Profit Wastewater	✓	✓	✓		✓
Municipal Water	✓		✓		
Municipal Wastewater				✓	
Regional Water District				✓	
Regional Sewer District**				✓	
Conservancy Water District***	✓		✓		
Conservancy Sewer District				✓	

*Investor-owned water and sewer utilities with 300 customers or less can opt out of the IURC's jurisdiction, per IC § 8-1-2.7-1.3.

**Campgrounds served by regional sewer districts have the ability to appeal to the Commission's Consumer Affairs Division for an informal review of a disputed matter, per IC §13-26-11-2.1.

***IURC has jurisdiction over conservancy districts that make an election to provide water service under I.C. § 14-33-20 in its District Plan. Water conservancy districts with fewer than 2,000 customers can opt out of the IURC's jurisdiction, per IC § 8-1-2.7-1.3.

Regulatory Oversight



- Citizens Water - 301,039
- Indiana American Water Co. - 281,442
- Fort Wayne Municipal Water - 82,954
- Evansville Municipal Water - 60,842
- South Bend Municipal Water - 42,217
- Lafayette Municipal Water - 26,108
- Hammond Muncipal Water - 25,990
- Bloomington Muncipal Water - 23,114
- Anderson Municipal Water - 21,693
- Elkhart Municipal Water - 17,300
- Columbus Municipal Water - 15,488
- Michigan City Municipal Water - 12,612

Infrastructure Needs

- Indiana's water and wastewater infrastructure needs total $14 billion over the next 20 years
- Areas in need of investment include:
  - Those impacted by U.S. EPA mandates
  - Combined sewer overflow remediation
  - Transmission and distribution projects

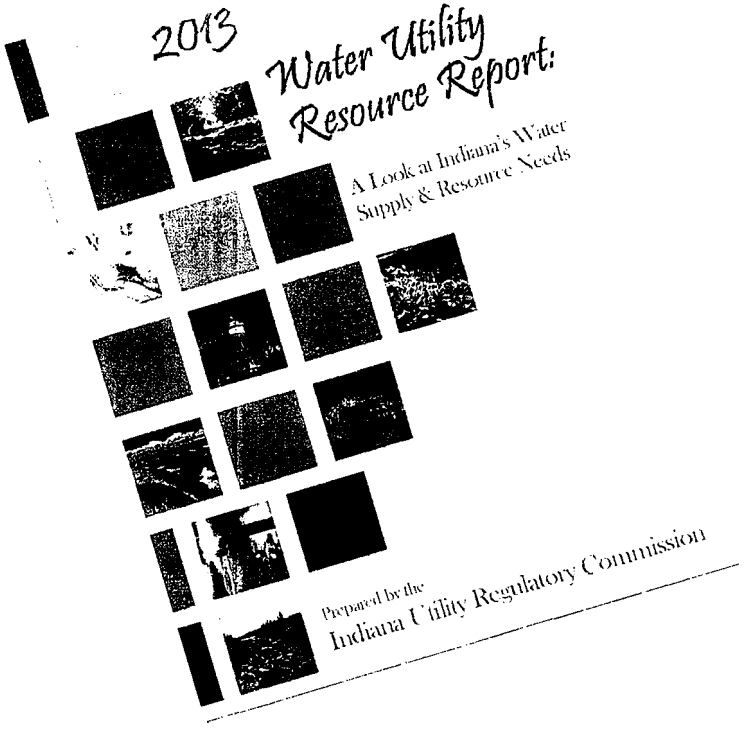
Encouraging Investment

- Numerous federal and state funding options are available for infrastructure investment
- Funding challenges do exist for some of the state's water utilities
- One way to encourage investment is through the Distribution System Improvement Charge (DSIC) for both water and wastewater utilities

Strategic Plan

- The Commission continues to resolve complex issues when small utilities run into trouble, but its primary goal is to prevent utilities from becoming troubled in the first place.
- The Water and Wastewater Division completed a Strategic Plan in December 2011, which includes 11 action plans that will assist small utilities with managing costs and improving their financial, managerial, and technical capabilities.

Water Utility Resource Report



2011 Water Resources Study Committee

"While Indiana has been doing research and mapping of water resources, the institutional infrastructure that regulates and manages water resources may not be prepared to manage the serious economic effects of regional shortage."

Committee Findings

Recommendations:

1. Need an inventory of Indiana's water resources
2. Identify the areas in Indiana that will need water soon
3. Assess where water resources exist and compare to where resources are needed (How can the needs best be satisfied?)
4. Develop industry infrastructure priorities
5. Develop alternatives to reform and restructure how water is used and regulated paying attention to the value of a regional approach
6. Draft necessary legislation, rules, and best practices
7. Develop a comprehensive plan of water and wastewater needs

Intent of SEA 132

- Senate Enrolled Act (SEA) 132 was the first step
  - The purpose was to gather necessary data in a single place to enable policymakers to make informed decisions
- The bill did not re-regulate or place withdrawn utilities back under the IURC's jurisdiction
  - Instead, it provided a means to aggregate information about water resources within the state

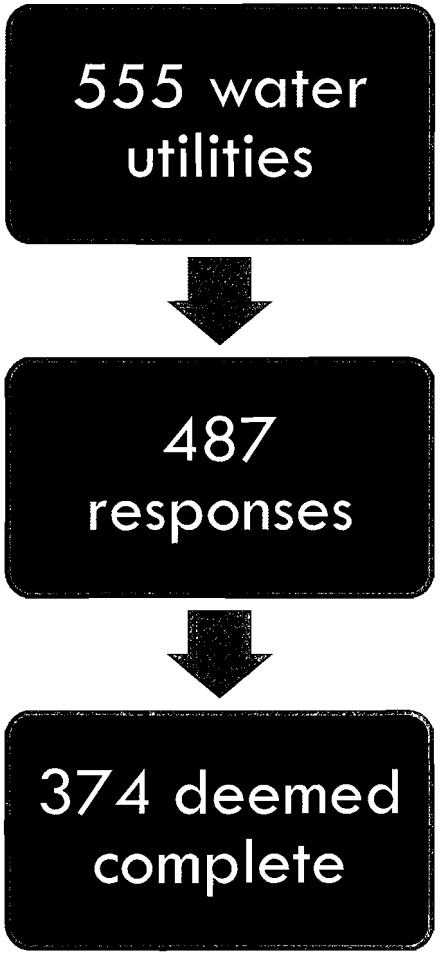
Data Points

- For each calendar year, SEA 132 requires all water utilities, even those not regulated by the IURC, to provide information about the following:
  - Water resources used;
  - Operational and maintenance costs;
  - Utility plant in service;
  - Number of customers;
  - Service territory; and
  - The amount and types of funding received.

Project Timeline

- **February 2012** – IURC project team created
- **July 2012** – Effective date of the law
- **Summer 2012** – Extensive outreach to industry groups, utilities, cities and towns
- **December 2012** – Formal request for information
- **March 2013** – Electronic filing deadline
- **Summer 2013** – Follow up concludes, formal analysis begins

Response Rate



- All large utilities participated
- All jurisdiction utilities, except one, participated
- The majority of utilities not participating were smaller in size

General Findings

1. Very little research has been conducted on the nexus between water and economic development.
2. Better coordination is needed at the state level.
3. Strategic planning is lacking for many medium and small utilities.

Recommendations

Develop rules or laws to establish procedures for additional significant withdrawals from aquifers, surface waters or interbasin transfers

Issues

- Impact on supply source and other users is currently unknown
- Some information is available though through the Department of Natural Resources
- Water conflicts have occurred in almost every county of the state

Begin Integrated Water Resources Management

Issues

- Multiple states have integrated water resources management in place, including Oregon, Washington, California, New Mexico, Minnesota, Florida, and New York
- Like these states, Indiana has the expertise to develop a plan
- There just needs to be a <u>common vision</u>

Promote efficiency, sound management and best practices for water utilities

Issues

- Economies of scale
  - Water purchase agreements
  - Shared ownership of treatment and production facilities
  - Purchasing cooperatives or mergers where it makes sense
- Minimum education requirements for clerk-treasurers

Require drought planning by water utilities

Issues

- Droughts happen, and we need to be prepared for them when they occur
- Proper planning, conservation measures, and coordinated efforts at the state and local levels can mitigate the effects of a drought

Improve the managerial, financial, and technical requirements for forming water and wastewater utilities

Issues

- The proliferation of small utilities continues to be an issue
- More stringent guidelines will help prevent these utilities from forming if demand can be met through alternatives
- Systems should be established to determine a utility's financial solvency

Evaluate the adequacy of existing monitoring and conduct a cost-benefit analysis to determine if the benefits of obtaining more precise water supply data exceed the cost

Issues

- DNR and the U.S. Geological Survey both have monitoring systems in place
- However, this monitoring system has decreased over time
- Monitoring should be regular and ongoing to identify trends

Use existing and underutilized water resources in Southern Indiana

Issues

- Potential sources of water include:
  - Reservoirs
  - Quarries
  - Groundwater
  - Interbasin transfer
- The Great Lakes is an exception to this and cannot be tapped for use outside of the Great Lakes Basin

Conduct a water symposium

Issues

- The challenges facing the industry are applicable to both jurisdictional and non-jurisdictional utilities
- Sharing information and engaging in dialogue is a way to learn from one another

Evaluate the scope of the existing law

Questions?

Exhibit 3
Regulatory Flexibility Committee
9/04/13

Indiana Legislative RegFlex Committee

Indiana's Water

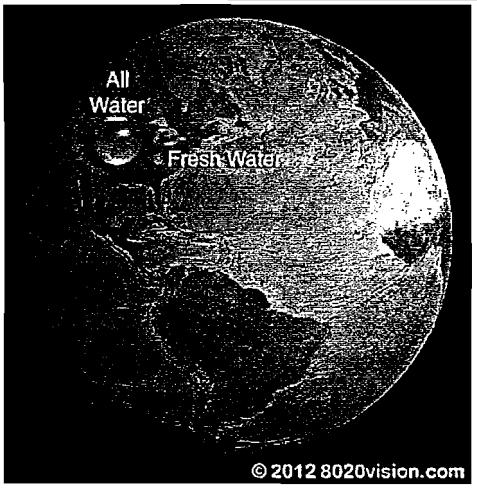
Current Status / Opportunities for New Policy

JACK WITTMAN, PHD

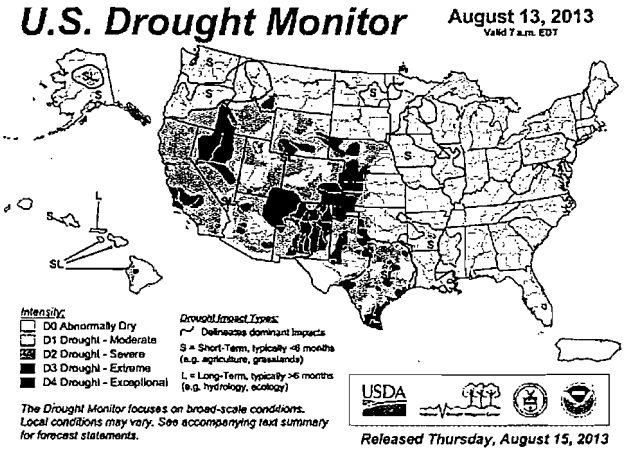
Groundwater Hydrologist

September, 2013

Global Perspective



Persistent Drought



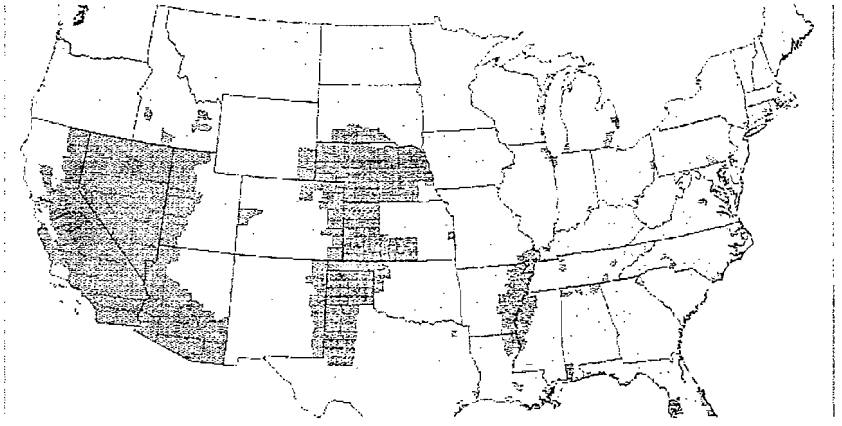
Eastern vs Western Water Rights

- Indiana is a "riparian" water rights state.
  - If you can get water from you land, it is yours.
  - Only need to report use.
- Western water law and rights are a property right. There are water rights that are sold separately from the land.
- Western states have rules and courts set up for this problem.
- Eastern States are using planning to make these decisions.

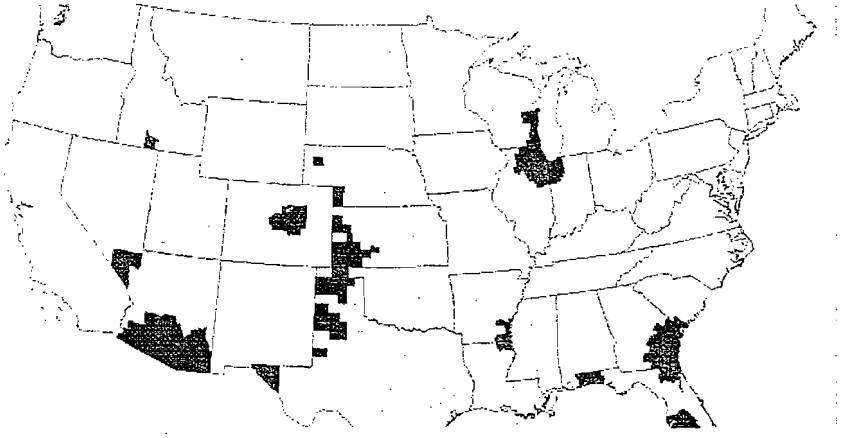
Where does drought cause economic problems?

