

# **OUCC**

# ANNUAL REPORT

# **2015-2016**

Indiana Office of Utility Consumer Counselor



**ADVOCATING. SOLVING. EDUCATING.**

# WELCOME

Fellow Hoosiers:

It is my honor to present to you the Indiana Office of Utility Consumer Counselor's (OUCC's) annual report for the 2015-2016 fiscal year.

The OUCC's dedicated attorneys, technical experts, and support personnel work hard every day to ensure the consumer's voice is heard in the utility ratemaking process. It is a privilege for me to lead such a dedicated group of professionals. This report outlines some of the key results we've achieved for consumers in the past fiscal year. The report also details many of the challenges we've faced, including a heavy caseload, issues that are growing ever more complex, and much shorter timeframes in which to conduct our due diligence on behalf of Hoosier ratepayers.

Through dedicated advocacy, creative problem solving, and consumer education, the OUCC continues to fulfill its statutory charge of protecting the interests of utility ratepayers as a committed and dependable advocate on their behalf.

I trust you will find this report helpful and informative, and invite you to visit us online at any time for new and updated information.

Sincerely,



**A. DAVID STIPLER**  
Indiana Utility Consumer Counselor

# MISSION STATEMENT

To represent all Indiana consumers to ensure quality, reliable utility services at the most reasonable prices possible through dedicated advocacy, consumer education, and creative problem solving.

## ADVOCATING. SOLVING. EDUCATING.

As the statutory representative of all Indiana utility consumer interests, the Indiana Office of Utility Consumer Counselor (OUCC) is committed to advocating, solving, and educating in fulfilling its mission every day.

As the only entity representing residential, commercial, and industrial consumer interests in cases before the Indiana Utility Regulatory Commission (IURC), the OUCC balances its efforts in more than 300 cases at any given time.

As a high-performing agency with more than 1,000 years of combined legal and technical experience, the OUCC continues to achieve strong results on behalf of Indiana utility consumers. Total savings the OUCC helped achieve for ratepayers during the State of Indiana's most recent fiscal year (July 2015 through June 2016) reached more than \$606 million.

For every dollar the OUCC spent during this time, \$108 were returned to consumers through reductions in utility-requested rate increases. In the past fiscal year, our attorneys, accountants, engineers, and economists participated in more than 370 docketed IURC cases - including 25 base rate cases and 157 cost tracker cases - implicating billions of dollars in requested utility revenues. We also participated in 86 additional cases, including non-docketed IURC cases and proceedings before Indiana's appellate courts and the Federal Energy Regulatory Commission (FERC).

This report describes the challenges we have faced and the accomplishments we have achieved on behalf of consumers. It also details our continuing efforts to provide Hoosier ratepayers with timely, accurate information to ensure they are kept informed of important developments in the utility regulatory process.

# OUR COMMITMENT TO RATEPAYERS

As ratepayers ourselves, the OUCC team is committed to making sure Indiana utility consumers have the strongest representation possible before the IURC, federal agencies, and Indiana's appellate courts.

Our attorneys bring a combined 280 years of legal experience to the office and the hearing room with more than 2/3 of these years in the specialized and highly technical practice of utility law.

Our accountants, economists, engineers, and additional technical analysts offer professional experience totaling hundreds of years, and they put that experience to work for consumers each day.

In addition, we work and communicate regularly with our colleagues throughout the United States. Indiana Utility Consumer Counselor David Stippler serves as secretary of the National Association of State Utility Consumer Advocates (NASUCA), which includes 53

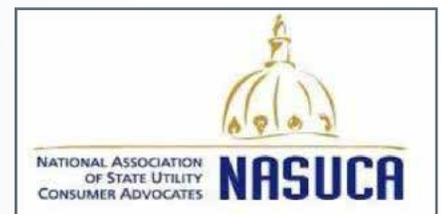


*OUCC Analyst Chuck Patrick welcomes consumers at an IURC public field hearing in West Lafayette.*

