

OUCC

Indiana Office of Utility Consumer Counselor

2012 Annual Report



**Representing Indiana's
utility consumers through:**

- **Dedicated advocacy**
- **Consumer education**
- **Creative problem solving**



Welcome!

April 2013

Dear Indiana Consumers,

The Indiana Office of Utility Consumer Counselor (OUCC) experienced an unprecedented year of successful advocacy on behalf of Hoosier ratepayers in 2012. With that in mind, it is my privilege to offer you the agency's 2012 Annual Report.

Fulfilling our mission through dedicated advocacy, consumer education, and creative problem solving is demonstrated in this report, as it outlines the OUCC's 2012 accomplishments along with the challenges that lay ahead. This report also shows how the OUCC continues to achieve its mission with integrity, professionalism, and the efficient use of time and resources.

On behalf of all of our attorneys, technical experts, external affairs and business office staff, it is a privilege and honor for the OUCC to represent utility consumers every day in the regulatory process. The OUCC is committed to even greater achievements, efficiency and effectiveness as 2013 moves forward.

Sincerely,



A. David Stippler
Utility Consumer Counselor



Summary

When a utility seeks a rate increase, we're there to hold it accountable.

We review the books, audit the numbers and inspect the facilities. Our team asks the tough questions that need to be asked, through discovery and in the hearing room.

Whether a case involves hundreds, thousands, or tens of thousands of pages of testimony, exhibits, and legal arguments, our staff goes through the material carefully and diligently. This is true for a rate case, a service territory request, an investigation of a troubled utility, broader policy discussions at the state and federal levels, and much more.

Each year, the Indiana Office of Utility Consumer Counselor (OUCC) represents ratepayer interests in more than 300 cases before the Indiana Utility Regulatory Commission (IURC). As an independent, separate state agency, the OUCC is the only organization representing residential, commercial and industrial interests in all these cases. We also participate in Indiana Court of Appeals and Indiana Supreme Court cases involving IURC appeals, and intervene in cases before the Federal Energy Regulatory Commission (FERC) when Indiana consumer interests may be affected.

The OUCC's work in 2012 was instrumental in achieving approximately \$1.04 billion in savings for Indiana utility consumers. Of particular significance was the Duke Energy Edwardsport settlement agreement which saved consumers more than \$900 million in construction and financing cost overruns. It would be difficult, if not impossible, to underestimate the importance of this case, one whose magnitude we may not experience again. Also, the OUCC's collaboration with industrial customers who intervened in the case offers one of the many examples of how the OUCC frequently works with other groups to reach results.

In the past year, the OUCC also:

- Participated in 30 utility base rate cases and 184 tracker proceedings, auditing books and records implicating billions of dollars in requested utility revenues,
- Represented consumer interests in increasingly complex cases involving regional electric transmission and environmental compliance issues,
- Witnessed an unprecedented level of activity before the state's appellate courts, and
- Did much more on behalf of consumers, as this report explains...



OUCC attorneys Daniel LeVay and Scott Franson prepare for one of many hearings.

Our Mission

The OUCC is committed to representing consumers to ensure quality, reliable utility services at the most reasonable prices possible through:

- Dedicated advocacy,
- Consumer education, and
- Creative problem solving.

The OUCC is the only organization representing all consumer interests in cases before the IURC.



Resource Planning Director Barbara Smith and other OUCC staff meet regularly with consumers at outreach events and public field hearings.

Our Experience

Our 54-member team includes:

- A legal staff with over 180 years of combined, specialized experience in utility law.
- A technical staff with extensive professional and utility industry experience in many disciplines, including accounting, economics, engineering and environmental policy.
- An external affairs staff committed to providing consumer education and a useful interface with utility customers, industry representatives, and the media.
- A business office and administrative staff committed to ensuring efficient and effective staff training and internal operations.



Members of the OUCC's water/wastewater team met former Governor Daniels in 2012.

Many OUCC staff members have advanced degrees and professional certifications (PhD, JD, MPA, CPA, PE, etc.); most attend annual seminars and make other continuing educational efforts to stay current on rapid developments in the utility industries.