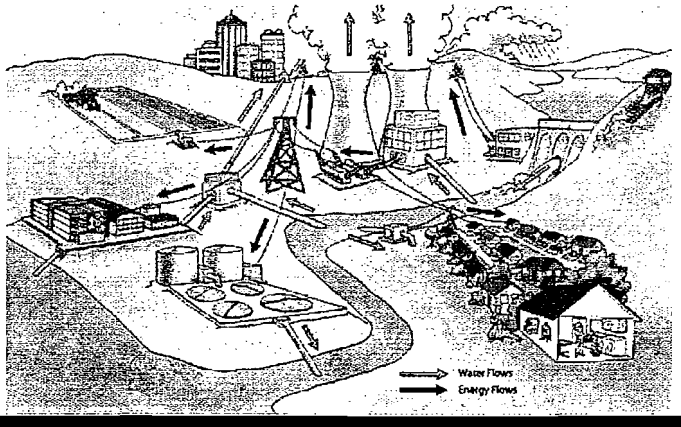
- Too much use
- Limited supplies
- Conflicts among users (no rules)
- Reduction in economic activity

Competition for Water



Aquifer Depletion





Need for Water in Indiana

By water use sector

Need for Water

Sector	Need
Agriculture	Growing demand and profit, more irrigation
Industrial	Available from L. Michigan for economic development
Municipal	Supply planning needed for distribution between basins
Power	Indiana has the grid and the water to grow

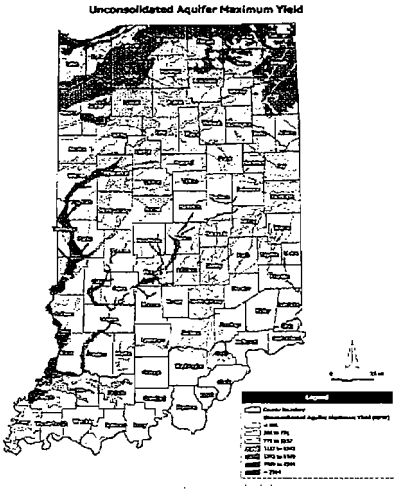
What does each sector want?

Sector	Interest
Agriculture	**Confidence** in well spacing and aquifer recovery
Industrial	Available 24/7/365 with **little uncertainty**
Municipal	**Flexibility** to manage and optimize resources
Power	**Low flow** to support use and discharge of cooling water

Water in Indiana

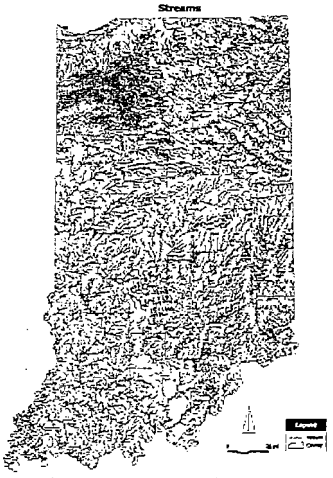
- Surface water

- Ground water (shallow)

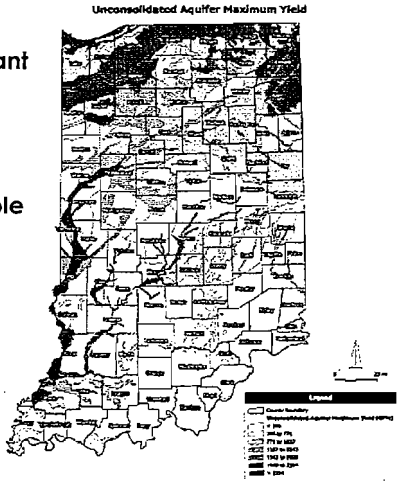


Water Availability

- Surface water



- Ground water (shallow)



Abundant

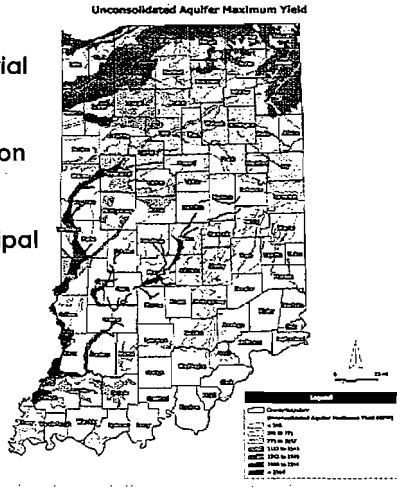
Locally Available

Limited

Water Uses

- Surface water

- Ground water (shallow)



Industrial

Irrigation

Municipal

Power

Constraints on Water Supply

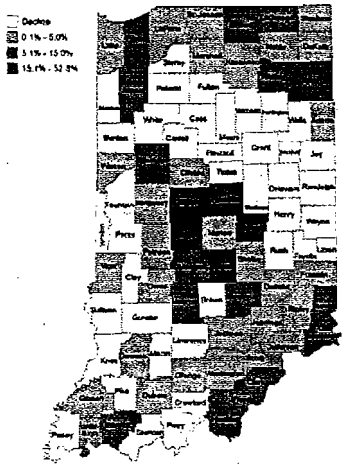
Region	Condition
Lake Michigan Basin	GL Compact constraints and allocation opportunity
Kankakee/Wabash	Increased drilling for irrigation and agriculture
Wabash/White River	Local seasonal demands requires regional planning
Unglaciated South	Vulnerable small systems between large rivers

Does supply match demand?

Is there available water where we expect growth?

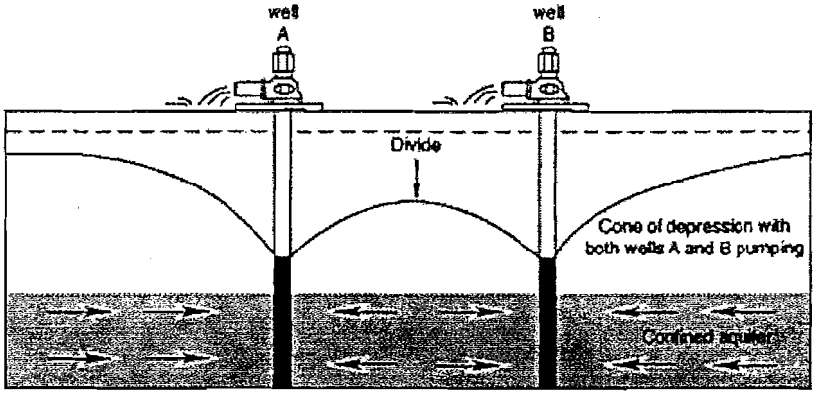
Growth by County - Future Demand

Percent Change in Population
April 2000 to July 2009



Source: U.S. Census Bureau
Indiana Business Research Center, March 2010

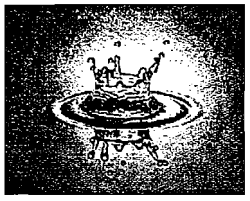
challenge = demand + limitations

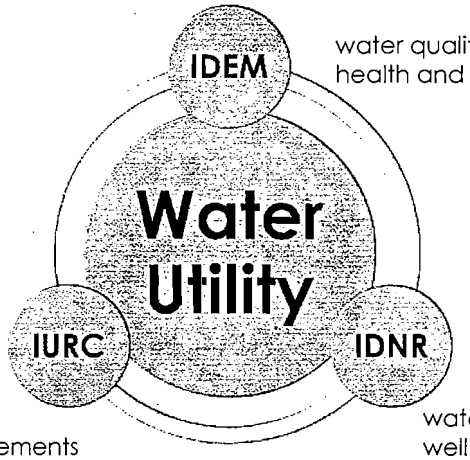


Policy Options

What makes sense for Indiana?

Drinking Water



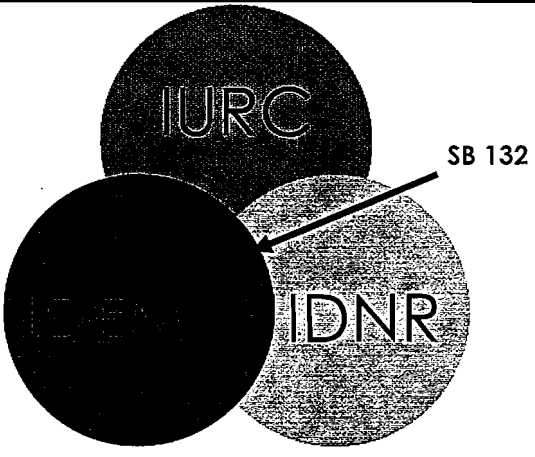


water quality, treatment, health and safety

water rates, service territory, wholesale agreements

water use reporting, well log, local impacts

SB 132 – only PWS



Other water users – not in 132

- Power Plants
- Industrial Users
- Agriculture (consumer)
- Mining / Quarries

Policy Status

- Limited analysis of groundwater availability/need
- Irrigation wells installed as fast as possible (NW)
- Central Indiana needs additional supplies to grow
- Power plants need adequate supplies
- SB 132 report by IURC recommends a **"common vision"**

Risk of Shortages

- Barely adequate **local** supplies in Central Indiana
- Limited groundwater in some areas
- Need infrastructure investment in the South
- Regional planning is needed

Conclusions

- Policy must fit uses AND resources
- Monitoring is needed to establish baseline
- State has the resources, skills and use data
- Federal government could help collect water supply data
- Collaboration rather than regulation works

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866.213.2796

Exhibit 4
Regulatory Flexibility Committee
9/04/13

INDIANA SECTION
American Water Works Association, Inc.

AWWA Annual Conference • Denver CO June 9-13, 2013
Indiana Section Annual Meeting - Indianapolis Feb. 10-13, 2014

September 4, 2013

Senator James Merritt, Co-Chairman
Representative Eric Koch, Co-Chairman and Members
Regulatory Flexibility Committee
Indiana General Assembly
Statehouse
Indianapolis, IN 46204

Re: Indiana Water Supply Planning

Dear Legislators:

I am writing you this letter in my capacity of Chair, Indiana Section American Water Works Association (InAWWA) Water Utility Council (WUC). InAWWA is the authoritative resource for promoting safe drinking water, public health, safety, and welfare by uniting the efforts of the full spectrum of the drinking water community in the State of Indiana. InAWWA currently has over 1,200 Indiana drinking water members who represent utilities, vendors, and consulting professionals. WUC is that branch of InAWWA that monitors and assists legislators and regulators to ensure reasonable, productive regulation of the water industry.

InAWWA is supportive of the Governor's Road Map to develop a water quality and resource plan. InAWWA has been very supportive of the State's efforts to develop this plan through the enactment of SEA 132 in 2012 and, more importantly, we have been very active in assisting the Indiana Utility Regulatory Commission in its charge to carry out the provisions of SEA 132 to research and provide the Water Resources Data Report.

InAWWA is very interested in the Indiana General Assembly's next course of action in addressing the state's water supply needs. While we have had a year of plentiful rainfall, we certainly remember the last two years of drought conditions throughout the state and feel the time is right to meet the critical need for comprehensive water supply planning.

InAWWA stands ready to be an active participant in the process of deciding the next steps in developing a cogent plan for addressing the state's water supply needs. InAWWA has many resources that can assist in water planning and, certainly, there is no greater concern than addressing our state's drinking water needs.

Sincerely,

Indiana Section American Water Works Association

John A. Hardwick, P.E.
Chair, InAWWA Water Utility Council

What is AWWA?

The American Water Works Association (AWWA) is the world's largest educational and scientific organization dedicated to the promotion of safe drinking water. The Association's 60,000 members, including more than 1,200 members in Indiana, work as community water providers, federal and state regulators, environmentalists, academics and scientists, and reside in all 50 states, Canada and Mexico. Our 4,700 member utilities serve 80 percent of the U.S. population.

The Indiana Section of AWWA:

- has more than 1,200 members, representing 380 drinking water providers and 340 independent engineers, consultants, water industry suppliers and vendors.
- is dedicated to keeping its members up-to-date on requirements, regulations and technology in the industry.
- works to educate the public on the importance of safe and adequate drinking water.
- hosts an annual conference as well as 10 district meetings for educational updates and training programs.
- has partnered with the Indiana Rural Water Association (IRWA) for additional Operator Boot Camp and Workshops , Security Tabletop Exercises, Facility Specific Operator Training, and Developing Drinking Water Guidance Manuals.
- sees members as active participants in the State's rule-making process, contributing time and expertise.
- regularly works through its Water Utility Council to openly communicate with IDEM, DNR, and the IURC regarding regulatory matters and utility operations.

In addition, the Indiana Section annually presents scholarships to teachers to develop water-related curriculum and recognizes outstanding journalists with the Clarity in Reporting Award for accurate coverage of drinking water issues. The Indiana Section's "Water for People" charitable program also raises donations for improving systems and water quality in third-world countries, and is recognized as one of AWWA national's most successful chapters.

AWWA stands ready to provide Indiana state and federal legislators with the best information available on the status of drinking water today and the challenges that remain. Whether the issue is water rights, water quality, conservation, infrastructure, source water protection, contaminant listing, health research, or treatment practices, the AWWA has materials and experts ready to assist you. Feel free to contact any of the Water Utility Council members listed below when your work turns to drinking water issues.

Key Water Facts

- Only 1% of the Earth's water is fresh water available to for consumption. (97% is salt water and 2% is frozen)
- The U.S. has fresh water resources totaling about 660 trillion gallons..
- The U.S. withdraws more water from its resources than any other country in the world, roughly 341 billion gallons/day.
- US EPA estimates the nation-wide funding gap for water infrastructure (comparing needs to existing revenues) at more than $500 billion to maintain the provision of safe high quality drinking water over the next 20 years.
- Not surprisingly, the U.S. Conference of Mayors surveys show aging water infrastructure as their top water concern.
- There are 840 community water systems (e.g., municipal water supplies and mobile home parks) in Indiana, which provide about 88% of Hoosiers with their tap water. The remaining 12% are served by nontransient noncommunity water systems (e.g., schools and factories) or transient noncommunity water systems (e.g., churches, restaurants and campgrounds).
- About 55% of Indiana residents receive drinking water from a ground water supply (nearly 4,300 systems); 45% of Indiana residents receive their drinking water from a surface water supply.
- Water utilities monitor for more than 100 contaminants on a regular basis.
- More than 94% of US water utilities are in full compliance with health-based federal regulations annually.