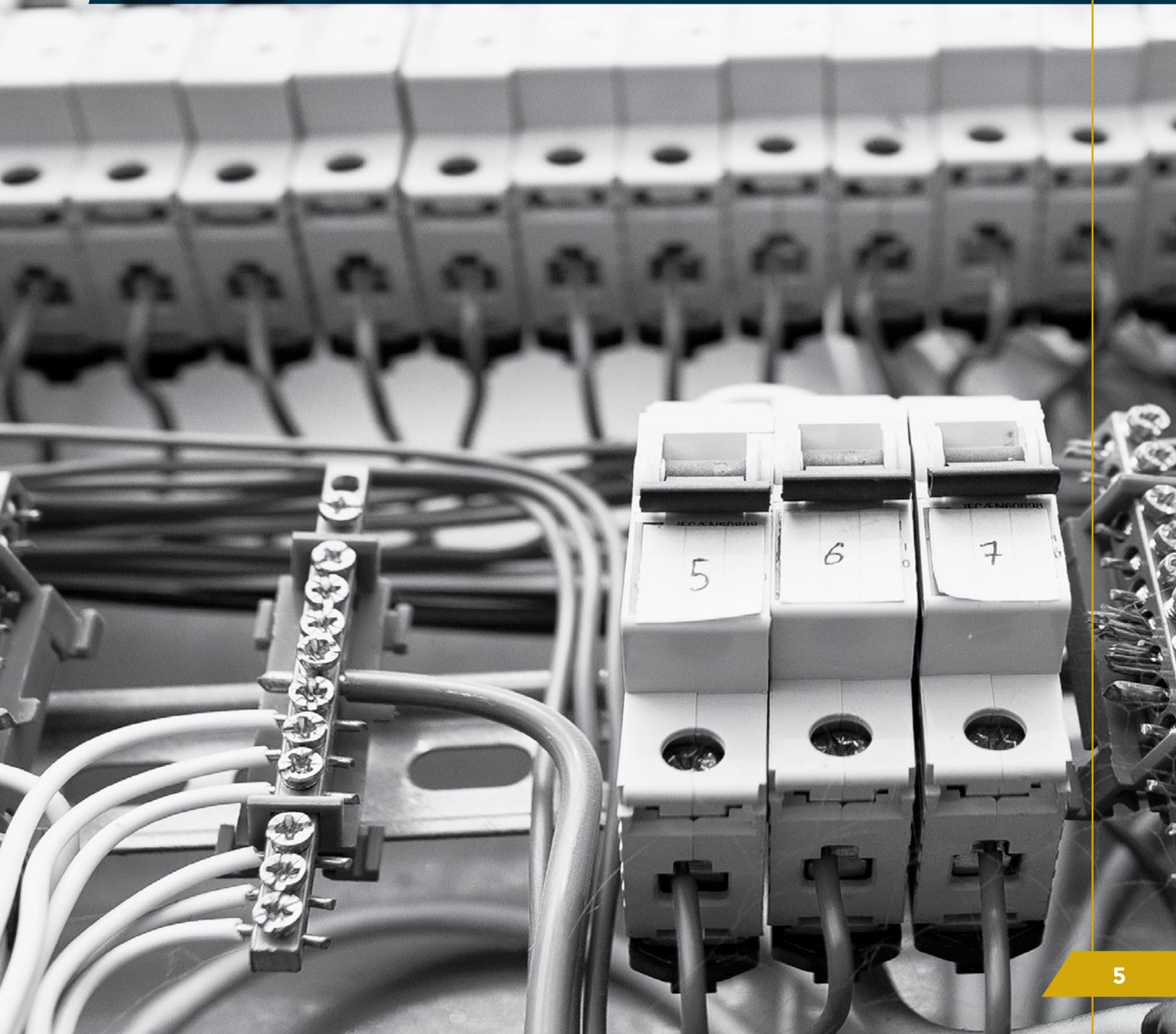
member organizations in 41 states and the District of Columbia. In addition, three of our staff members serve as chairs of NASUCA standing committees. Federal Deputy Consumer Counselor Robert Mork chairs NASUCA's electric committee, and Chief Technical Advisor Edward Kaufman chairs NASUCA's water/wastewater committee. Senior Utility Analyst Margaret Stull has been instrumental in restarting NASUCA's accounting and tax committee, and is serving as the committee's first chairperson in several years.