Commitment to Efficiency

The OUCC continues to advance its mission in an efficient and fiscally responsible manner, with extensive strategic planning that ensures the best use of time and resources.

Each year, the agency identifies opportunities to reduce operating expenses while allocating resources to meet operational needs. Cost-saving efforts in 2012 included:

- Further reductions in information technology fees through renegotiating professional service contracts,
- Reducing phone, wireless and access charges, along with information technology database fees,
- Cost reductions of office services and equipment by evaluating and maximizing use, and repurposing office equipment from State Surplus, and
- Allocating savings achieved to support a critical upgrade to the agency's case management system.



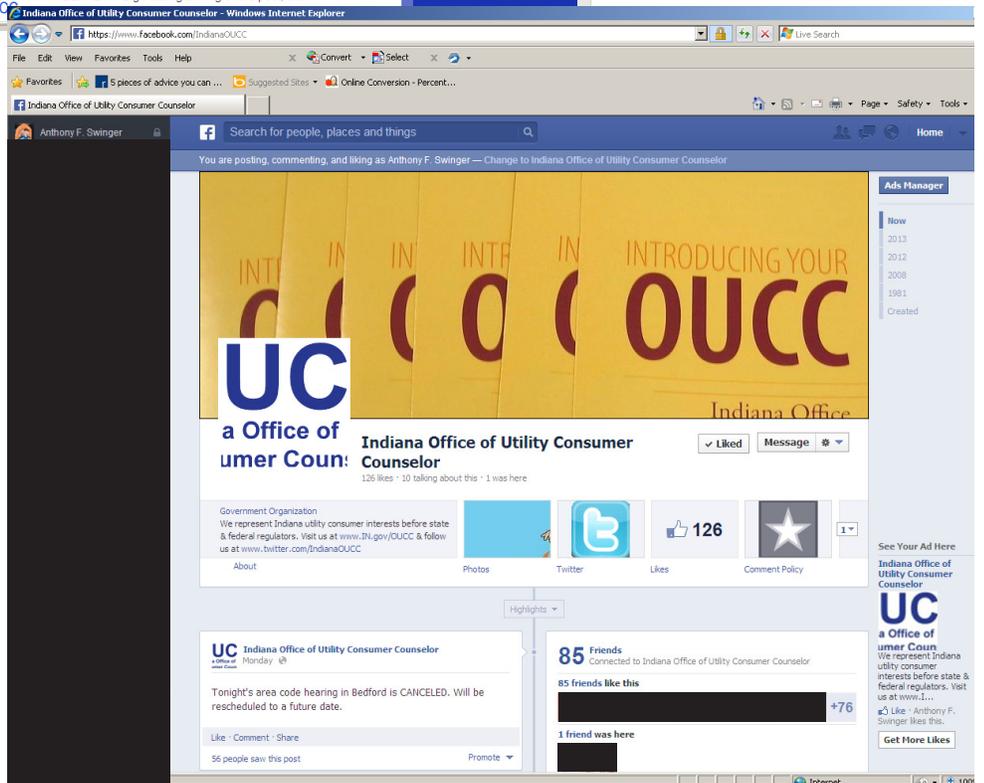
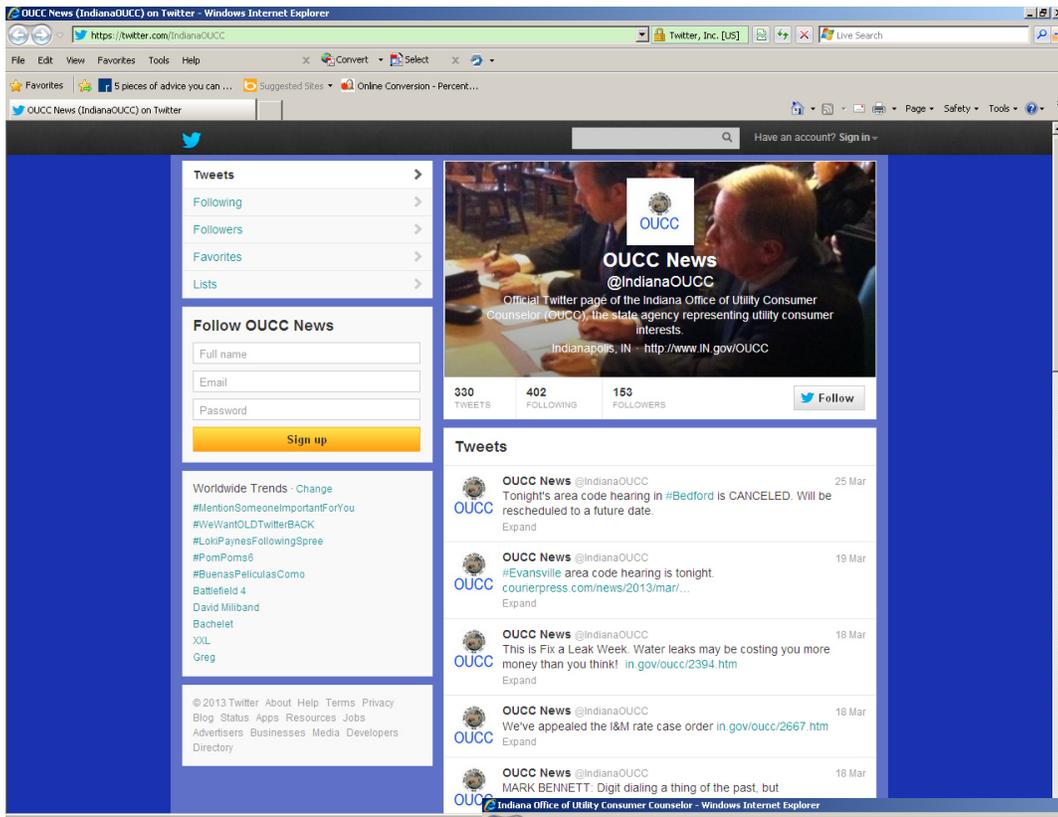
The OUCC is committed to achieving its short- and long-term goals on behalf of Indiana ratepayers. The agency exceeded or met all of its 2012 performance targets, measuring its success through Key Performance Indicators and Program Measures reported to the Indiana Office of Management and Budget (OMB).