Indiana Section Water Utility Council

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CARROLL, Pat	Indiana Dept. of Environmental Management	(317) 232-8741	PCARROLL@idem.IN.gov
DeBOY, Alan	Indiana American Water	(317) 885-2414	Alan.DeBoy@amwater.com
ETZLER, Bill	Engineering Resources, Inc	(260) 490-1025	bill@engineeringresourcesinc.com
HARTMAN, Paul	Logansport Municipal Utilities	(574) 753-6232	hartman.lmu@frontier.com
HAUK, Bruce	Indiana American Water	(317) 885-2410	bruce.hauk@amwater.com
KLEIN, Matthew	Indiana Office of Utility Consumer Counselor	(317) 233-3231	mklein@oucc.in.gov
LINDGREN, Lindsay	Citizens Energy Group	(317) 927-6001	llindgren@CitizensEnergyGroup.com
MORAN, Melissa	ARCADIS	(317) 236-2848	melissa.moran@arcadis-us.com
NYE, Mark	DLZ Indiana, LLC	(574) 236-4400	mnye@dlzcorp.com
PETERS, Jeff		(317) 509-1526	jpeters34@indy.rr.com
PROBST, James	Test Gauge & Backflow Supply	(317) 786-8990	James_Probst@ymail.com
RUSSELL, Randy	Michigan City Water Dept.	(219) 874-3228	rrussell@mcwaterdept.com
SIMPSON, Mike	M.E. Simpson Co.	(800) 255-1521	michael@mesimpson.com
SMITH, Phil	Smith Consulting Group	(317) 788-8534	psmith@smithgroupconsulting.com
STANLEY, Nick	Water Solutions Unlimited	(317) 736-6868	nstanley@getwsu.com
SUTHERLAND, Joe	Utilitus, Taft Law	(317) 713-3507	jsutherland@UtilitusLLC.com
TAYLOR, Todd	City of LaPorte	(219) 326-9540	lpwater@comcast.net
TRIMBOLI, Bruno	Mishawaka Utilities - Water	(574) 258-1652	btrimboli@mishawaka.in.gov
WILLIAMS, Jim	Peerless-Midwest, Inc.	(574) 252-4140	james.williams@peerlessmidwest.com
WILLMAN, Jeff	Citizens Energy Group	(317) 927-4790	jwillman@CitizensEnergyGroup.com
WITTMAN, Jack	Consultant	(812) 219-6447	jack.wittman@gmail.com

Fact Sources: U.S. Environmental Protection Agency, "Facts About Sustainable Water Infrastructure", 9/29/11; IDEM Drinking Water Branch

Exhibit 4
Regulatory Flexibility Committee
9/04/13

REGULATORY FLEXIBILITY COMMITTEE
September 4, 2013
Statement of
John A. Hardwick, P.E.
Chair, Water Utility Council
Indiana Section, American Water Works Association

Thank you for inviting me to speak today on this very important IURC Report on Indiana water resource data. My name is John Hardwick and I am a member of the Indiana Section of the American Water Works Association. I am the Chair of the Indiana Section's Water Utility Council.

AWWA is the authoritative resource for promoting safe drinking water, public health, safety, and welfare by uniting the efforts of the full spectrum of the drinking water community in the State of Indiana. The Indiana Section currently has over 1,200 Indiana drinking water members who represent utilities, vendors, and consulting professionals. Water Utility Council is that branch of our section that monitors and assists legislators and regulators to ensure reasonable, productive regulation of the water industry.

We are supportive of the Governor Pence's Road Map which emphasizes the need "to establish a water management plan to better manage our water resources to ensure that Hoosiers have a sufficient quantity of water for business, industry, re-creation, and life." As water professionals, we understand that economic development is not possible without an adequate supply of safe drinking water. Our utility members are very aware that their communities cannot grow and thrive without assurance of the utility's ability to supply water now and in the future. A credible water plan is essential to attracting business and industry and creating jobs.

We have advocated and supported state-wide efforts to develop water supply planning. Those efforts include:

- Adoption of the Great Lakes Basin Compact (2007-08)

- Creation of the Water Shortage Task Force (2006)
- Indiana's Water Shortage Plan (2007-09)
- Passage of SEA 0132 - Water Utility Resource Data (2012)
- IURC's Preparation of the SEA 0132 Report (2013)

As important as these accomplishments are, the most important activities are yet to come. AWWA encourages the legislature to take the next step to develop comprehensive state water supply planning which will serve as guidance to communities, industry and agriculture in its use of our most valuable resource – water.

We must act now while our memory is clear about the impacts of the drought we have suffered during the last two years.

The Indiana Section of the American Water Works Association stands ready to be an active participant in the process of deciding the next steps in developing a cogent plan for addressing the state's water supply needs. We have many resources that can assist in water planning and, certainly, there is no greater concern than addressing our state's drinking water needs.

Thank you.

Exhibit 5
Regulatory Flexibility Committee
9/04/13

VINCE GRIFFIN

VICE PRESIDENT

ENVIRONMENTAL & ENERGY POLICY

INDIANA CHAMBER OF COMMERCE
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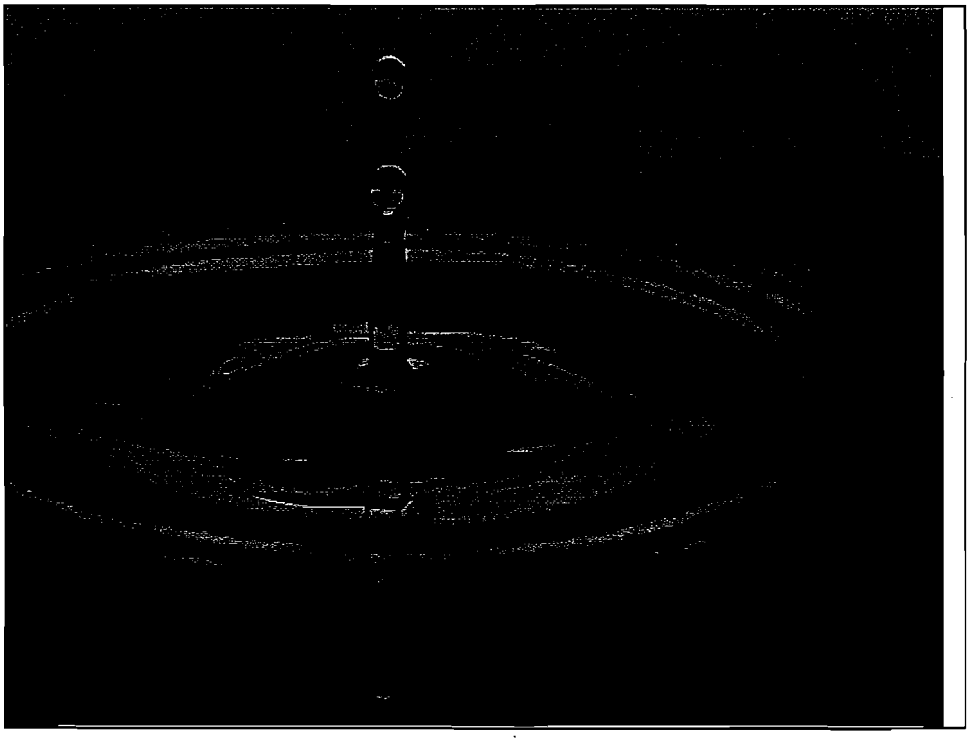
vgriffin@indianachamber.com



WATER

"WHISKEY'S FOR DRINKING

AND

WATER'S FOR FIGHTING"

(Mark Twain upon returning from California)

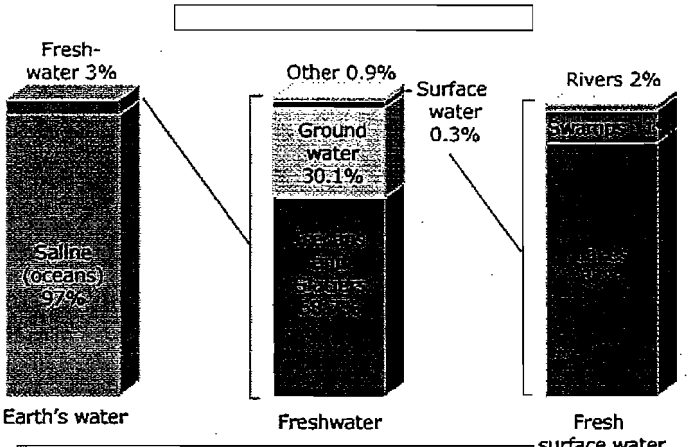
Water and Electricity Are The Backbone Of ANY Economy

NO Water OR Electricity = NO Economy

Indiana's Water Is

Adequate
Reliable
Affordable

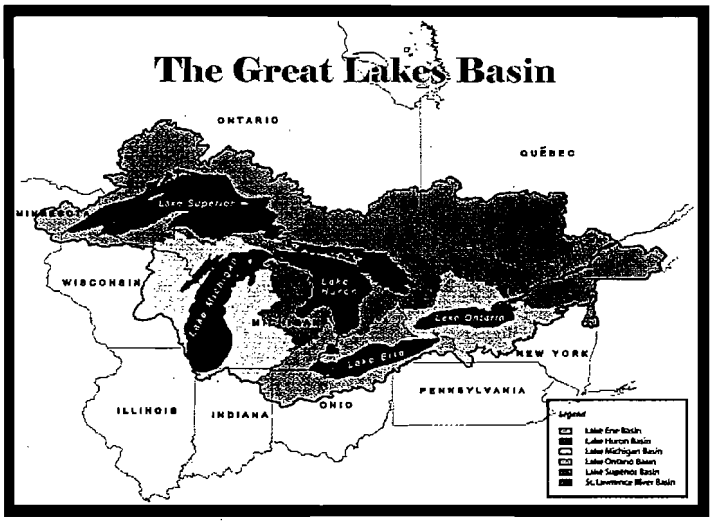
Why many chose to locate in Indiana



Global Water Footprint (use) ≈ 1,970,000 Bgal/yr
≈ 330,000 gal/yr/person

Great Lakes_St. Lawrence River Basin Water Resources Compact Update

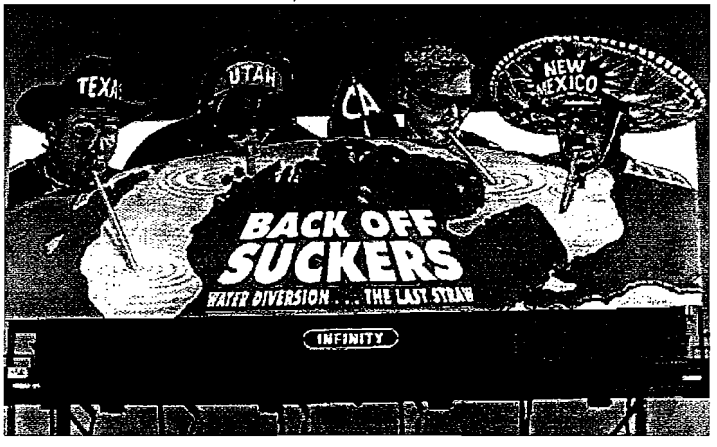
Summer Study Committees; November 2 & 3, 2012



Real Purpose of Great Lakes Compact

Section 4.8. *All new or increased diversions are prohibited except as provided for in the compact.*

Section 4.9. *Exceptions to the prohibition for straddling communities, straddling counties and intra-basin transfers.*



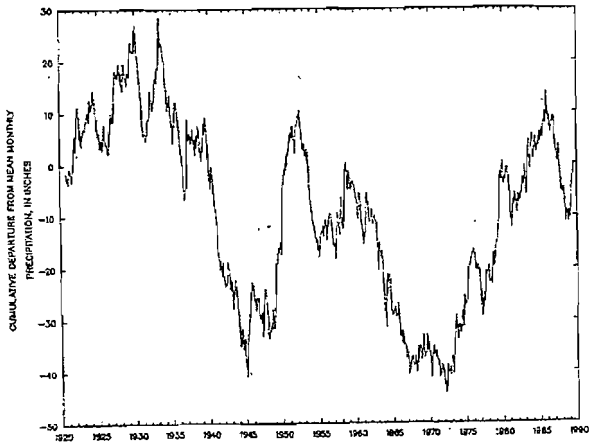


Figure 3.—Cumulative departure from mean monthly precipitation for climatic division 8, water years 1921–89 (data from National Oceanic and Atmospheric Administration, Climatic Data Center).

Indiana Water Facts

- We presently have **no plan** for our "water future".
- Water **"challenges"** from Central Indiana to the Ohio River.
- We need to identify
  - 1) **where** is the water
  - 2) who **needs** the water
  - 3) **how** to get the water to **where** it is needed.

Indiana Water Plan Evolution

- Directive from the Legislature's 2011 "Water Resources Study Committee"
  - ***"While Indiana has been doing research and mapping of water resources, the institutional infrastructure that regulates and manages water resources <u>may not be prepared</u> to manage the serious economic effects of regional shortage."***

SB 132/P.L.87-2012 "Water Resource Data Collection" and IURC

- P.L. 87 requires the IURC to, each year, **collect specific data** from water utilities;
- Examine the efficient use of **financial resources** by water utilities;
- Identify necessary **infrastructure investments** by water utilities; and
- Actions designed to minimize impacts on the **rates and charges.**

Governor Pence "Roadmap"

"Dense population centers, like Central Indiana, will challenge water supplies in the future... We need to better manage our water resources to ensure that Hoosiers have a sufficient quantity of water for business, industry, re-creation, and life."

Indiana Chamber Vision 2025 "Water Plan" Statement

Traditional thinking should be challenged as it is essential to **preserve and protect** this valuable resource and recognize that national and global competition requires broader cooperation across the state. Communities must **work together** to utilize Indiana's advantage and realize potential economic growth. The result of narrow, local planning is that resource sharing and economies of scale are missed. **Indiana must rethink the way it plans, regulates and utilizes its water resources.**

Vision 2025 Recommendations

Recommended actions include:

- **Survey** available water resources.
- Identify the areas of the state that have or will have significant **water needs**.
- Identify those **local, regional or statewide approaches** to water resources and requirements that would best maximize the value and minimize the cost of water use.
- Develop **infrastructure investment priorities**.

Cont. Chamber Vision 2025

- Identify constitutional, statutory, administrative or other policy changes necessary to create an effective system that will **maximize** water resources.
- Develop and implement a **comprehensive, long-range plan** considering both water and waste water needs that will realize a secure and advantageous position for the state's citizens, businesses and industries while promoting aggressive economic development.

GOOD NEWS!

- We can invent our water future.
- We do have the water resources.
- But – we must take charge NOW and make smart decisions.
- We must all work together!