Our NASUCA participation and leadership provide a critical outlet for collaborating on best practices and consumer representation strategies.

Moreover, our ongoing engagement with entities such as the Richard G. Lugar Center for Renewable Energy at IUPUI; the University of Missouri's Financial Research Institute; the Center for Public Utilities at New Mexico State University; and the Critical Consumer Issues Forum provide the OUCC a national, comprehensive perspective on issues facing utility consumers.



**WE WORK AND COMMUNICATE  
REGULARLY WITH OUR  
COLLEAGUES THROUGHOUT  
THE UNITED STATES**



# OUR COMMITMENT TO THE PROCESS

For most ratepayers, the utility regulatory process is a foreign and complex world, but it is vital to ensuring fair treatment and fair rates for consumers. And it's a world in which the OUCC lives and breathes every day.

With electric, natural gas, water, and sewer utilities operating as monopolies, regulatory processes at the state and local levels serve as the surrogate for competition. However, the state-level process for setting utility rates in Indiana has changed dramatically in recent years. So have the traditional procedures used to establish rates.

- Base rate cases, which allow for full reviews of a utility's finances, are required by state law to be completed in 300 days from the time of filing to the issuance of an IURC order. In turn, this typically gives the OUCC less than 100 days to complete its reviews of utility rate requests and file testimony providing analyses and recommendations on behalf of utility ratepayers.
- The use of cost trackers, allowing utilities to adjust rates for specific items outside the scope of a traditional base rate case, has increased dramatically over the past decade. Tracker proceedings are very limited in scope (for example, dealing strictly with generation fuel costs). A base rate case, on the other hand, allows for a comprehensive examination of a utility's finances and operations.
- A 2013 law allows energy utilities to seek approval of 7-year infrastructure replacement plans and then recover costs through rates within expedited timeframes. The law requires the IURC to issue orders on proposed plans within 210 days. The accompanying rate relief requests - filed every six months - require IURC orders within 90 days. To date, approved plans have implicated nearly \$4 billion to be recovered from consumers through infrastructure cost recovery trackers in the next few years.
- Stricter federal environmental mandates are already adding costs for energy, water, and sewer services. Pending challenges in the federal courts have increased the uncertainty surrounding these regulations.

# OUR COMMITMENT TO THE PROCESS

- Aging infrastructure is a major issue that every type of utility must confront. While it is critical that utilities meet their legal obligations to provide safe and reliable service, the need to replace aging infrastructure will cost billions, if not trillions, of dollars in the coming years.

As the utility landscape changes and becomes even more complex, the OUCC remains committed to serving consumers with strong, dedicated representation, and performing our due diligence in all cases. For example, in the last three years, we've devoted about 19,000 staff hours to the new 7-year infrastructure and accompanying rate recovery cases. These efforts represent time expended on cost recovery analyses, issuing and responding to legal discovery requests, writing and filing testimony, and time and preparation for evidentiary hearings - with all of these activities happening within severe time constraints.

With these changes and with shorter timeframes for considering complex and expensive utility proposals, we continue to urge utilities to approach cases through the "3 Cs" of Communication, Collaboration, and Cooperation with the OUCC. When a utility engages our staff in advance dialogue and seeks constructive solutions to its provision of safe, reliable service to all customers, such an approach lends itself to more productive results and to more thoughtful, balanced solutions.

Some cases require litigation in order to protect consumer interests as shown in the following pages. At other times, we can succeed in negotiating a settlement agreement that brings the case to a fair resolution for the utility's customers. In each instance, the OUCC seeks to ensure that utility rates, structures, and investments promote the safety, reliability, and affordability of utility services in the public interest.



*Rich Corey assists a consumer at an IURC public field hearing in Indianapolis.*



## ADVOCATING

As dedicated advocates, OUCC staff members closely examine all utility requests before the IURC. The OUCC works diligently to limit rate increases to only include infrastructure investments and operating expenses that are prudent, necessary, and supported by thorough, accurate documentation. The agency's role in doing this on behalf of residential and business consumers is crucial due to the substantial and long-term effect an IURC order may have in any given case.

# ADVOCATING

A strong example of the OUCC's dedicated advocacy in the past year has been in the Indianapolis Power & Light Co. (IPL) rate case and investigation.