The OUCC drove continuous improvement in its ongoing progress on 3 agency-wide goals, established in 2011, with participation from staff in all divisions. Staff continues to hone the tools developed from these efforts – focused on case strategy, timely assignments, and testimony quality – including ways to identify critical issues in the early stages of cases, reviewing internal work product more efficiently, and the development of an internal writing guide.

OUCC staff also developed 9 specific goals at the division level for 2012, linked directly to the agency's mission. Every goal was designed to improve the knowledge of each member of the OUCC team and to help the agency move closer toward its long-term objectives. The agency's 2012 goals included:

- Enhancement of the agency's tools and procedures for monitoring various trackers, or rate adjustment mechanisms for utilities, allowing staff to monitor these filings closely and to quickly identify issues that require more detailed attention and may not be appropriate for a tracker proceeding.

- The development of training materials to help strengthen OUCC witnesses' testimonial skills under cross-examination, and tools to help the agency's attorneys more effectively prepare witnesses for evidentiary hearings.
- A comprehensive overhaul of the agency's manual for administrative assistants.
- Greater use of web-based communications and social media, and a targeted increase of more than 30 percent in traffic to the agency's website.



Challenges: 2012 & Beyond

As the energy, water/wastewater and telecommunications industries continue to evolve, so do a number of major challenges facing consumers and the OUC. Some of the ways the OUC addressed these challenges in 2012 included:

Negotiating an agreement with Duke Energy and industrial customers that will shield the utility's customers from more than \$900 million in construction and financing cost overruns at the new Edwardsport generating facility. The 618-megawatt plant, Indiana's first new baseload generating facility in more than two decades, will use integrated gasification combined cycle (IGCC) technology to convert coal into a synthetic gas. Remaining nitrogen oxide, sulfur dioxide and mercury emissions will be removed from the gas before it is burned to generate electricity.