OUR ENVIRONMENT OUR RESPONSIBILITY

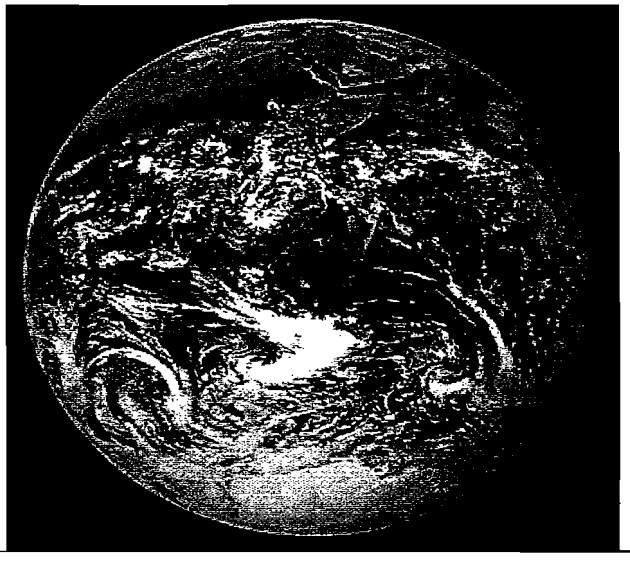
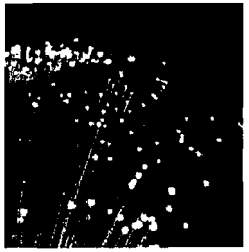


Exhibit 6
Regulatory Flexibility Committee
9/04/13

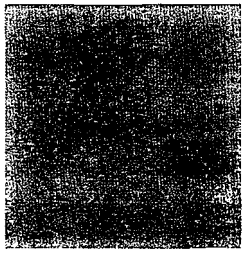
Presentation to the *Regulatory Flexibility Committee* of the Indiana General Assembly

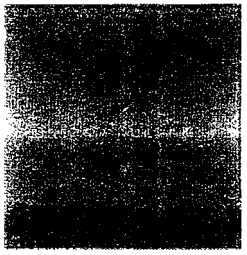


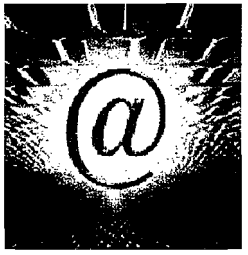
Larry Landis

Commissioner

Indiana Utility Regulatory Commission







Celebrating a century of service to the Hoosier state.

Indiana Utility Regulatory Commission

IURC

Area Code 930 Will Join 812 Throughout Southern Indiana

Rural Universal Service "Reform" Deeply Flawed

LifeLine

Video Service Provider (VSPs) Statewide Direct Marketing

Migrating to a New Network Model (TDM to IP)

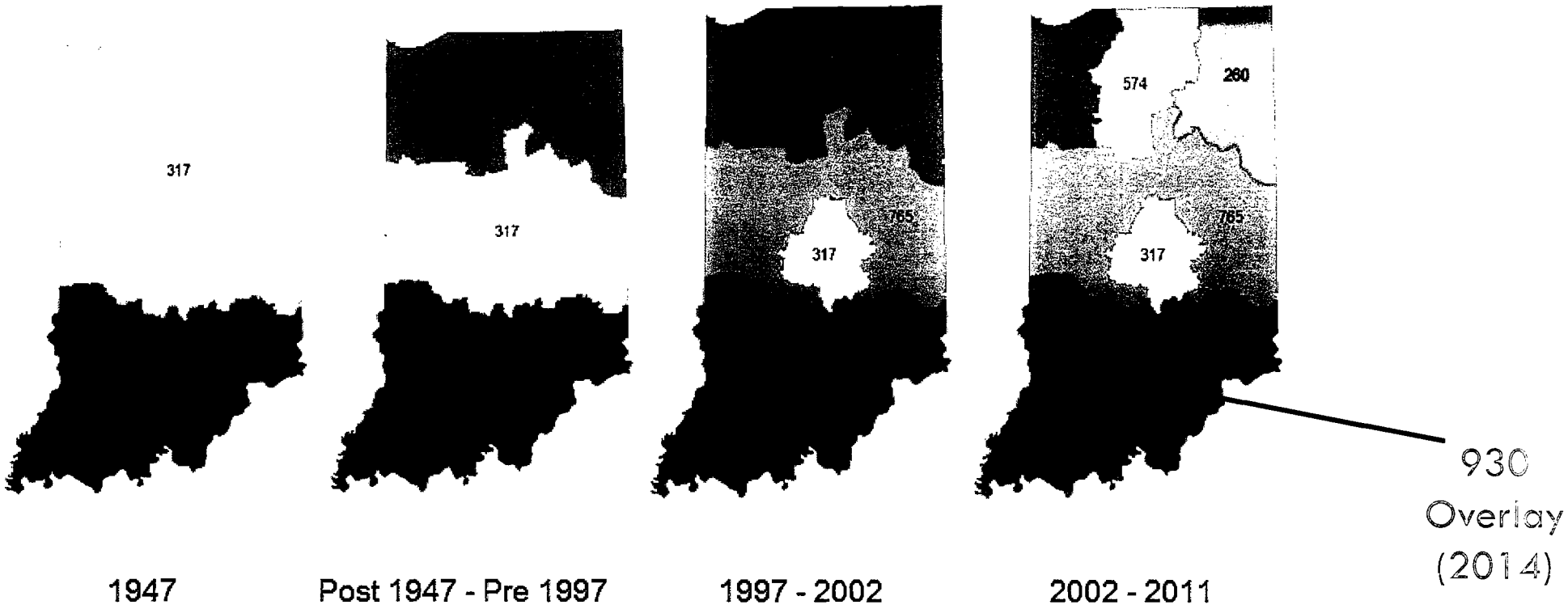
Video Service Provider (VSPs) Statewide Direct Marketing

Migrating to a New Network Model (TDM to IP)

Area Code Relief

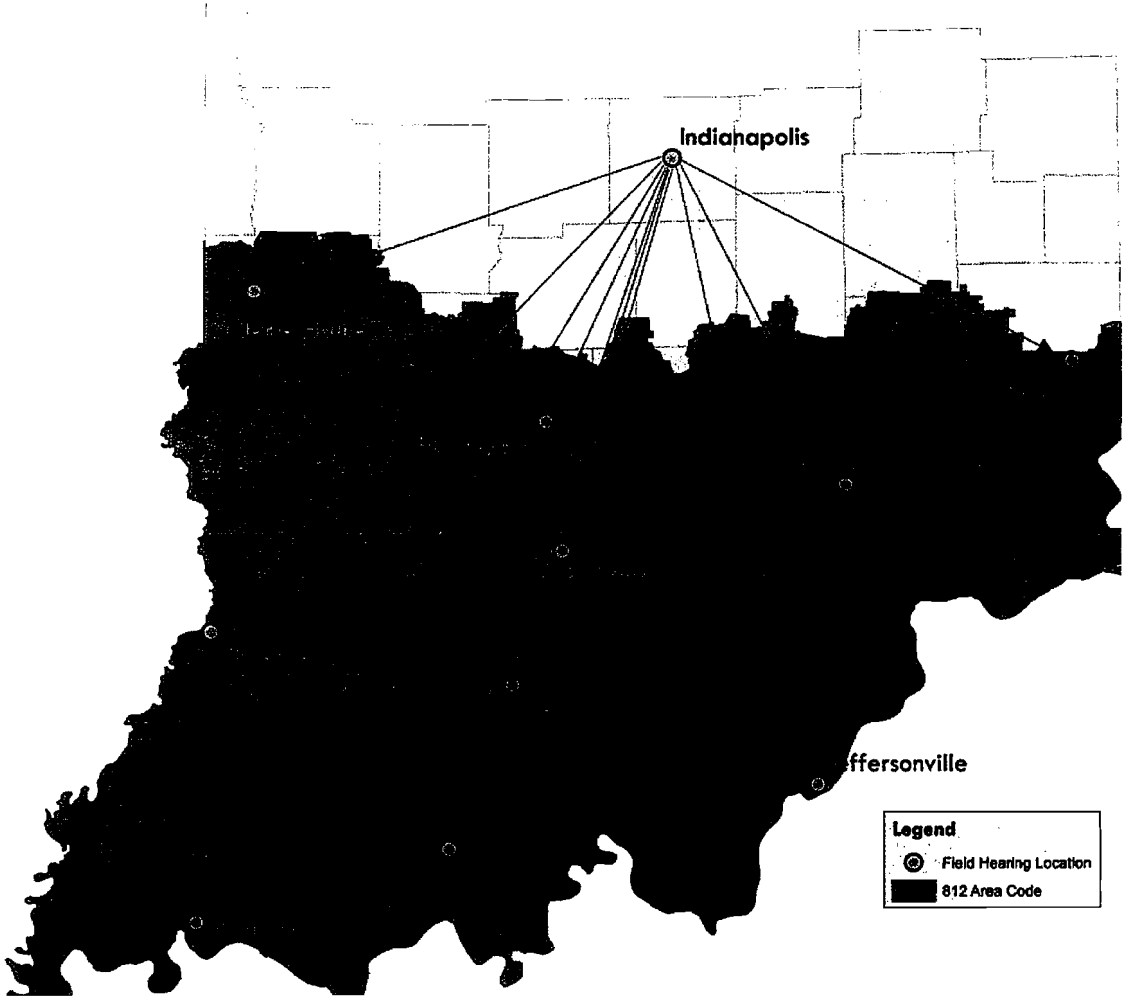
Southern Indiana is Running Out of Numbers

IURC Order in Cause No. 44233 was issued on July 31, 2013



Hearings

- 1600 miles traveled
- 10 public hearings
- Virtually all residents within an hour of at least one hearing



Decision

- Supermajority of all comments favored an overlay, even with 10-digit dialing requirements
- We are now in a 13-month "runup" or grace period

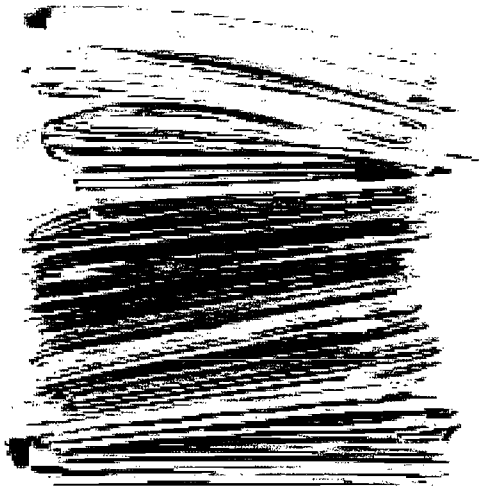
Universal Service "Reform"

The FCC's Decision Repeatedly Trampled On:

State Jurisdictional Authority

Congressional Intent

Prior to issuing the order, the FCC **literally rewrote** the record of evidence in the proceeding, introducing thousands of pages of its own "evidence."



FCC Action has Undercut Broadband Investment in Indiana & Nationally

There is an enhanced risk that the FCC will act to undo certain policies that have been implemented here in Indiana with bipartisan support

700+ Rural Co-ops & Mom & Pop companies are at risk

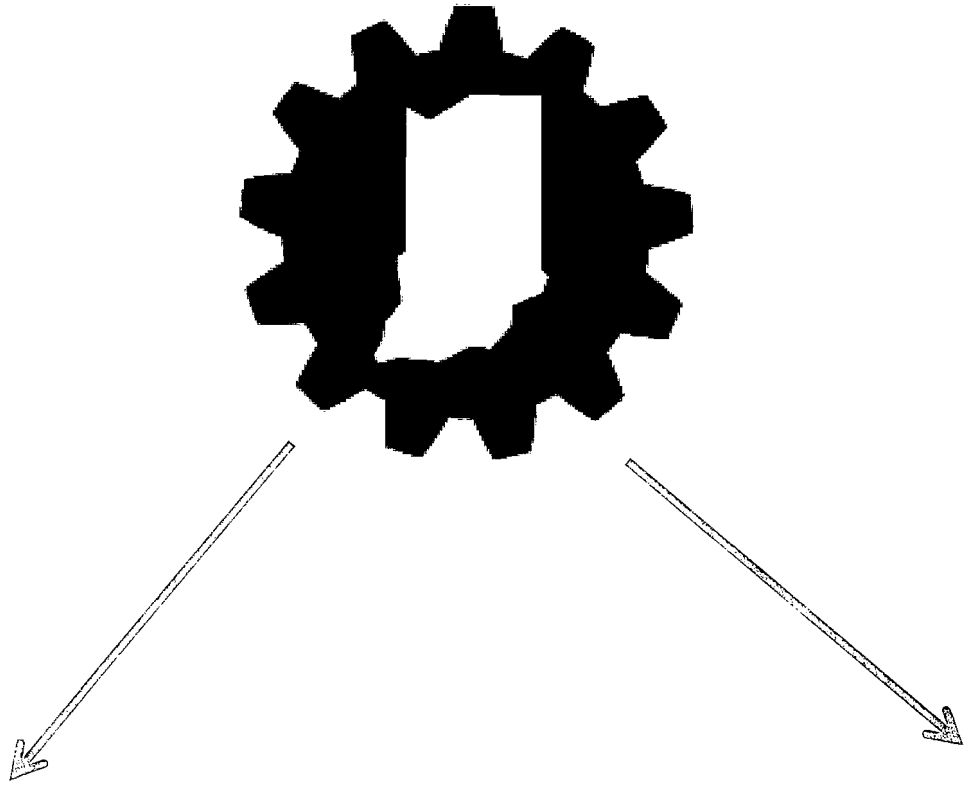
The ICC/USF Transformation Order will begin to hit home this year... and with a vengeance in the coming years

70% of all rural companies have cancelled existing plans to build out broadband to unserved areas due to FCC-imposed uncertainty

Lending has dried up

FCC has avoided responsibility

Hobson's Choice



Let small businesses go under?

Find support to help them survive?

Lifeline Reform

Background

- Lifeline, traditionally a landline program
- In the last decade, the FCC has shifted funding to support other areas:
  - Wireless
  - Prepaid Wireless

Rising Costs

In 2010, Ray Baum of Oregon warned:

"The program could balloon from $800 million to $2 billion in just three years"

Waste, Fraud, and Abuse?

Genachowski stated:

"We've cut $200 million in waste, fraud, and abuse"

~~Three~~ Two Years Later

Ray was right...
but it only took two years
to go from $800 million
to $2 billion plus.