This base rate case was IPL's first such rate increase request in 20 years. It provided the OUCC with its first opportunity in two decades to perform an extensive and comprehensive review of IPL's revenues, expenses, and profits, along with the service terms and conditions in the utility's tariff.

In December 2014, IPL requested an annual rate increase of nearly \$68 million. In March 2015, the IURC commenced an investigation into IPL's investment in the safety of its network facilities, along with its ongoing operations and maintenance. The IURC combined the rate case and investigation into one docket.

In the combined case, the OUCC recommended a much lower increase of less than \$6 million. The Commission ultimately approved an increase of nearly \$31 million. In addition, the Commission ordered an ongoing collaborative process

among the OUCC, IURC staff, IPL, and additional stakeholders aimed at measuring and improving IPL's performance along with a review of IPL's asset management system and processes.

In the past year, the OUCC has litigated rate requests from additional utilities throughout the state including American Suburban Utilities (West Lafayette), Community Utilities of Indiana (northwest Indiana), Community Natural Gas Corporation (southern and southwestern Indiana), and Hamilton Southeastern Utilities (Fishers). The OUCC has recommended substantial limits on increases requested by these utilities, with these cases pending before the IURC.

The OUCC has participated in 157 cost tracker cases before the IURC over the past fiscal year. These cases have included 59 gas cost adjustment (GCA) proceedings allowing natural gas utilities to adjust rates to recover their gas supply costs, and 27 fuel adjustment clause (FAC) cases, in which electric utilities recover costs of coal, natural gas, and other generating fuels.



*Utility Consumer Counselor David Stippler presents Abby Gray, the OUCC's Executive Director for Legal Operations, with her award for 30 years of service to the State of Indiana. Ms. Gray has spent the last seven years guiding the OUCC's legal strategy.*

# ADVOCATING

Other tracker cases address numerous additional energy matters including environmental compliance, regional transmission, energy efficiency programs, planned infrastructure improvements, nuclear life cycle management, and more. Environmental compliance trackers specifically implicated more than \$555 million recovered through Indiana electric rates in the last fiscal year.

Tracker mechanisms available to water and wastewater utilities include the Distribution System Improvement Charge (DSIC), intended to reimburse the cost of aging infrastructure replacement. Indiana American Water Company recently received IURC approval of such a request, which increased the utility's rates by nearly 2 percent.

The OUCC carefully reviews all tracker requests to ensure accurate costs and compliance with state law. Utilities may use trackers on a quarterly, semi-annual, or annual basis. For many trackers, state law requires OUCC and IURC review within very limited time constraints.

Another area of dedicated advocacy by the OUCC continues to be energy efficiency, or demand side management (DSM), which has received considerable attention before the IURC and the state legislature in recent years. The General Assembly approved the state's current DSM law in 2015, requiring each investor-owned electric utility to seek IURC approval of comprehensive energy efficiency programs every three years. The OUCC's legal and technical experts are heavily involved in evaluating each of the proposed plans and programs, seeking results that strike a reasonable balance between energy savings from each program versus the program costs that are included in customer rates.

In most of these cases, the OUCC has successfully challenged utility requests to recover shareholder incentives. At the same time, the IURC has limited the timeframe for utility recovery of lost revenues through rates.



*Senior Utility Analyst Wes Blakley marked 25 years of service to the state this spring.*

# ADVOCATING

Currently, one DSM case has moved beyond IURC orders with Vectren Energy Delivery appealing the outcome of its most recent proceeding.

In addition to docketed cases, the OUCC extensively participates on energy efficiency oversight boards for each of Indiana's major electric and natural gas utilities implementing DSM programs.

Indiana law authorizes natural gas, electric, and sewer utilities to serve exclusive areas as monopolies. Filings in the past year have shown that Vectren Energy Delivery has been providing natural gas service to customers outside of its designated service territory. Based on the OUCC's recommendations, the Commission has ordered Vectren to donate margins received from customers outside of its service territory to the Indiana Utility Ratepayer Trust (IURT). The Commission has also ordered Vectren to provide a study detailing its activities in these areas.