- The agreement, approved in December 2012, resolved more than 5 years of litigation over the plant's escalating costs.
- Above the costs that received IURC approval in 2009, the agreement allows Duke Energy to recover \$94 million in construction cost overruns in rates (approximately 10 percent), compared to \$835 million in construction cost overruns to be borne by shareholders (approximately 90 percent).
- Customers will benefit from additional rate credits, deferred tax incentives, and shareholder contributions to low-income energy assistance, the Indiana Utility Ratepayer Trust, and the development of a new clean energy initiative with independent oversight.
- The Edwardsport plant's assets will be valued at their capped costs for the life of the project, instead of rising in future cases. This is estimated to save ratepayers approximately \$2 billion over the next 30 years.



Consumers testified in three public field hearings in the I&M rate case, including this hearing in South Bend.

Dedicating significant staffing resources to a trio of separately filed requests from Indiana Michigan Power (I&M), each with the potential to have significant impacts on customers.

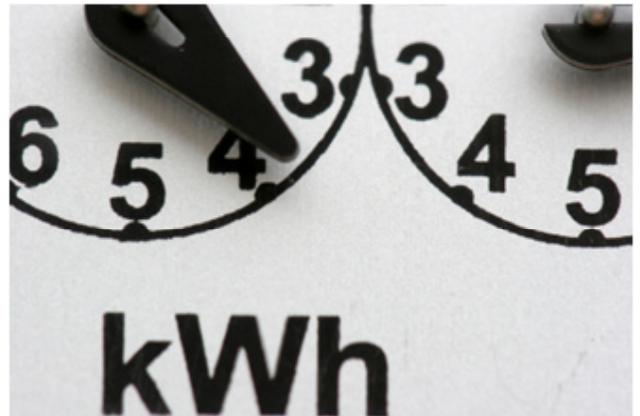
- In its request for an increase in base rates, I&M attempted to boost annual Indiana revenues by \$170 million. The OUC recommended limiting the increase to approximately \$30 million. Written closing arguments were filed with the IURC in mid-2012, with the Commission authorizing a revenue increase of \$92 million in 2013.

Numerous OUCC recommendations included reductions to the utility's authorized return on equity (ROE), downward adjustments to numerous line items including operating and maintenance costs and depreciation rates, and denial of special accounting treatment for storm recovery costs and other requests.

- In a separate case, I&M proposed a \$1.4 billion environmental compliance plan for construction projects at its Rockport generating station. While the proposal came in response to a federal consent decree, the OUCC researched the plan and recommended denial after identifying and recommending less expensive alternatives. I&M ultimately withdrew this request but is expected to file another construction plan, with requested rate recovery, in 2013 to meet consent decree requirements.
- In I&M's \$1.169 billion Cook nuclear plant life cycle management (LCM) case, the OUCC has made recommendations that will save I&M customers more than \$700 million if approved. OUCC staff conducted extensive research and visited the Cook facility in 2012 as it developed its recommendations. About 65 percent of the power generated at the Cook facility in southwestern Michigan is dedicated for use by Indiana customers. The LCM package includes more than 100 projects aimed at extending the Cook facility's lifespan by another 20 years.

Continuing to address increasing requests for rate adjustment mechanisms, also known as cost "trackers." These adjustments allow utilities to seek rate

recovery for specific expenses outside base rate proceedings. Tracker requests have a relatively narrow scope within expedited timeframes.



- In the past year, the OUCC audited hundreds of millions of dollars of utility expenses through 85 electric utility tracker cases.
- These cases include 28 Fuel Adjustment Clause (FAC) reviews that have reflected increased coal costs.
- Other trackers allow utilities to recover costs for:
 - construction projects needed to comply with federal environmental mandates,
 - participation in regional transmission organizations,
 - energy efficiency programs,
 - replacement of aging water infrastructure, and
 - other costs defined in statute.
- Trackers tend to discourage utilities from filing base rate cases, which allow for more in-depth reviews of utility finances. In a base rate case, OUCC staff can identify increased revenues and decreased expenses that may offset the recovery of costs that are sought in tracker proceedings.
- While the number of approved tracking mechanisms has risen sharply in Indiana over the last decade, so have the complexities of the issues they address.