IURC Intent

Help those who need and qualify for it…

…and aggressively root out those recipients and providers who abuse and exploit it

Video Service Providers (VSPs)
Statewide Direct Marketing

Direct Marketing Authority for VSPs

Companies may choose one or the other:

Local Authority

Statewide Authority

Transparency

Information is available on the IURC's website

IN.gov

About Indiana | Agriculture & Environment | Business & Employment | Education & Training | Family & Health | Law & Justice | Public Safety | Taxes & Finance | Tourism & Transportation

IURC

Advanced Search

GOVERNOR MIKE PENCE
Visit his Home Page »

Indiana Utility Regulatory Commission

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- Chairman and Commissioners
- Commission Reports
- Newsroom
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- Employment Opportunities
- Contact Us
- Technical Divisions
- Communications Services Division
- Electricity Division
- Natural Gas Division
- Pipeline Safety Division
- Water and Wastewater Division
- Consumer Affairs Division
- Consumer Assistance
- Rate Cases
- Additional Resources
- Legal Division
- Laws, Rules, and Regulations
- Rulemakings
- Docketed Cases
- Weekly Action Items
- Find a Document
- IURC Forms

Sign up to receive e-mail and wireless updates from IURC

Make this web site talk
get textHELP BrowseAloud

IURC > Communications Services Division > Direct Marketing Authority

Direct Marketing Authority

Purpose

The IURC now serves as the direct marketing authority for video service providers wishing to conduct direct marketing activities in the state of Indiana, per IC 8-1-34-30. Video service providers can apply with the IURC to conduct these activities and must register their designated employees in accordance with state requirements. Upon successful registration, participants will be able to conduct direct marketing activities within the state of Indiana and will not be required to obtain additional permits in the communities in which they desire to market their services. Participants must continue to follow local ordinances related to the time and manner of direct marketing activities.

Participating Video Service Providers and Designated Employees

The IURC will post a list of registered video service providers and their designated employees performing direct marketing activities, including the date in which an employee ceases to be certified with the Commission. Service providers not registering with the IURC will continue to be required to obtain permits with the communities in which they would like to market their services and will be subject to those communities' rules and regulations regarding direct marketing activities.

Company Rosters of Eligible Employees

Acme Communications: Roster | IURC Order Approving Roster

Resources

Direct Marketing Authority: Application | Instructions

- GAO 2013-4 Adopting Application

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Questions

FIRST IN LINE EVERY TIME

- Electronic Filing System
- Electronic Document System
- File a Complaint
- Forms.IN.gov

More Online Services »
Subscriber Center »

Top FAQs | I Want To...

1. Who do I contact to file a complaint against a utility?
2. Where do I file a complaint about my utility?
3. Can a utility disconnect service during the winter?
4. What jobs are currently available at the Indiana Utility Regulatory Commission?
5. Where do I find information about a case before the Indiana Utility Regulatory Commission?
6. I received a letter/postcard offering a warranty or service plan on my utility lines. Should I sign up?

More FAQs »

Indiana GEOGRAPHIC INFORMATION COUNCIL

Migration of Communications Networks

Technology Migration

Time Division Multiplexing ⇨ Internet Protocol

(otherwise known as)

TDM ⇨ IP

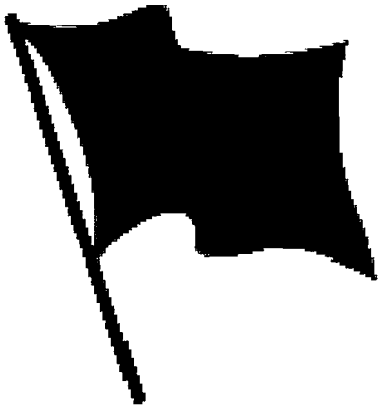
Two Sides

The migration carries significant benefits, but there are also challenges

Red Flag

How not to proceed:

Verizon pushes VoiceLink
fixed wireless service



Warnings

Witnesses in the FCC proceeding warned VoiceLink does not support:

Medical monitoring devices

Fax machines

Credit card readers

Home security systems

Collect calls

LifeAlert systems

Operator access by dialing "0"

International calling

Calling card services

Broadband

"Reverse 9-1-1" outbound emergency notification systems

Proposals

The AT&T and NTCA proposals, involving trials and full examination of the issues, will ensure that the benefits are captured and the shortcomings are avoided/addressed

Questions?

INDIANA ASSOCIATION OF CITIES AND TOWNS

Cable Franchise Fees

A Perspective From the Indiana Association of Cities and Towns

Regulatory Flexibility Interim Committee
September 4, 2013

INDIANA ASSOCIATION OF CITIES AND TOWNS

Prior to 2006

- Counties, cities and towns contracted with a local cable provider to serve their community.
- Cable companies paid *franchise fees* to the community for the privilege use the community's right-of-ways (i.e. attach cable lines to municipal poles or use public trench space). The allowable amount of franchise fees were capped per Federal Communications Commission (FCC) Guidelines.
- Cable companies often had local offices where customers could get technical assistance and pay bills.
- Municipalities often had a cable company representative at the local office to address problems and handle requests to move lines when public construction projects required doing so.

2

HEA 1279 - 2006

- In 2006, led by video providers, HEA 1279 was passed – the telecom deregulation bill.
- The bill allowed video providers to compete with one another in various markets.
- Local governments lost control of regulating cable companies and the ability to insure customer satisfaction for their citizens. Regulatory authority was given to IURC. Customer complaints now go to the IURC.
- **In order to pass the bill, support was needed from local officials. Therefore, the supporters of the bill (video providers) promised to keep cable franchise fees intact in an effort to get local officials to not oppose the bill.**

Post 2006

- Since they were allowed to compete for business, several video providers have benefitted greatly by expanding their business into Indiana communities.
- In 2008, the state legislature instituted property tax caps. As those legislators in support of tax caps explained, the goal was not to reduce revenue for local services, but to reduce the reliance on *property taxes* by diversifying revenue sources. "Local units must institute income taxes, fees and find other revenue streams to reduce the burden on the property tax system."
- In 2010, the tax caps were fully instituted at 1, 2, 3% for differing levels of property. Also in 2010, the tax caps were made permanent following a referendum to the Indiana Constitution.

Post 2006

- Now that memories have faded and new legislators are in office who did not participate in the 2006 discussion, cable companies want to stop paying franchise fees to local units as was the practice prior to 2006 and as is required under the 2006 legislation.
- **Cable companies, however, *still* use the public's right-of-way (unlike Satellite companies). Paying franchise fees for use of the public right-of-way is part of the cost of their service delivery.**
- With property tax caps, state legislators made a policy decision to have local governments place more reliance on other revenue sources, such as income taxes and fees, to reduce the burden on property taxes. Cable franchise fees help reduce the burden on property taxes.
- Local cable company offices and local cable company representatives diminished. Customer complaints must now be filed with the IURC instead of with their local elected official.

INDIANA ASSOCIATION OF CITIES AND TOWNS

Use of Right-of-Way

- **Cable companies, use the public of right-of-way on an ongoing basis, therefore, they pay rent for the space.**
- Examples of when people/customers pay to use public property:

  1) Rental of a public park shelter for a party or picnic – requires a rental fee

  2) Using the public sidewalk to sell goods, such as hot dogs, wares – requires a permit fee

  3) Holding a block party where the city/town street ways are closed – requires a permit fee

Cable Franchise Fee Revenues

- Local units of government must maintain right-of-ways (construction, mowing, relocation of lines, improvements, etc.). This expense is paid out of the general fund.
- Most local units deposit their cable franchise fee revenue into their general fund along with various types of other revenues collected. General fund expenditures can be used for any governmental purpose.

Exhibit 8
Regulatory Flexibility Committee
9/04/13

Testimony to the
Regulatory Flexibility Committee
Submitted on Behalf of the
Indiana Cable Telecommunications Association

September 4, 2013

Todd Lard
Partner
Sutherland Asbill & Brennan LLP

I. Introduction

My name is Todd Lard and I am a partner with the law firm of Sutherland Asbill and Brennan LLP. Thank you for the opportunity to testify on behalf of the Indiana Cable Telecommunications Association ("ICTA") regarding the tax and fee burden imposed on video programming services in Indiana. We appreciate the time and effort that the Regulatory Flexibility Committee will spend reviewing this important issue and its willingness to receive input from the cable industry.

Founded in 1985, ICTA is the principal trade association for the cable industry in Indiana. ICTA represents cable operators and cable programmers, as well as equipment suppliers and providers of products and services to the cable industry in a variety of forums. ICTA also monitors legislation on the local, state, and national levels to keep its members informed of current developments.

ICTA's members directly and indirectly employ over 4,200 Hoosiers, equating to $32 million in annual payroll. ICTA's members typically invest over $180 million in capital infrastructure and make $13 million in charitable contributions. Our customers pay $100 million in state and local taxes and fees every year. This infrastructure is vital to job growth and creating opportunity across the State.

II. Background

Video service providers including cable companies, satellite companies like DirecTV and Dish Network, telecommunications companies, and other providers use different technologies to provide video programming services to homes and businesses throughout Indiana. All of these companies benefit from the use of state and local infrastructure and the certainty of state and local laws and policies that facilitate the provision of their services to homes and businesses throughout Indiana.

Competition among video service providers is robust and several companies offer access to video programming services including television shows, movies and news. In addition to cable, satellite, and traditional telecommunications service providers, new market entrants like

Netflix, Apple, and Hulu also provide video programming service to homes and businesses in Indiana. This newer category of video programming service providers is referred to by the FCC as "online video distributors" or "OVDs." An OVD is an entity that provides video content over the Internet transmission provided by a separate entity. In its most recent report on video programming, the FCC notes that OVD revenues rapidly accelerated from $1.9 billion in 2010 to $3.9 billion in 2012.

While video service technology and customer choice among providers have expanded rapidly, tax policy has not always kept pace. Indiana's tax and fee structure provides preferential tax treatment to some video service providers at the expense of others. Cable and telephone companies that provide video service pay franchise fees or video service agreement fees to cities and counties of up to five percent of their gross receipts. However, many of their competitors, including direct broadcast satellite service providers, do not pay any local taxes or fees on their services. This means that if two video service customers, let's call them Cable Carla and Satellite Sammy, both enjoy watching college basketball on ESPN, Cable Carla will pay up to five percent more than Satellite Sammy.

The disparity in taxes and fees between cable and satellite providers is not the result of any well-reasoned policy, but rather is a result of a federal tax loophole lobbied for by satellite companies. The federal loophole was created by Congress in 1996. At that time, direct broadcast satellite companies like Dish Network and DirecTV were relatively new entrants to the video service market. Following an extensive lobbying effort by the satellite companies, Congress restricted the right of local governments to impose taxes or fees on direct broadcast satellite companies. The policy behind this federal preemption was to allow the then fledgling satellite companies to avoid the administrative burden of paying taxes or fees to thousands of local jurisdictions around the United States. However, Congress did not intend for satellite companies to avoid paying their fair share of taxes. Congress was clear that ***states*** could impose and collect taxes on satellite companies and distribute the proceeds from these taxes to local governments.

After Congress granted satellite companies administrative relief from local taxes, Indiana tax laws did not keep up. Rather than enact a state tax or fee on satellite providers as intended by the federal law, Indiana left in place local taxes imposed on cable service providers and created a competitive advantage for the satellite companies. Today, of course, satellite companies are big public companies that earn billions of dollars each year, own millions of dollars of assets in Indiana and across the country, and have thousands of employees and independent contractors. Satellite companies are no longer fledgling businesses, but rather huge corporations that are profiting from the loophole put in place by Congress more than fifteen years ago. And cable consumers bear the burden of the satellite industry's federal loophole.

The Satellite Companies Use the Right of Way But Pay No Taxes or Fees to Indiana Government

The satellite companies have argued that they should not have to pay their fair share because cable franchise fees are really payments for the cable rights-of-way. However, cable providers pay separately to maintain and repair the public rights of way. Cable providers also

pay separate pole attachment fees. And unlike other fees that are used to directly support a specific public purpose, cable franchise fees are deposited into an Indiana municipality's general fund.

Satellite companies also use the public rights of way and infrastructure to provide their service and yet still pay no taxes or fees. While the satellite companies often argue that they provide their service using only satellites and satellite dishes, in reality, the satellite companies use miles of fiber optic cable buried beneath Indiana's roads and highways. And even though they use the public infrastructure just like cable providers, they still argue that they should not have to pay their fair share. Finally, if franchise fees were in fact payments for use of the public rights of way, why aren't all occupants of rights-of-way paying an identical fee?

The Impact of Changes in State Regulation of Video Service Providers

Indiana's regulation of cable service providers has undergone substantial reform in recent years. Indiana (like many other states) enacted statewide video franchising which provided for the payment of a mandatory statewide video service fee. Existing franchise agreements were grandfathered, but are winding down. These changes in regulation, along with changes in technology, are slowly causing the tax and fee base to erode. While the tax and fee base continues to erode, new market entrants like satellite companies use their tax advantage to gain market share causing further decline in the tax and fee base. For example, the City of Fort Wayne experienced a $200,000 drop in franchise fee revenues per quarter from 2011 to 2013. This drop in Fort Wayne's franchise fee revenues is due in part to a practice by Frontier Communications to push customers from its cable service to its satellite service, which enjoys the Federal tax loophole.

III. New Data

The Indiana Utility Regulatory Commission recently published its first Video Franchise Fee Report, as required by the following the enactment of HB 1280 in 2012. The Report is based upon information obtained from local government units collecting franchise fees. The ICTA worked with the Indiana University-Purdue University Indianapolis' Public Policy Institute to analyze the data in the report. Based upon this initial analysis, we reached three clear conclusions:

(1) Franchise fees are primarily used for general tax purposes
(2) Cable customers bear a disproportionate burden of local taxes
(3) Indiana's current video programming services tax and fee structure creates an un-level playing field.

The analysis of the report's data shows that nearly 90% of the governments allocated franchise fees to their general fund. Very few governments used the funds for public safety, information technology expenses, and rights-of-way maintenance. Indeed, governments used the funds in very unique ways. The City of Columbus used franchise fees to buy iPads for meetings. In Dayton, franchise fees are used toward ADA compliance. In Lawrenceburg, the money is distributed to various city-supported non-profits. These expenses are important to these

communities, and the ICTA in no way advocates restrictions on how localities use their franchise fees, or what programs governments choose to fund. However, these general expenditures should not be solely borne by Indiana cable customers and not by other consumers of comparable video services.

The tax disparity between Indiana video subscribers causes cable customers to bear a disproportionate share of the local tax burden, and the report clearly indicates which customers bear the additional burden. For example, in the second class cities included in the report, 60% of the households in these cities pay 100% of the fees collected—based on an estimated average cable bill of $60 and a tax rate of 5%. An even more alarming statistic is that in the smallest ten local entities, 26% of the households support their local general fund.