*Chief Technical Advisor Edward Kaufman was honored in October 2015 on 25 years of state government service. He is pictured here with Utility Consumer Counselor David Stippler and Water/Wastewater Division Director Scott Bell.*



*Consumer Services Coordinator Lyndsey Lane welcomes consumers speaking at an IURC field hearing in Indianapolis.*



*Deputy Consumer Counselors Daniel LeVay and Scott Franson prepare for an evidentiary hearing.*

## SOLVING

Certain cases require litigation among utilities, other parties, and the OUCC; many others lend themselves to results achieved through arms-length negotiations. Over the past year, the OUCC has negotiated a number of settlement agreements in pending cases, providing fair resolutions for consumers. Such outcomes avoid the time and expense of litigation.

Aging infrastructure is a major concern for large and small utilities alike in all industries. From electric transmission and distribution lines to gas and water mains, all utilities are addressing the vulnerabilities of aging infrastructure nearing or exceeding its expected lifespan. They are also considering the billions of dollars that will be necessary to enhance or replace this infrastructure to ensure safe, reliable utility service in the future.

# SOLVING

A 2013 Indiana law allows utilities to request IURC approval of 7-year infrastructure plans and then recover most costs through rates as the projects are built and placed in service. The Transmission, Distribution, and Storage System Improvement Charge (TDSIC) allows each participating utility to recover the costs by adjusting rates every 6 months through a cost recovery tracker mechanism during its plan's lifespan. The law gives the OUCC and IURC very short review timeframes to determine whether such capital expenditures are reasonable.

Natural gas utilities operated by Northern Indiana Public Service Company (NIPSCO) and Vectren Energy Delivery received approval for their 7-year plans in 2014 and are recovering costs through monthly bills. In the past fiscal year, Duke Energy and NIPSCO sought approval of new 7-year plans for their electric utilities' operations. In both of those cases, the OUCC and additional parties negotiated settlement agreements that will save Duke Energy and

NIPSCO electric customers approximately \$480 million dollars over the next seven years (when compared to the utilities' original requests for cost recovery).

NIPSCO also sought an increase to its electric utility's base rates during the past year, with the OUCC and additional parties negotiating a settlement agreement that reduced that rate increase request by \$54 million per year.

In separate cases, the OUCC negotiated agreements on water and sewer rate increase requests from Citizens Energy Group. These agreements resulted in \$35 million in annual consumer savings. They will permit the utility to complete infrastructure projects necessary for providing safe, reliable water service to its customers and to comply with a federal court order to improve the sewer utility. Each of the agreements with Citizens was negotiated after several months of OUCC review.



*Utility Consumer Counselor David Stippler participated in the April 2016 groundbreaking ceremony at the St. Joseph Energy Center near New Carlisle, Ind. He noted that this natural gas-fired generating plant is the type of market-driven solution that will help position Indiana to meet its future energy needs.*

# SOLVING

The OUCC reached rate case agreements over the last year with Aqua Indiana (for its Fort Wayne sewer utility), Brown County Water Utility, Crawfordsville Electric Light & Power, and Jackson County Water Utility.

Rate increase requests through trackers due to federal mandates, particularly new rules from the US Environmental Protection Agency (EPA), are another major area in which the OUCC continues to invest many hours of staff time. The EPA has imposed or proposed numerous regulations on Indiana energy utilities since 2009 including the Clean Power Plan, National Ambient Air Quality Standards (NAAQS) Rule, and Cooling Water Intake Structures Rule, with these rules implicating billions of dollars in utility capital investments along with major impacts on electric rates. The number and scope of environmental regulations continue to grow. The EPA's Coal Combustion Residuals (CCR) rule particularly focuses on ponds used to dispose of coal ash at various power plants. In the past fiscal year, Duke Energy and IPL have filed requests to increase rates due to CCR rule compliance. Given the mandated time frames for compliance, more utilities are expected to file similar requests in the near future.

EPA emission rules are affecting Indiana more than average and will continue to do so because of the state's traditionally

heavy reliance on electric coal generation. The OUCC is monitoring these rules and their effects closely. We are committed to ensuring utilities have the resources necessary to meet federal mandates while keeping rates as affordable as possible.