Addressing the need for utilities to comply with the U.S. Environmental Protection Agency's (EPA's) timeline for new environmental compliance rules, along with the likely effects on Indiana electric rates.

- The OUCC fully participated in cases filed by Duke Energy and Indianapolis Power & Light (IPL), aimed at complying with the EPA's Mercury and Air Toxics Standard (MATS) rule.
- Duke Energy requested authority for new construction projects at its Cayuga, Gallagher and Gibson stations. The OUCC's advocacy in this case will result in more than \$50 million in ratepayer savings, while the Commission's very recent order sends a clear message that utilities need to come into these cases with a disciplined approach, the most accurate cost estimates possible, and supporting evidence.
- IPL filed its \$511 million request regarding projects at the Petersburg and Harding Street generating stations later in the year. The OUCC and industrial customers reached a settlement agreement in early 2013 that will allow the projects to go forward with specific consumer benefits.
- Prior to the MATS-related filings, the OUCC successfully negotiated an agreement with NIPSCO regarding construction projects at its generating facilities. This agreement will allow NIPSCO to mitigate particulate matter and other emissions in ways that will likely save ratepayers hundreds of millions of dollars in the coming years.

Experiencing a significant increase in appellate court activity, including:

- Successfully challenging and defeating Duke Energy's efforts to win special accounting treatment for nearly \$12 million in costs relating to a 2009 ice storm. The OUCC filed briefs and presented oral arguments before the Indiana Court of Appeals in this case.
- Presenting arguments to the Indiana Court of Appeals regarding the proposed substitute natural gas facility at Rockport and the accompanying 30-year purchase agreement between the Indiana Finance Authority (IFA) and Indiana Gasification LLC. OUCC attorneys argued that this purchase agreement, approved by the IURC in 2011, fulfilled the requirements of statutes passed in 2009 and 2010.
- Prevailing in a case regarding cost allocation among residential, commercial and industrial customers.



Utility Consumer Counselor David Stippler presented oral arguments before the Indiana Court of Appeals in the Duke Energy storm order case. Here, he and David Steiner of the Indiana Attorney General's office prepare.

The issue was briefed in an appeal by a group of industrial customers of NIPSCO's approved tracker to recover environmental costs.

Preparing for the new rate cases filed by Citizens Energy Group in early 2013 for the Indianapolis water and wastewater utility assets it acquired in 2011. The wastewater utility, in particular, will present a number of novel issues.

- It will be the first IURC rate case for the Indianapolis sewer utility. Before being purchased by Citizens, sewer rates were approved by the City-County Council. Indiana law exempts municipal sewer utilities from IURC jurisdiction, leaving all ratemaking authority at the local level.
- Citizens' wastewater utility provides service to nearly 230,000 customers. By comparison, the next-largest sewer utility under IURC jurisdiction is the Sanitary District of Hammond, with about 33,000 customers.
- The Indianapolis sewer system faces numerous environmental challenges, as do older wastewater treatment and stormwater removal systems throughout the nation. Solutions to these challenges and construction projects that are necessary to bring the systems in compliance with federal and state environmental rules will be very expensive.
- The city's Long Term Control Plan (LTCP) to reduce sewage overflows is estimated to cost at least \$1.8 billion. Citizens is now responsible for executing the plan, which will eliminate the vast majority of the city's overflows.



Our Accomplishments

Among its accomplishments in 2012, the OUCC:

- Negotiated the agreement protecting Duke Energy customers from more than \$900 million in construction and financing cost overruns at the utility's new Edwardsport power plant, as described in more detail in the "Our Challenges" section.
- Successfully challenged Duke Energy's efforts to recover an additional \$121 million from ratepayers to pay for carbon capture and sequestration (CCS) studies at the Edwardsport site (43653). An IURC order in early 2013 denied the utility's request.
- Challenged and defeated Duke Energy's efforts to win special accounting treatment for nearly \$12 million in costs relating to a 2009 ice storm. The OUCC filed briefs and presented oral arguments on behalf of Duke Energy ratepayers before the Indiana Court of Appeals in this case.
- Defeated Vectren's attempt to recover ratepayer dollars for its dense pack technology upgrades at its A.B. Brown Generating Station. The utility sought a new \$1.08 monthly charge on residential electric bills to pay for the upgrades, but the OUCC successfully made the case that Vectren has the revenue it needs for the project.
- Examined and testified in quarterly Fuel Adjustment Clause (FAC) filings from 7 electric utilities that may recover coal and other generating fuel costs from consumers on a dollar-for-dollar basis, ensuring that Indiana consumers receive electricity at the lowest fuel cost reasonably possible.
- Continued to make recommendations to the IURC regarding the tree trimming and vegetation management practices of investor-owned electric utilities. The IURC finalized a new administrative rule in 2012, concluding more than 3 years of proceedings regarding a wide range of issues, including customer education and dispute resolution.
- Helped coordinate the launch of Energizing Indiana, the state's largest energy efficiency initiative to date, and actively promoted the effort throughout the year. Energizing Indiana coordinates the five "core programs" that investor-owned electric utilities must provide for residential, commercial and industrial customers under a 2009 IURC order. Municipal utilities throughout the state take part in the initiative's programs as well. In the first year, Energizing Indiana's programs helped consumers save more than 420 million kWh of electricity. More than 47,000 homeowners throughout the state have received home energy assessments, while businesses received over \$5.1 million in incentives for energy efficiency upgrades. Hoosiers also bought more than 2.6 million energy-efficient light bulbs thanks to the program.



- Participated in federal-level cases regarding regional transmission operators (RTOs) to promote the safety and reliability of their multi-state power grid operations, while ensuring that customer rate recovery for the operations and management of RTOs is reasonable and appropriate. Four of Indiana's five large investor-owned electric utilities participate in the Carmel, Indiana-based Midwest ISO, while a fifth belongs to the Pennsylvania-based PJM Interconnection.



- Worked with other consumer organizations, utilities and other stakeholders at the state and federal levels regarding transmission siting and operation. The development of new transmission

lines will be a major issue in the coming years to help ensure the power grid's reliability and efficiency. These efforts include addressing orders from the Federal Energy Regulatory Commission (FERC) and their ramifications as states plan for the future.

- Actively participated in IURC rulemakings and workshops regarding integrated resource planning. Electric utilities submit these plans every two years, which demonstrate their long-term objectives for ensuring they will have the necessary resources to meet consumers' power needs over the next 20 years.
- Helped with the creation of NIPSCO's green power billing option, which allows customers to supplement their electricity usage with renewable energy credits. These credits allow customers to designate that the utility purchase the equivalent of portions of their usage (reflecting 25, 50 or 100 percent) from wind, solar, hydroelectric and other renewable sources. The billing option is similar to those offered by IPL and Duke Energy.
- Developed consumer outreach materials regarding upcoming changes to the 812 telephone area code. A series of IURC public field hearings is being held in 2013 with a decision to come later in the year. The 812 area code, which has remained largely unchanged since 1947, is running low on available numbers and is the last of Indiana's 3 original area codes that will need long-term relief through the addition of a new code. The OUCC is working to educate consumers on the overlay and geographic split options for adding a new area code and will make recommendations in the case in May.
- Played an active role in regard to wireless phone company requests to offer Lifeline telephone assistance for income-eligible customers. The Federal Communications Commission (FCC) made substantial changes to the federally funded program in 2012. In addition to landline service providers, 10 wireless phone companies are now taking part in the Lifeline program in Indiana.