IV. Providing Hoosiers a Tax- and Fee-Neutral Choice

A fundamental tenant of sound tax policy is that consumers should be provided with a tax-neutral choice when purchasing like products or services from competing sellers. Right now, Indiana residents Cable Carla and Sammie Satellite are watching Duck Dynasty, but Carla is paying 5% more for the ability to watch this program because of a tax system that was designed when her grandparents had a console TV and no choice of technology for viewing a program. Consumers like Carla are price sensitive, and providers know it. Providers take advantage of this price sensitivity running promotions offering potential customers discounts to entice them to switch providers. A policy of tax neutrality would allow video service providers to compete on a level playing field and allow consumers to choose their service provider without considering the amount of taxes they have to pay depending on the type of provider they choose. Consumers are best served when there is tax neutral competition in the video service industry rather than when disparate application of state and local tax laws creates winners and losers in the marketplace.

The General Assembly previously considered legislation that would close the federal loophole enjoyed by the satellite companies.[1] This legislation would have required satellite customers to pay a tax equal to what their neighbors who purchase cable service pay. As set forth in more detail below, a number of states have enacted this type of legislation to level the playing field. This type of equalizing legislation can take many forms. Some states provide credits to cable providers based on the franchise fees they pay while other states impose equivalent excises on satellite companies, but in all cases, states that have enacted video tax parity have made sure that functionally equivalent services, like cable and satellite services, are taxed the same.

V. Video Tax Neutrality in Other States

Recognizing that satellite companies were getting a free ride, states around the country have enacted parity measures to equalize taxes and fees on cable and satellite services. Several states have modernized video programming taxes and fees by eliminating the satellite tax

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[1] E.g., H.B. 1382 (2011); H.B. 1278 (2009).

loophole. Eleven states impose a statewide tax on satellite service to create parity among video programming service providers: Connecticut, Delaware, Florida, Kentucky, Massachusetts, North Carolina, Ohio, Rhode Island, Tennessee, Utah, and Virginia. For example:

- Massachusetts imposes a 5 percent state excise tax on the gross receipts from satellite service while cable service providers remain subject to franchise fees;

- In North Carolina, satellite subscribers and cable subscribers pay an equal state sales tax. Cable providers are no longer subject to franchise fees;

- Ohio imposes sales tax on satellite services, which is approximately equal to the local franchise fees paid by cable customers;

- Delaware extended its public utility excise tax to satellite services;

- Florida achieved tax parity by imposing a state tax on satellite service at a higher rate than on cable service and repealing local franchise fees;

- Since 2005, Kentucky imposes approximately the same taxes on direct broadcast satellite service and cable service;

- Rhode Island imposes a 7 percent state sales tax on cable and satellite services. Cable service providers are not subject to local franchise fees;

- Tennessee imposes a state tax on satellite and cable services at a state rate of 8.25 percent. Effective July 1, 2011, the state tax is at a rate of 9.00 percent on cable and wireless cable service. Of note, 18 percent of the cable tax collected is distributed to localities and 82 percent of such tax is retained by the state;

- Utah imposes state sales tax on cable and satellite services, but cable providers may take a credit of up to 50 percent of the local franchise fees paid; and

- Virginia imposes state communication services tax on cable and satellite services. Cable providers also pay a cost based right-of-way fee of $0.91 per subscriber and month.

VI. Video Tax Parity Regimes Are Constitutional

The satellite industry has resisted states' efforts to create parity and provide their citizens with a tax neutral choice by claiming that parity measures are unconstitutional. Federal and state courts in Ohio, North Carolina, Kentucky, and Utah have found that state tax parity regimes are constitutional (the Utah case is being appealed). Only one court, a trial court in Tennessee, has found a video tax regime unconstitutional, and Tennessee law was unique in that it provided a sales tax exemption for the first $15 of cable service. The Tennessee decision is being appealed. Despite the repeated losses, the satellite industry persists in its efforts to twist federal law into a complete exemption from state-level taxation. ICTA asks that this Committee see these

arguments for what they are – the satellite industry's desperate attempt to preserve its out-dated tax loophole to the detriment of Indiana video programming consumers.

VII. Conclusion

In summary, ICTA respectfully requests that this Committee recommend that the General Assemby take action to modernize its video tax and fee regime, close the federal loophole, and enact much-needed reform to ensure that functionally equivalent services are treated similarly. Sound tax policy dictates as much. Indeed, a fair and administrable tax system would promote the growth of the video programming marketplace and provide a tax-neutral choice for Indiana consumers.

We appreciate your care and due diligence in evaluating the unique issues faced by the video programming industry and the opportunity to appear before this Committee.

WELCOME & ACKNOWLEDGEMENTS

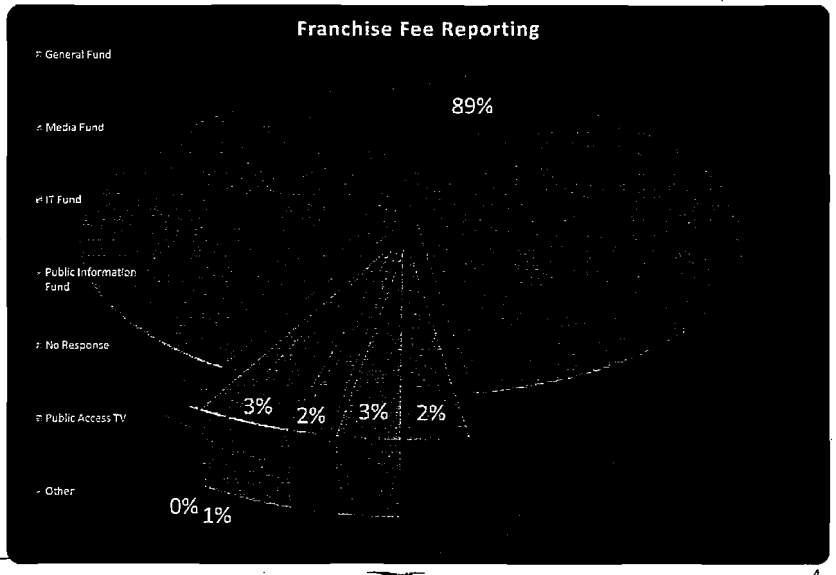
1

- Data collected from 349 entities
  - 86 counties are represented
    - Average number of households: 28,385
  - 18 Second class cities are included
    - Average number of households: 27,772
  - 244 Cities, towns and townships are represented

FRANCHISE FEE REVENUE

- Total Revenue: $34,961,105.48
- 89.3% of revenue goes into the General Fund
  - Revenue in General Fund allocated for Right of Way is 7.8% or $2,441,260.59
- The top ten cities responding received 51% of the total fees collected.
- The top ten counties received 76% of the total fees collected.
  - Inclusive of the cities in each county that reported revenue.

ALLOCATION OF FEES

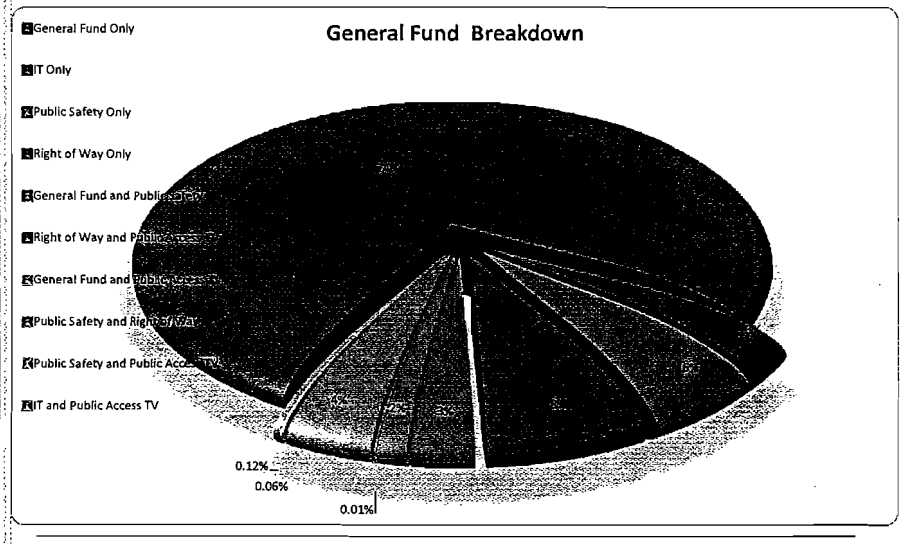


4

GENERAL FUND ALLOCATIONS

- General Fund Revenue: $31,232,468.37
  - 74% of this revenue was not allocated for any specific expenditure
  - 7.8% of this revenue was allocated in Gen Fund for Right of Way expenditures
  - 6% of this revenue was allocated in Gen Fund for Public Safety expenditures
  - 4% was allocated to be split between Public Safety and Right of Way

5



6

STATE AND LOCAL CARRIERS

- Revenue from State Carriers: $22,104,761.59
  - Standardized tax rate of 5%
  - 162 (46%) entities receives fees from only state carriers
- Revenue from Local Carriers: $12,856,343.89
  - Average county rate charged was 3.8%
  - 160 (45.8%) entities received fees from only local carriers
- Revenue from Local and State: $3,046,516.49
  - 27 entities received fees from state and local carriers
  - Local carriers, $1,578,492.35
  - State carriers, $1,468,024.14
  - Average county rate charged on local portion: 3.17%

7

THE TOP TEN COUNTIES

County	Fees Received	Avg County Rate	State Designated Rate	% of Total Fees
Marion County	$ 9,280,670.78	5.0%	5.0%	26.5%
Lake County	$ 4,752,086.58	4.0%	5.0%	13.6%
Allen County	$ 3,456,105.53	5.0%	5.0%	9.9%
St. Joseph County	$ 1,892,118.74	4.0%	5.0%	5.4%
Vanderburgh County	$ 1,892,118.74	5.0%	5.0%	5.4%
Hamilton County	$ 1,559,555.46	4.0%	5.0%	4.5%
Porter County	$ 1,514,244.29	3.0%	5.0%	4.3%
Madison County	$ 870,107.48	4.0%	5.0%	2.5%
LaPorte County	$ 691,277.46	3.0%	5.0%	2.0%
Johnson County	$ 644,816.18	3.0%	5.0%	1.8%
Totals	**$ 26,553,101.24**			**76.0%**

- 95% of the fees are allocated to the General Fund
  - 10% of the fees in the General Fund are allocated to Right of Way
- Not all cities and towns in these counties are represented in totals.

8

ESTIMATED TAX BURDEN PER CAPITA

City	Current Fees Received	Total Households	Fees from 50% of Households	Fees from 60% of Households
Indianapolis	$ 8,884,182.00	332199	$ 5,979,582.00	$ 7,175,498.40
Fort Wayne	$ 2,718,056.78	101585	$ 1,828,530.00	$ 2,194,236.00
Evansville	$ 1,317,578.14	50588	$ 910,584.00	$ 1,092,700.80
South Bend	$ 884,207.04	39760	$ 715,680.00	$ 858,816.00
Gary	$ 853,674.28	31380	$ 564,840.00	$ 677,808.00
Hammond	$ 837,499.00	29949	$ 539,082.00	$ 646,898.40
Anderson	$ 689,678.53	23560	$ 424,080.00	$ 508,896.00
Carmel	$ 656,251.19	28997	$ 521,946.00	$ 626,335.20
Fishers	$ 624,548.15	27218	$ 489,924.00	$ 587,908.80
Columbus	$ 478,832.60	17787	$ 320,166.00	$ 384,199.20
Totals	**$ 17,944,507.71**	**683023**	**$ 12,294,414.00**	**$ 14,753,296.80**

*Avg monthly bill of $60, tax rate of 5%

- 60% of households in each of the top ten cities account for 82% of the fees that are collected in each city.
- 93% of the fees go into General Fund
  - Only 10% of those fees are designated for Right of Way
- The current fees being received would only require 498,459 households to subscribe. This is 73% of the households in these 10 cities.

THE BOTTOM TEN

Town	Current Fees Received	Total Households	Fees from 50% of Households	Fees from 60% of Households
Stilesville	$ 260.64	124	$ 186.00	$ 223.20
Poneto	$ 236.72	69	$ 103.50	$ 124.20
Milltown	$ 201.80	340	$ 510.00	$ 612.00
Saltillo	$ 186.44	42	$ 63.00	$ 75.60
LaCrosse	$ 180.25	227	$ 340.50	$ 408.60
Woodlawn	$ 168.60	34	$ 51.00	$ 61.20
Dale	$ 140.68	603	$ 904.50	$ 1,085.40
River Forest	$ 144.51	9	$ 13.50	$ 16.20
Shipshewana	$ 65.52	297	$ 445.50	$ 534.60
Wheatfield	$ 29.06	322	$ 483.00	$ 579.60
Totals	**$ 1,614.22**	**2067**	**$ 3,100.50**	**$ 3,720.60**

*Avg. monthly bill of $60, tax rate of 5%

- The current fees being received would only require 734 households to subscribe. This is only 26% of the households in these 10 cities.
- All of the money from these towns is allocated to General Fund.

10

SECOND CLASS CITIES

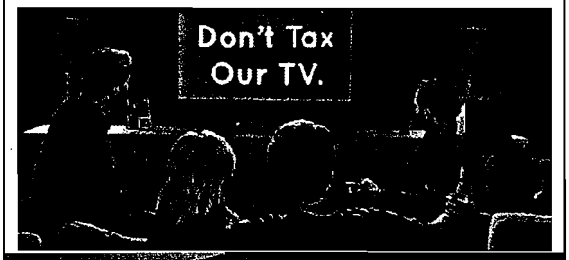
- Received 29.9% of Total Revenue
  - 85% of the revenue was allocated to the General Fund
  - Less than 16% was allocated to Right of Way funds
- Average County Rate is 4.3%
  - Fees from local carriers made up 52% of revenue
- Estimated tax burden:
  - Using an avg. cable bill of $60 and a tax rate of 5%
  - 60% of the households would pay 100% of the fees collected.