Another ongoing significant project is Duke Energy's newest generating station in Edwardsport, Indiana. The integrated gasification combined cycle (IGCC) plant has been the subject of substantial litigation over the last several years, with a 2012 settlement agreement among the OUCC, industrial customers, and Duke Energy shielding ratepayers from nearly \$900 million in construction and financing cost overruns. An additional settlement agreement, approved in 2016, has increased that savings amount to nearly \$1 billion.

Additional benefits in the approved agreements include more than \$4 million in low-income energy assistance for Duke Energy customers, \$2.5 million in shareholder contributions for the Indiana Utility Rate Payer Trust, and \$1.5 million in shareholder contributions to the Battery Innovation Center in southern Indiana. The center, near Crane, is using funds from the 2012 settlement to research on-site renewable electricity storage at schools in Monroe and Howard Counties. The new

# SOLVING

funds in the 2016 agreement will help the center do even more innovative work that is crucial to advancing renewable energy technology.

The OUCC has worked diligently in numerous sub-dockets to make sure costs from the Edwardsport project that should be borne by Duke Energy's shareholders are not inappropriately shifted to customers. These efforts will continue in future cases.

In a separate matter, the OUCC negotiated an agreement with Duke Energy allowing for construction of a new 17-megawatt solar facility at Naval Support Activity Crane. This is one of a number of cases in the past year where the OUCC has promoted Indiana renewable energy resources growth. The OUCC has also shown strong support for the need to meet Indiana's future generation requirements, with the St. Joseph Energy Center case being a prime example. This large, natural gas-fired generating plant is now under construction near New Carlisle, Indiana.

The continued reliability of Indiana's electric grid is crucial for the state's economy and quality of life, and the OUCC remains engaged in federal, regional, and state-level discussions aimed at protecting the grid while helping to meet the future needs of all Hoosiers. In cases before the Federal Energy Regulatory Commission (FERC),

the OUCC focuses on ensuring safe and reliable power transmission throughout the two regional transmission organizations (RTOs) that manage the grid in Indiana. Four of the state's five investor-owned electric utilities belong to the Carmel, Indiana-based Midcontinent Independent System Operator (MISO). This RTO manages the grid over parts of 15 states and Canada. Indiana Michigan Power is a member of PJM Interconnection, which is responsible for the grid in parts of 13 states.

Individual electric utilities are allowed to recover RTO membership and participation costs through IURC proceedings. Accordingly, the OUCC is actively engaged at both the federal and state levels to ensure regional transmission costs are incurred and recovered in a responsible manner.

Each major electric utility in Indiana is also required to file an integrated resource plan (IRP) with the IURC every two years. This 20-year horizon plan addresses each utility's strategy for meeting generation needs by having appropriate power supplies. The IRP process includes formal proceedings and informal stakeholder meetings hosted by the utilities, and the OUCC continues to participate actively in these processes and ongoing discussions. IPL, NIPSCO, and Vectren are filing IRPs in 2016. Duke Energy and Indiana Michigan Power are expected to do so in 2017.

# SOLVING

Major short-term and long-term discussions continue regarding cybersecurity and counter-terrorism, supporting the need to protect both electronic and physical infrastructure. This effort includes electric utility compliance with federal Critical Infrastructure Protection (CIP) requirements and recovery of CIP costs.

Similarly, the OUCC continues to actively participate in long-term stakeholder discussions regarding Indiana's future water resource needs, encouraging water utilities to utilize proactive and robust asset management plans addressing aging infrastructure.

The OUCC is also committed to finding long-term solutions for customers of small, troubled water and wastewater utilities. We collaborate regularly with other state agencies to accomplish this, including the IURC, Indiana Department of Environmental Management (IDEM), Indiana Finance Authority (IFA), and Indiana Attorney General's Office.

Key examples in the past year include: Brushy Hollow Utilities in Perry County, whose customers are now receiving sewage disposal service from Tell City; White Oak Sewage in Crawford County and Wedgewood Park Water in St. Joseph County, with Aqua Indiana seeking approval to purchase both utilities; and Sugar Creek Utility in Hancock County, which has faced numerous environmental and service quality issues for several years. Following a recent IURC case, Sugar Creek's assets are being purchased by NineStar Connect, a cooperative utility providing electric and telecommunications service in Hancock County.