- Represented consumer interests in 5 base rate cases involving natural gas utilities. 3 of these cases were settled with benefits for ratepayers, while 2 others were fully litigated. OUC staff filed written testimony, conducted field audits of all 5 utilities, and sought additional information through hundreds of data request questions to the utilities seeking additional revenues.
- Audited and testified in 80 quarterly Gas Cost Adjustment (GCA) filings while also conducting annual audits of Indiana's 20 regulated natural gas utilities. GCA filings allow utilities to recover wholesale gas costs from consumers on a dollar-for-dollar basis, as long as the utilities use prudent purchasing practices and procure the gas at the lowest reasonably possible costs.
- Saw IURC approval of an agreement among the OUC and other parties that will allow NIPSCO to continue offering its Choice program and other alternative supply programs for its natural gas customers, while ensuring fair treatment of all customers. In this case and other renewals of NIPSCO's alternative supply programs over the years, the OUC has worked to make sure customers who do not participate in these alternative programs do not subsidize customers that do.
- Defeated Indiana American Water Company's (IAWC's) request for a base rate increase. IAWC sought an increase of more than 10% in its overall annual operating revenues, while the OUC recommended a 4% decrease. In the IURC's June 6, 2012 order, IAWC was granted an increase of only 1%, saving consumers nearly \$37 million annually from the utility's original request. IAWC is the largest investor-owned water utility in Indiana.
- Mitigated IAWC's efforts to raise rates through its Distribution System Improvement Charge (DSIC), a rate "tracker" aimed at allowing limited but expedited increases for investor-owned water utilities to replace aging infrastructure. In a move saving customers \$18 million per year, the OUC successfully challenged IAWC's attempt to apply DSIC rate recovery to new, automated meters that did not necessarily replace aging infrastructure.



- Testified on rate increase requests by the state's second and third largest municipal water utilities. The OUC's recommendations in the Fort Wayne and Evansville water rate cases led to small reductions in upcoming rate increases, while providing the cities with the revenues needed to provide safe, reliable service to all customers.

- Represented consumer interests in a total of 16 water and sewer utility rate, tracker and acquisition cases. The OUC's work resulted in ratepayer savings

in 8 of these cases, while the others are still pending before the Commission at the time of this report.



- Addressed national and regional utility regulatory issues of importance to Indiana consumers as a member of the National Association of State Utility Consumer Advocates (NASUCA). Utility Consumer Counselor David Stippler serves on NASUCA's Executive Committee, with Deputy Consumer Counselor Robert Mork chairing the NASUCA Electric Committee.
- Took part in various state and regional utility industry meetings and symposiums on issues of concern to Indiana consumers.

- Participated in 13 IURC public field hearings throughout the state while receiving and processing written consumer comments in cases before the IURC.
- Issued more than 40 news releases, media advisories and letters to the editor to inform consumers of pending cases affecting their interests and to invite consumer comments for submission to the IURC.
- Expanded its social media communications by launching a new Facebook (facebook.com/IndianaOUCC) page. The agency also continued to distribute information via its Twitter feed (twitter.com/IndianaOUCC).
- Offered 40 consumer publications on its Website and at public outreach events for the benefit of Indiana consumers, including guides to understanding utility rates and tips for reducing utility bills. The majority of the OUCC's publications are also available in Spanish.
- Added more than 20 new status pages on specific cases to the agency's Website.
- Created new consumer education materials, including information to help customers of municipal utilities and rural electric membership cooperatives (REMCs) better understand their rights and responsibilities as customers of locally regulated utilities.
- Created a new partnership with Community Action of Greater Indianapolis (CAGI) to expand consumer outreach during the winter heating season. OUCC staff were available 3 days each week at CAGI's offices during the winter heating season, to provide consumers with information about their utility services and reducing their costs.



Consumer Services Specialist Gina Johnson offers advice at Community Action of Greater Indianapolis.

Our Team

EXECUTIVE

A. David Stippler - Utility Consumer Counselor
Abby R. Gray - Executive Director, Legal Operations
Tammie J. Keen - Executive Office Director

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Daniel LeVay
Tiffany Murray
Jeffrey Reed

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The screenshot shows the website's layout in a Windows Internet Explorer browser window. The address bar displays 'http://www.in.gov/oucc/'. The page features a navigation menu on the left with categories like 'OUCC Home', 'Utility Services', and 'Comment on a Case'. The main content area includes a banner for CFL bulbs, an 'About the OUCC' section, and a 'Featured Topics' section with links to public field hearings. A 'Top FAQs' sidebar is on the right, and an 'ENERGIZING INDIANA' logo is at the bottom right. The browser's taskbar at the bottom shows 'Local intranet' and '100%' zoom.