City	Fees Received	Fund
Fort Wayne	$ 2,718,056.78	Gen Fund
Evansville	$ 1,317,578.14	Gen Fund
South Bend	$ 884,207.04	Gen Fund: Public Safety & Right of Way
Gary	$ 853,674.28	Media Fund
Hammond City	$ 837,499.00	Gen Fund Right of Way
Anderson	$ 689,678.53	Gen Fund
Richmond	$ 430,479.06	Public Access TV & Gen Fund: Right of Way
Michigan City	$ 407,362.80	Gen Fund
Muncie	$ 399,448.43	Gen Fund: Public Safety
Lafayette	$ 362,086.79	Gen Fund: Public Safety
New Albany	$ 285,886.08	No Response
Mishawaka	$ 273,670.24	Gen Fund
Jeffersonville	$ 247,894.39	Gen Fund
East Chicago	$ 208,709.05	Gen Fund: Public Safety
Elkhart (City)	$ 201,634.00	Gen Fund
Greenwood	$ 192,407.42	Gen Fund
Marion City	$ 148,402.72	Gen Fund: Public Safety
Terre Haute	$ 116,595.72	Gen Fund
Total	$ 10,575,270.47	

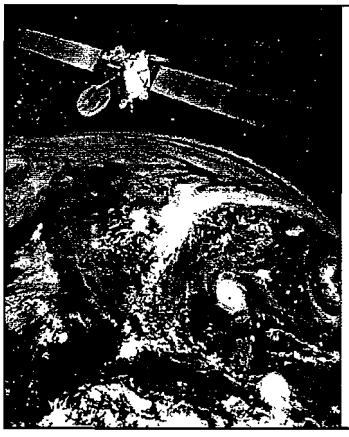
SUMMARY

- From the total revenue of $34,961,105.48, 66% is allocated to the General Fund without a specific use.
- The top 10 cities only use 10% of the fees collected for Right of Way uses.
- Fees from the 10 lowest collecting towns could be from only 26% of the households.
- In the Second Class Cities, only 14% of the fees collected will go to Right of Way. Other uses within the General Fund will receive 69% of the fees.

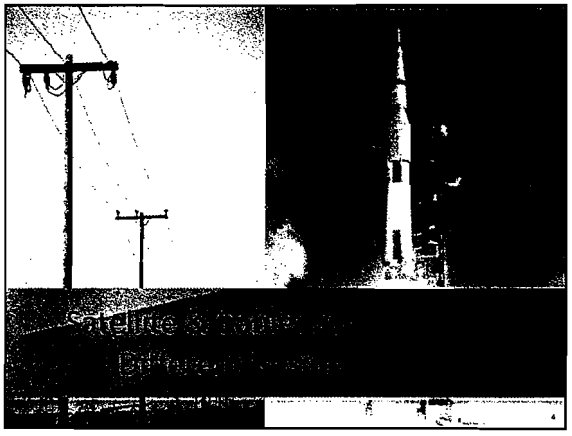
Exhibit 10
Regulatory Flexibility Committee
9/04/13

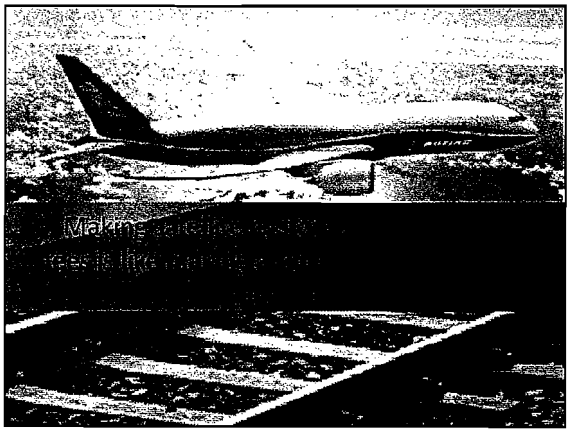


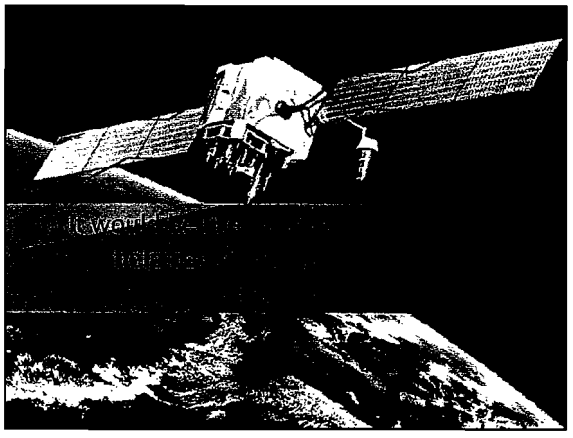
Cable companies pay rent to local government for the right to dig up public streets and sidewalks and string wires from utility poles.



Satellite TV uses innovative technology that does not require us to dig up streets and sidewalks to deliver service to our subscribers.







United States

Right of way fees are rent for private use of public land.

CITY OF ST. LOUIS V. WESTERN UNION TEL. CO., 148 U.S. 92, 99 (1893)

Federal Franchise

"Franchise fees are not a tax . . . but essentially a form of rent [i.e.,] the price paid to rent use of public right-of-ways . . . there can be no doubt that franchise fees imposed on the cable operator are part of a cable operator's expense of doing business."

City of Dallas v. FCC, 118 F.3d 393, 397-98 (5th Cir. 1997)

State Franchise Fee

The [right-of-way] fee is not a tax but instead is compensation, representing a specific charge assessed ... for commercial use of [city]-owned rights-of-way to generate private profit.

CITY OF GARY v. INDIANA BELL TEL. CO., 732 N.E.2d 149, 156 (Ind. 2000).

Franchise Fees

What is a franchise fee? In short, franchise fees are the "rent" or "reimbursement" utility and cable providers pay for the use of the public's right-of-way.

Are franchise fees a tax? No. Franchise fees are simply the cost utility and cable providers incur for being allowed to place their facilities in the public's right-of-way. Franchise fees are considered a cost of doing business.

GEORGIA MUNICIPAL ASSOCIATION, www.gmanet.com

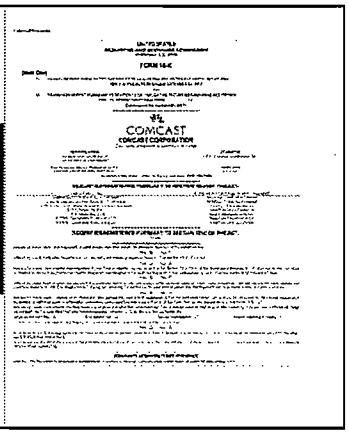
Cable Franchise Fees

Franchise fees, in turn, are commonly understood to be consideration for the contractual award of a government benefit. Many cases have treated franchise fees as a form of "rent." Cable franchises are enforceable as contracts, even though they are traditionally awarded by ordinance. . . . The contractual nature of cable franchise fees removed them far from "taxes." Taxes simply have no contractual element; they are a demand of sovereignty. The consent of the taxpayer is not necessary to their enforcement.

Brief submitted by Time Warner in the case of Time Warner Ent't – Advance Newhouse P'ship v. City of Lincoln, Case No. 8:04- CV-2049 (D. Neb. 2004).

Comcast.

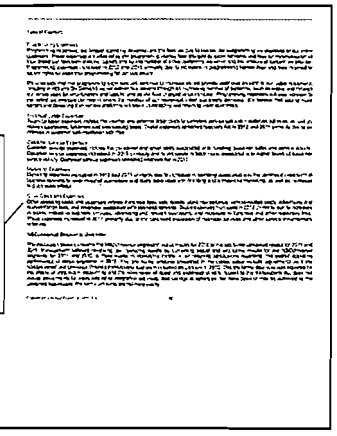
Comcast Franchise Fees


FORM 10-K

COMCAST
COMCAST CORPORATION

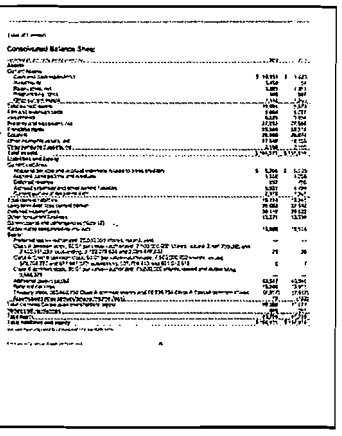
Comcast

"Other operating expenses include franchise fees, pole rentals, plant maintenance, vehicle-related costs, expenses related to our regional sports and news networks, advertising representation and commission fees, and expenses associated with our business services."



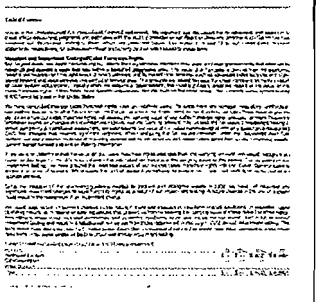
Comcast

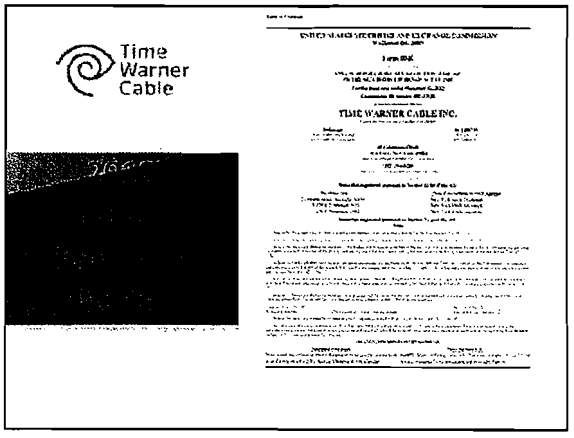
2012 Franchise Rights Valuation: $59,364 Billion

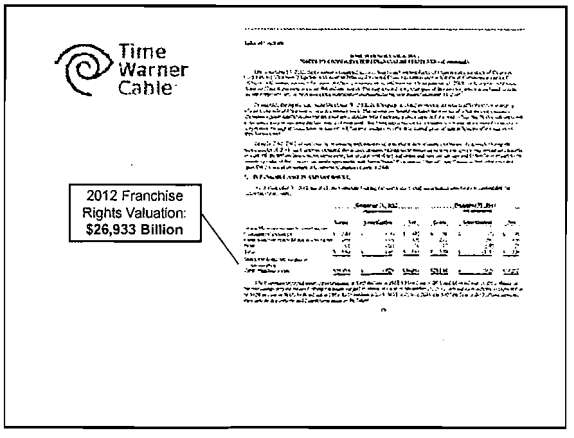


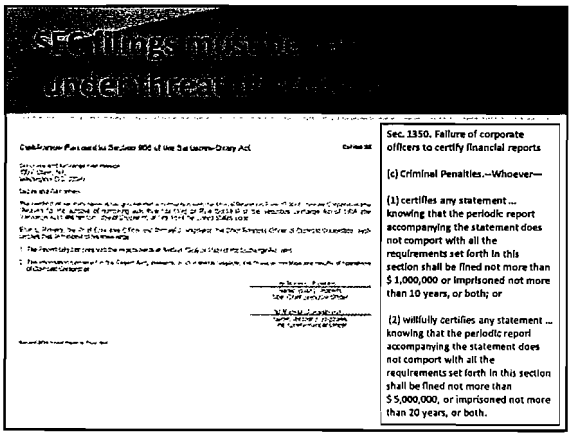
Comcast

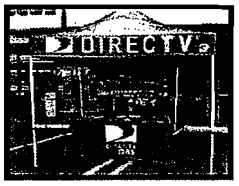
"Our largest asset, our cable franchise rights, results from agreements we have with state and local governments that allow us to construct and operate a cable business within a specified geographic area."




Time Warner Cable
TIME WARNER CABLE INC.

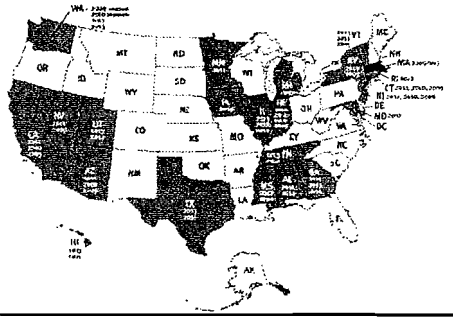

Time Warner Cable
2012 Franchise Rights Valuation: $26,933 Billion


Sec. 1350. Failure of corporate officers to certify financial reports
(c) Criminal Penalties.—Whoever—
(1) certifies any statement ... knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $ 1,000,000 or imprisoned not more than 10 years, or both; or
(2) willfully certifies any statement ... knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $ 5,000,000, or imprisoned not more than 20 years, or both.



Competition brings lower prices, higher quality and better service. But, when discriminatory taxes are imposed, competition suffers, service gets worse, quality goes down, and prices go up.

All pay TV services in Indiana incur a 7% sales tax– *We Are All Treated The Same.*



- Despite repeated efforts by cable's army of lobbyists, no state has enacted a discriminatory satellite Tax since 2009.
- The *only growing trend* is state legislatures' **repeated rejection** of cable-sponsored discriminatory satellite TV tax proposals.

Discovery Park | ENERGY CENTER State Utility Forecasting Group (SUFG) | PURDUE

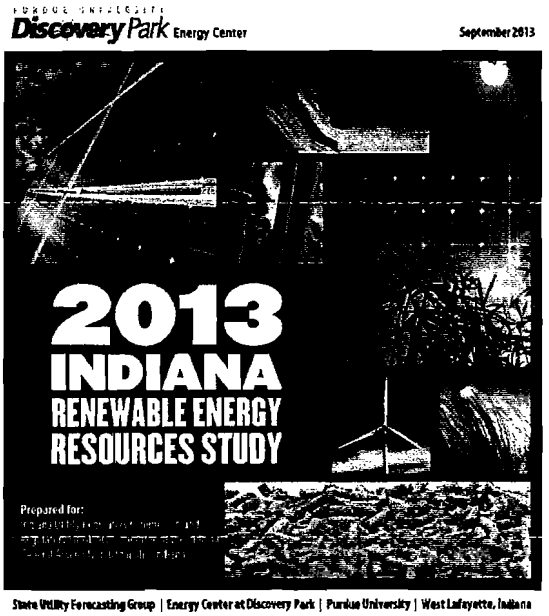
2013 Indiana Renewable Resources Study & Preliminary 2013 Forecast

Presented by:
Douglas J. Gotham, Director
State Utility Forecasting Group
Purdue University

Presented to:
Regulatory Flexibility Committee
Indiana General Assembly

September 4, 2013

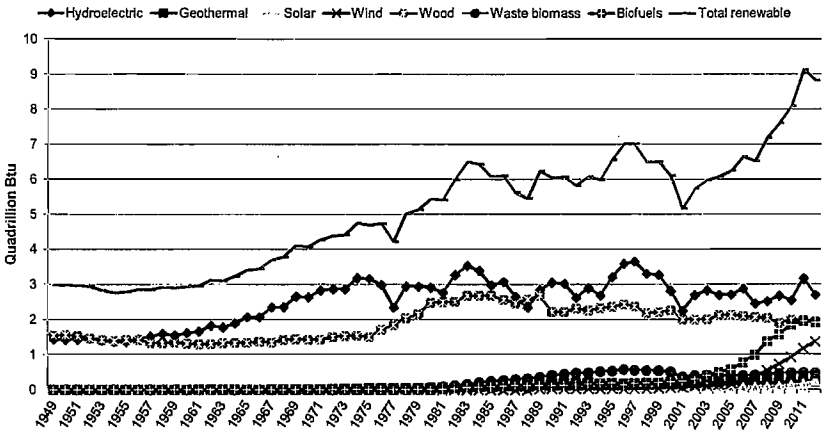
Discovery Park | ENERGY CENTER State Utility Forecasting Group (SUFG) | PURDUE