Additional examples of creative problem solving include: the resolution of electric utility requests for \$2 billion in low-cost debt financing possibly mitigating the need for additional rate increases; support for expanded broadband coverage; and universal service funding for telecommunications companies and customers.



*Deputy Consumer Counselor Jeffrey Reed speaks with a consumer. Public participation is important to the process, and the OUCC invites consumer comments in all pending cases.*

# EDUCATING



Along with dedicated advocacy and creative problem solving, consumer education is an equally important part of the OUCC’s mission. By providing consumers with timely and accurate information, and by offering improved means of doing so, the OUCC is committed to keeping Indiana consumers informed. This includes assisting ratepayers’ understanding of the regulatory process, the OUCC’s work on their behalf in pending cases, and their rights to participate and have their voices heard.

Our staff invites consumer comments in all base rate cases via news releases, our social media channels, and additional means. We review and consider all comments we receive on any given case when preparing testimony. If the comments are received before our testimony is due, we file them so they can become a part of the IURC’s formal case record.

The OUCC continues to enhance its Twitter, Facebook, and LinkedIn pages, noting the growing importance of social media and its value in communicating information about pending cases, the agency’s activities, and practical consumer advice.

The content on the agency’s website ([www.IN.gov/OUCC](http://www.IN.gov/OUCC)) is an additional area of continued improvement. In early 2015, the agency evaluated all pages on its website for readability and consumer use. With the review finding that nearly 3/4 of the site’s pages read at a college level, the agency launched an initiative to streamline the site and its language. By year’s end, the agency had met its goal of simplifying the site to make at least half of the pages read at a high school level (according to the Flesch-Kincaid readability scale). Our staff is also adding graphics to the site aimed at explaining the regulatory process and consumer opportunities to participate.

We marked the one-year anniversary of the OUCC’s electronic newsletter, “Consumer News... For You,” in May 2016. Each newsletter is designed to keep the content brief, giving consumers direct links if they wish to seek additional information.

In fall 2016, 10-digit dialing will become mandatory for all local calls in the 317 telephone area code. It is the same dialing pattern that was implemented in early 2015 for southern Indiana’s 812 area code, and is currently being used to some degree in 29 states.

# EDUCATING



With the 317 area code expected to run out of available numbers by the end of 2016, the new 463 area code will be added as an overlay. In other words, the 463 code will be superimposed over the entire 317 area. Customers with 317 numbers will keep them. The 463 area code may be assigned to new numbers added after November 15.

All new area codes introduced in the United States since 2008 are using the overlay method. It requires all consumers to use 10 digits (area code + prefix + unique 4 digits) to place all local calls, yet allows all customers to keep their existing phone numbers. In turn, this greatly reduces the expenses needed for reprinting signage, advertising materials, and stationery that would otherwise be needed if consumers were required to change phone numbers.

The OUCC staff, working collaboratively with the IURC, has engaged in extensive outreach efforts to ensure these changes are fully anticipated and understood by consumers in order to be prepared for 10-digit dialing in central Indiana.

The OUCC also played a strong role in the IURC's first-ever billing symposium in November 2015. The symposium was a first-of-its-kind effort in the US and was designed to bring utilities and consumer advocates together to share ideas and best practices to make utility billing as consumer-friendly as possible.

Nearly 600 consumers from across the state participated in an online OUCC survey in the days leading up to the symposium, with the results providing valuable feedback and insight. Among other findings, the survey demonstrated that consumers appreciate plain language and being informed of changes in their rates. The survey also demonstrated that bill inserts are not necessarily popular, but it showed they can provide value in educating consumers if done properly.

The findings are available on the OUCC's website along with nearly 40 consumer publications we continue to offer. In addition to general overviews for understanding utility bills and tips for conserving, the OUCC site includes a dedicated page for each major Indiana energy and water/wastewater utility, explaining the utility's rates and components that go into them.

# TEAM MEMBERS

## EXECUTIVE

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Abby R. Gray - Executive Director, Legal Operations  
Barbara A. Smith - Executive Director,  
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Tammie J. Keen - Executive Office Director

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Dr. Pradeep Sircar - Chief Technical Advisor

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