

# Municipal Utilities

Rates and charges for certain Indiana utilities are regulated at the state government level. Others are regulated at the local level, including most municipal utilities.

## A Brief Overview

Most Indiana **investor-owned** utilities are under the Indiana Utility Regulatory Commission's (IURC's) jurisdiction.\* The IURC approves those utilities' rates, charges, and finances. Those utilities must also follow IURC rules regarding billing, disconnection, deposits, meters, and other matters.

However, the same decisions for most **municipal** utilities are made at the local government level and not by the IURC.

Municipal **water**, **electric**, and **natural gas** utilities may withdraw from IURC oversight under laws approved by the Indiana General Assembly several decades ago. More than 90 percent of these utilities have done so. To withdraw from state-level oversight by the Commission, a municipality must follow specific processes in state law, including a vote by the elected city or town council, or a vote by the city or town's residents in a general election.

Municipal utility rules for billing, disconnection, and other matters are approved at the local level regardless of whether the utility's rates, charges, and finances are regulated at the state level.

State law does not give the IURC jurisdiction over municipal **sewer** utilities.\*\*

When a city or town council considers an ordinance removing a utility from IURC jurisdiction - in most cases - it must mail a written notice of the meeting to all of the utility's ratepayers and to the IURC at least 30 days in advance. A city with at least 35,000 residents must hold at least 2 public meetings before the council's final vote on the ordinance. The meetings must be held at different locations and must include an explanation of the withdrawal process.

An ordinance withdrawing a municipal utility from IURC jurisdiction takes effect 60 days after the council approves it, unless the council receives a petition within that 60-day period. Consumers who consider drafting and circulating such a petition are strongly urged to review the Indiana Code sections that apply (IC 8-1.5-3-9 and IC 8-1.5-3-9.1).

- The petition must be signed by at least 2 percent of the number of people in the municipality who voted in the last election for Secretary of State (IC 3-8-6-3).
- It should specifically request that the municipal legislative body (city or town council) "submit the question of removal from commission jurisdiction to the registered voters of the municipality at the next general election."
- At a minimum, a petition should include each person's full name in legible printed form, signature, and full address (including city/town and zip code).
- If the petition is submitted in proper form, the utility is to remain under IURC jurisdiction until the election.

\* Examples of investor-owned utilities include Indiana American Water Co., Aqua Indiana, and Community Utilities of Indiana.

\*\* State law allows the IURC to review out-of-town surcharges for municipal water and sewer utilities in certain circumstances. The sewer utility serving Indianapolis has been under IURC jurisdiction since 2011 when the IURC approved Citizens Energy Group's purchase of the utility.

## Municipal Utilities: Frequently Asked Questions

**Q.** When a utility is withdrawn from IURC jurisdiction, does that mean its rates are no longer regulated?

**A.** No. But it means that all decisions setting or changing rates are made at the local level. For a municipal utility outside IURC jurisdiction, the regulatory body is the elected city or town council.

**Q.** Does the OUCC advocate for or against proposed withdrawals?

**A.** No. The OUCC recognizes that these are local decisions to be made by local governments and/or voters.

**Q.** If I'm dissatisfied with a municipal utility's rates, have discussed my concerns with locally elected officials, and the utility is not under IURC jurisdiction, what can I do?

**A.** In most cases, a circuit or superior court at the county level is the proper venue. The general common law standard is that rates must be "nondiscriminatory, reasonable and just." Consumers who wish to challenge utility rates in court are urged to first consult with private legal counsel.

**Q.** If a municipal water utility withdraws from IURC jurisdiction, does that change the environmental standards with which it must comply?

**A.** No. A water or sewer utility must comply with regulations of the Environmental Protection Agency (EPA), the Indiana Department of Environmental Management (IDEM), and other agencies regardless whether its rates are under IURC jurisdiction.

**Q.** Does the State have oversight of municipal government finances?

**A.** Local governments are subject to audits by the Indiana State Board of Accounts (SBOA). The Indiana Department of Local Government Finance (DLGF) ensures that property tax assessment and local government budgeting comport to state law.

### Disclaimer

This fact sheet is intended to provide a general summary and is not legal advice. Specific legal authority concerning oversight and withdrawal can be found in the Indiana Code (IC 8-1-1, et. seq.).

For more information on utility issues, subscribe to our monthly newsletter at [IN.gov/OUCC/2877.htm](http://IN.gov/OUCC/2877.htm)



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