2

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Renewables Share of U.S. Energy Consumption

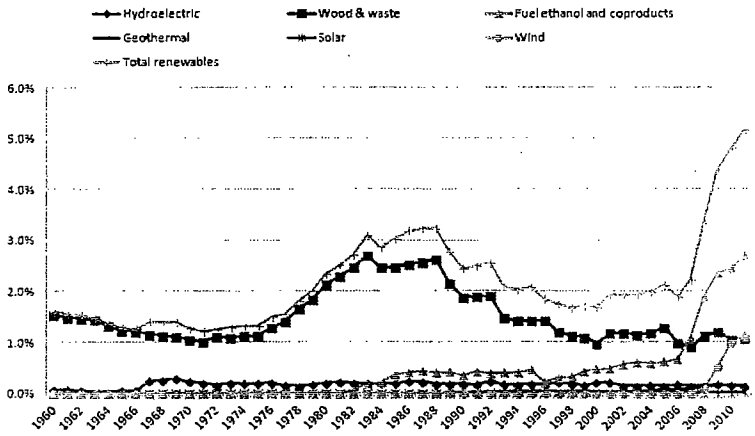


Data source: Energy Information Administration (EIA)

3

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Renewables Share of Indiana Energy Consumption

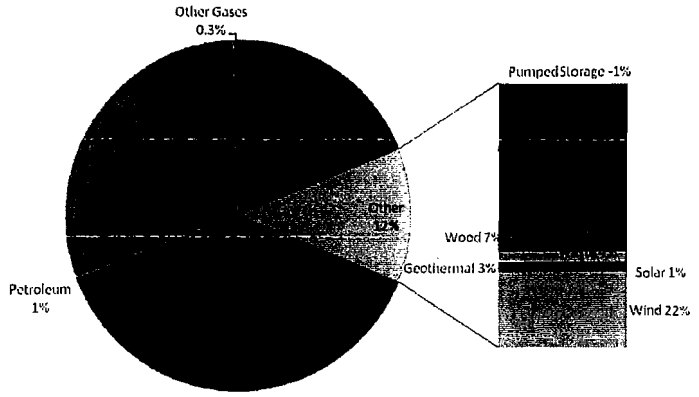


Data source: EIA

4

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

2012 U.S. Electricity Generation by Energy Source

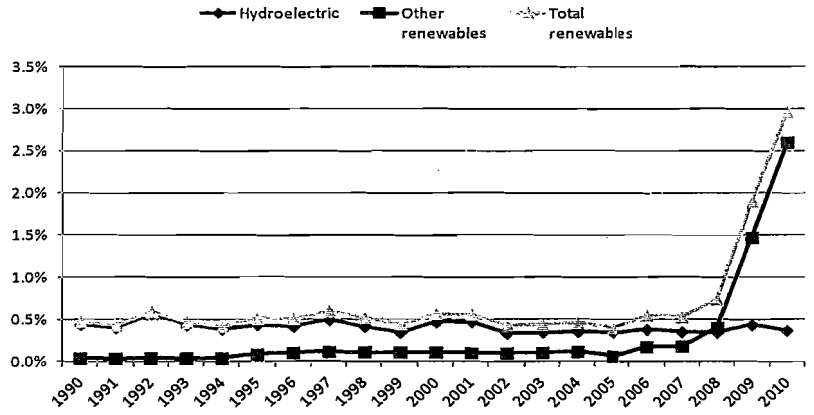


Data source: EIA

5

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Renewables Share of Indiana Electricity Generation



Data source: EIA

6

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

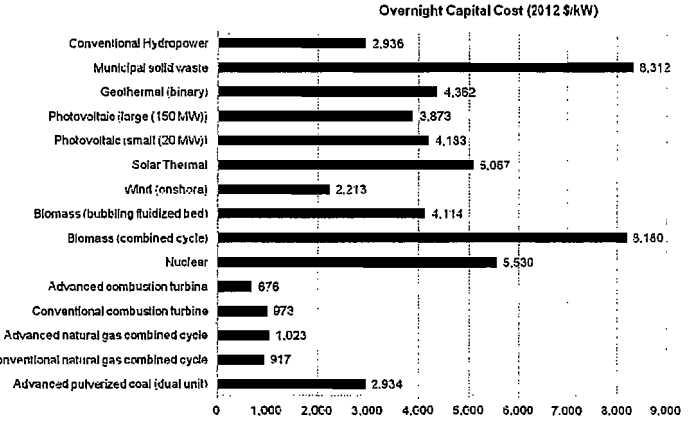
Barriers to Renewables

- Major barrier is cost
  - Most renewable technologies have high capital costs
  - According to EIA Indiana's average electric rate in 2011 was 8.01 cents/kWh vs. the national average of 9.90 cents/kWh
- Limited availability for some resources
  - Solar/photovoltaics, hydropower
- Intermittency for some resources
  - Solar/photovoltaics, wind

7

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Capital Costs for Various Generation Sources

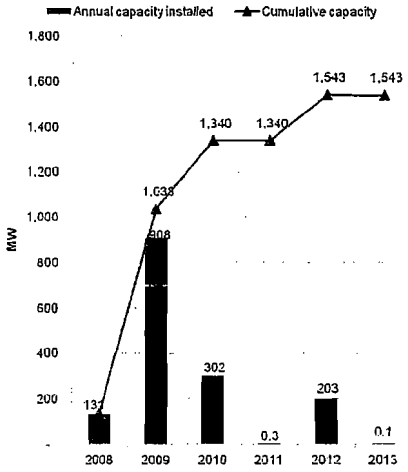


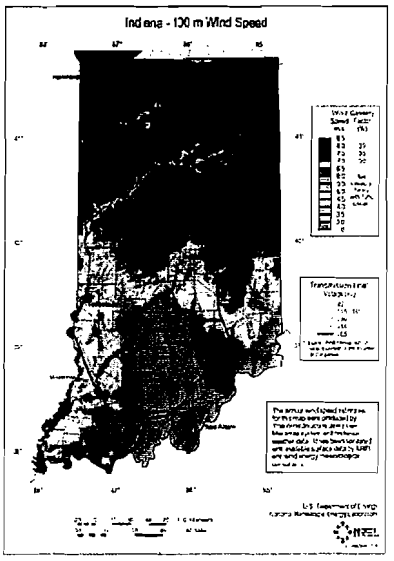
Data source: EIA

8

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Wind





9

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Energy Crops

- Transportation fuels
  - Ethanol
  - Biodiesel
- Other possibilities
  - Fast growing hardwood trees (hybrid poplar/willow)
  - Grasses (switchgrass)
- Barriers to be overcome
  - Other high-value uses for the land
  - Price of competing fossil fuels
  - Harvesting and transportation costs

10

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

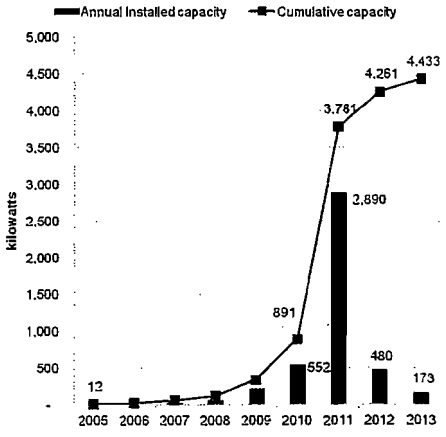
Organic Waste Biomass

- Until 2007, this resource was the largest source of renewable energy in Indiana, primarily due to the use of wood waste
  - Now 3rd behind ethanol and wind
- It is the 3rd largest source of renewable electricity generation in the state
  - Landfill gas
  - Municipal solid waste
  - Animal waste biogas
  - Wastewater treatment

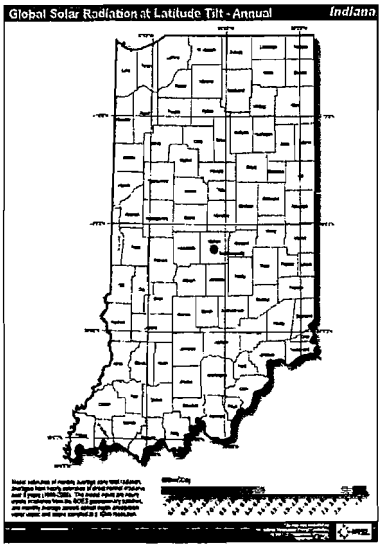
11

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Solar Energy



Photovoltaic capacity in Indiana



Data source: National Renewable Energy Laboratory

12

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Photovoltaics

- Growing rapidly in Indiana, but still a small contributor overall
- 313 installations totaling over 4.4 MW of capacity
  - Fort Harrison Federal Compound
  - Metal Pro Roofing
  - Johnson Melloh
- 10 MW project under construction at Indianapolis airport
- Feed-in tariffs have large PV capacity committed
  - IPL 100 MW
  - NIPSCO 12.3 MW

13

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Hydroelectric Power

- Indiana has 73 MW of hydroelectric generating capacity.
  - mostly run-of-the-river (no dam)
  - 2nd largest source of renewable electricity
- American Municipal Power is constructing an 84 MW facility at the Cannelton Locks on the Ohio River
  - expected to be operational in 2014

14

Discovery Park ENERGY CENTER Forecasting Group (SUFG) PURDUE

2013 Forecast

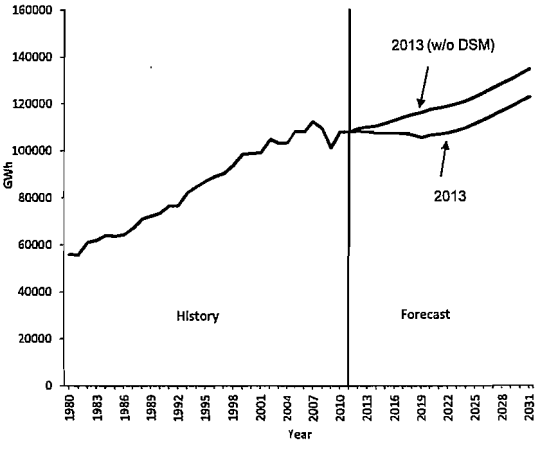
- The 2013 electricity projections are a work in progress
- The results presented here should be considered to be preliminary and are subject to revision

15

Discovery Park ENERGY CENTER Forecasting Group (SUFG) PURDUE

Indiana Electricity Requirements

- Retail sales by investor owned and not-for-profit utilities
- Includes estimated transmission and distribution losses
- Without DSM indicates the growth in electricity requirements without utility demand-side management programs
- Growth rates
  - 2013 forecast: 0.64%
  - Without DSM: 1.11%
  - 2011 forecast: 1.30%

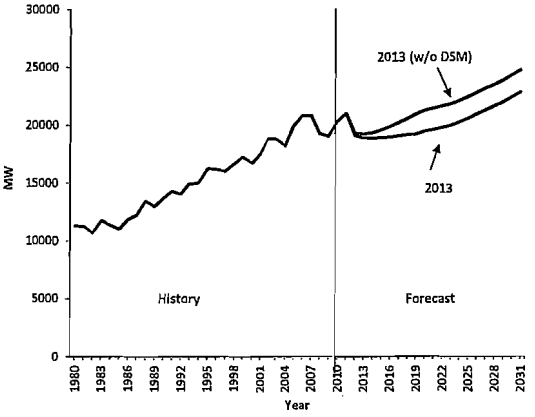


16

Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Indiana Peak Demand Requirements

- Peak demand is net of demand response
  - interruptible loads
  - direct load control
- Growth rates
  - 2013 forecast: 0.96%
  - Without DSM: 1.33%
  - 2011 forecast: 1.28%



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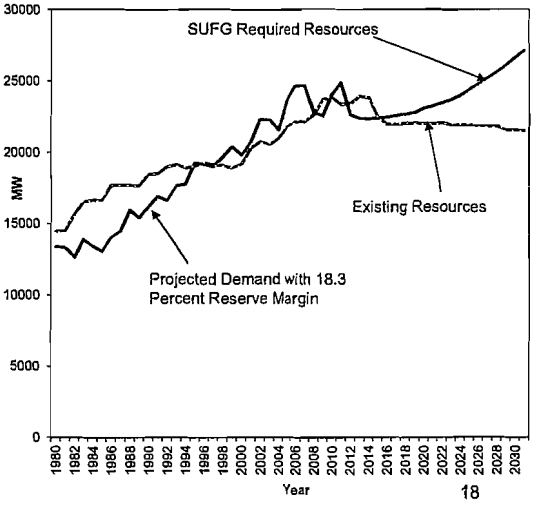
Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Indiana Resource Requirements

- Resources may be provided by additional conservation measures, contractual purchases, purchases of existing assets, or new construction
- Existing resources are adjusted into the future for retirements and contract expirations
- Future requirements
  - 2017: 260 MW
  - 2020: 850 MW
  - 2025: 1,690 MW
  - 2030: 3,820 MW



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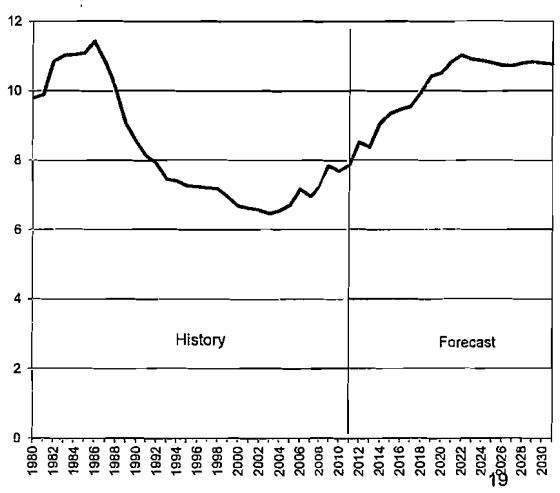
Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Indiana Real Price Projections (2011$)

- Average retail rates for all customers of investor-owned utilities
- Effect of inflation removed
- Includes the cost of new resources
- Includes the cost of meeting EPA regulations that have been finalized
  - Mercury and Air Toxics Standard



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Discovery Park ENERGY CENTER State Utility Forecasting Group (SUFG) PURDUE

Further Information

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