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Lawmaker proposed voting on utility panel nominees

Governor says he may be open to making process similar to other states'

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A state lawmaker is calling for changes in the process for selecting members of the Indiana Utility Regulatory Commission, a move Gov. Mitch Daniels said Wednesday he may be willing to consider.

State Rep. Ed DeLaney, D-Indianapolis, said he is drafting legislation requiring the Senate and House to approve nominees to the commission -- a process similar to those used in more than 30 other states. Currently, the governor names members of the commission.

DeLaney's proposal comes in response to controversy swirling around the IURC after its former general counsel, Scott Storms, recently left for a job with Duke Energy of Indiana. It was the latest in a series of moves critics see as a troublesome revolving door between Indiana's largest electric utility and the powerful five-member commission that rules on rate-increase requests and other regulatory matters.

"We don't have adequate protections in the current system," DeLaney said. "Legislative approval would require the governor to explain publicly why he believes a nominee is the right person for the job, and that person would also have to face the public to answer questions and make commitments."

Daniels fired IURC Chairman David Lott Hardy on Tuesday after an internal review found Storms didn't remove himself from IURC regulatory matters involving Duke this summer while he was talking to the utility about working there. The review concluded that Hardy, who was appointed to the IURC post by Daniels, was aware of the situation but took no action.

Later Tuesday, Duke placed Storms and its Indiana president, Mike Reed, on paid leave because he played a role in hiring Storms away from the IURC, said Duke spokeswoman Angeline Protogere. Reed also is a former IURC executive director.

On Wednesday, Daniels said that while the state will review Duke-related IURC decisions in which Storms was involved, he has seen no evidence that any of those decisions should be thrown out.

He also stressed that he doesn't think what happened is indicative of any larger systemic problem. That said, when asked if he would consider DeLaney's proposal, the governor said, "Maybe."

DeLaney said he views the draft legislation as a framework to start a discussion about changing the IURC appointment process and acknowledged the need for legislative hearings and public input on a final proposal.

"The IURC would be the centerpiece," he said, "but we also need to look at some of the other 'powerful' agencies like the Indiana Department of Environmental Management and the Indiana Department of Transportation."

DeLaney added he also wants to see changes that give more teeth and independence to the state's Ethics Commission and inspector general. Like the IURC, the governor appoints the IG and ethics commissioners.

The current structure makes it difficult, DeLaney said, for either to investigate a state agency and return with a decision that is damaging to the governor -- regardless of what party is in office at the time.

"We've got these people sitting in a circle around the same ringmaster, and they're all watching each

other," he said. "We need public confidence in our political systems. It's a need that is greater now, I believe, than any time in my lifetime. And it will benefit both political parties."

DeLaney's proposal garnered support from Kerwin Olson, program director for the consumer advocacy group Citizens Action Coalition. He called it "a good start."

"It is definitely a piece of legislation we would support," Olson said. "Obviously, we would prefer legislation that pushes for commissioners to be elected by and accountable to the public."

The IURC's power, Olson said, is too far-reaching -- covering about \$14 billion in annual utility rates paid by Hoosiers -- to not have members responsible to the voters.

Taking questions after addressing a real estate group Wednesday in Seymour, Daniels defended his record on ferreting out bad apples in state government. He said his administration has cracked down on the revolving door between regulators and industry, and created the office of inspector general.

"We've strengthened all of that," he said.

Daniels went on to say that changing the way members are selected to the IURC would have had no bearing on the issues driving the current controversy.

"It wouldn't have prevented this. This is bad judgment on two people's parts," he said. "This is not about any other commissioner."

Daniels also said he sees no need to shake up the state Ethics Commission, which approved Storms' move to Duke without a one-year "cooling off" period.

Storms was integrally involved at the IURC in regulatory matters involving Duke's controversial \$2.9 billion coal gasification plant at Edwardsport in Southern Indiana and Duke's wish to bill ratepayers for its construction costs before the plant goes on line.

Daniels, though, said Wednesday he has seen nothing to indicate there was anything wrong with IURC decisions in which Storms participated, most notably the Edwardsport project.

"Nothing we've seen suggests a wrong decision," Daniels said, "only that the wrong person was participating in it."

A coalition of consumer advocacy and environmental groups -- Citizen Action Coalition, the Sierra Club, Save the Valley and Valley Watch -- asked Wednesday that the IURC postpone any action on the Edwardsport project until a full review is conducted of past actions in the case.

Danielle McGrath, the IURC's public information officer, said a hearing that was scheduled for today has been delayed.

"The commission takes the governor's directive seriously and will fully cooperate with all matters related to the review of IURC cases, including the pending Duke Energy case involving the (Edwardsport) facility," she said in a statement. "We find that it is in the best interest of the commission and all parties involved."

McGrath said no decision had been made Wednesday on whether the commission will move forward with the hearing before the full review is completed.

"We will evaluate our processes," the release stated, "and ensure that our actions are transparent and in line with the governor's expectations."
