

Proposed Strawman Draft Rule

LSA Document #23 _____
IURC RM # 22-04

DIGEST

Amends 170 IAC 1-6-2, 170 IAC 1-6-4, 170 IAC 1-6-5, 170 IAC 1-6-6, 170 IAC 1-6-7, and 170 IAC 1-6-8 to require the 30 day filing to be submitted electronically, to recognize certain statutory or other exemptions from this rule, to detail what is required to be included in an objection, and to clarify the timeline for an objection.

Effective 30 days after filing with the Publisher.

170 IAC 1-6-2; 170 IAC 1-6-4; 170 IAC 1-6-5; 170 IAC 1-6-6; 170 IAC 1-6-7; 170 IAC 1-6-8

SECTION 1. 170 IAC 1-6-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42

Affected: IC 8-1-2-54; IC 8-1-37-3; IC 8-1-37-4

Sec. 2. The following definitions apply throughout this rule:

- (1) "Clean energy" has the meaning set forth in 170 IAC 17.1-2-5.
- (2) "Clean energy credit" has the meaning set forth in IC 8-1-37-3.
- (3) "Clean energy resource" has the meaning set forth in IC 8-1-37-4(a).
- (4) "Commission" means the Indiana utility regulatory commission.
- (5) "Commission division" means the technical division of the commission for the industry to which the utility making the filing under this rule belongs.
- (6) "Conference" means the official regularly scheduled meeting of the commission at which orders and utility articles are presented for approval.
- (7) "Customer" means any:
 - (A) person;
 - (B) firm;
 - (C) corporation;
 - (D) municipality;
 - (E) government agency; or
 - (F) other entity;that has agreed, orally or otherwise, to pay for service received from a utility.
- (8) "Filing date" means the date a filing under this rule is received and file stamped by the secretary of the commission.
- (9) "New rate" means a rate or charge for utility service not currently encompassed by the utility's tariffs.

(10) "Noncontroversial filing" means any filing regarding which no person or entity has filed ~~an~~ a valid objection, as determined by the commission, as provided under section 7 of this rule.

(11) "Nonrecurring charge" means a charge to a utility customer for costs incurred by the utility outside the context of month-to-month service, which shall include, but not be limited to, the following:

- (A) Customer deposits.
- (B) Customer checks returned to the utility due to insufficient funds.
- (C) Connect fees.
- (D) Reconnect fees.
- (E) Tap fees.

(12) "OUCC" means the Indiana office of utility consumer counselor.

(13) "Rate" means base rates and charges incident to the provision of usual and customary utility service on a month-to-month basis.

~~(14) "System development charge" or "SDC" means a one (1) time fee assessed to new customers of water or sewer utilities to help finance development of utility systems, mainly those dealing with facilities for production, treatment, or storage necessary to serve those new customers. The term includes the following:~~

- ~~(A) Impact fee.~~
- ~~(B) Availability fee.~~
- ~~(C) Capacity fee.~~

~~(1514) "Utility", only for the purposes of this rule, includes a clean energy resource that:~~

- ~~(A) produces thermal energy; and~~
- ~~(B) is seeking approval of an alternative equation to determine the number of clean energy credits earned for the useful thermal energy produced.~~

~~(1615) "Utility articles" means the summary of filings under this rule and the recommendations of the commission-division, which are presented to the commission at conference.~~

(Indiana Utility Regulatory Commission; 170 IAC 1-6-2; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)

SECTION 2. 170 IAC 1-6-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-3 Allowable filings

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42

Affected: IC 8-1

Sec. 3. The following types of filings are allowable under the procedures and guidelines of this rule:

- (1) Rates and charges for new services.
- (2) New rules and regulations of the utility.
- (3) Changes to rules and regulations of the utility.

- (4) Nonrecurring charges.
- (5) Changes to rates and charges so long as the change:
 - (A) is revenue neutral within a specific rate schedule; or
 - (B) results in an overall decrease in the revenues of the utility and is done on an across-the-board basis to all classes of customers.
- (6) **A decrease in:**
 - (A) a charge;**
 - (B) a rate; or**
 - (C) rates.**
- (7) A request by a clean energy resource for approval of an alternative equation to determine the number of clean energy credits earned for the useful thermal energy produced.
- (78) A filing for which the commission has already approved or accepted the procedure for the change.
- (89) Any other filing as may be ordered by the commission to be filed under this rule.
(Indiana Utility Regulatory Commission; 170 IAC 1-6-3; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)

SECTION 3. 170 IAC 1-6-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-4 Prohibited filings

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42

Affected: IC 8-1

Sec. 4. The following types of filings shall not be allowed under this rule:

- (1) Increases to any existing rates.
- (2) Rules and regulations of the utility that would:
 - (A) violate the commission's rules and regulations as found in this title; or
 - (B) have the effect of being more lenient to the utility than the commission's rules and regulations.
- (3) A general rate increase.
- (4) Class rate restructuring.
- ~~(5) SDCs.~~
- ~~(65) Approval of financing.~~
- (76) Any request that is inconsistent with a commission order dealing with the subject matter of the request.
- (87) Any filing for which the utility wants confidential treatment for all or part of the filing.
- (98) Any:
 - (A) rates;
 - (B) charges;
 - (C) rules;

(D) conditions of service; or

(E) change thereto;

that the commission in its discretion determines should not be processed under this rule.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-4; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)

SECTION 4. 170 IAC 1-6-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-5 Filing requirements

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42

Affected: IC 8-1

Sec. 5. (a) Each filing under this rule shall include the following:

(1) A cover letter clearly stating:

(A) that the filing is being made under this rule;

(B) the purpose of the filing;

(C) the need for what is being requested; and

(D) why the filing is an allowable request under section 3 of this rule.

(2) Contact information for the utility regarding this filing, including the following for each person to be contacted:

(A) The name of the person or persons to be contacted.

(B) Telephone number.

(C) Mailing address.

(D) ~~Either:~~

~~(i) An electronic mailing address;~~

~~(ii) a facsimile number.~~

(3) Tariff sheet or sheets.

(4) Additionally, for communications service provider intrastate access tariffs:

(A) A statement indicating whether the local exchange carrier's intrastate access tariff concurs with its interstate access tariff.

(B) Any exceptions to the local exchange carrier's intrastate access tariff's mirroring of its interstate access tariff, including specific citations to the interstate access tariff and the FCC transmittal number(s) that correspond(s) to the intrastate access tariff filing.

(C) Any intrastate access check sheets showing the FCC transmittal number(s) that correspond(s) to the intrastate tariff filing.

(D) A statement or explanation indicating whether the intrastate access tariff is a stand-alone intrastate access tariff or is otherwise unrelated to an interstate access tariff.

(E) Intrastate tariff sheets that include the intrastate access services or rate elements, rates and charges, rate structures, and/or terms and conditions that do not mirror their interstate counterparts or the corresponding provisions of the intrastate access tariff in which it is concurring.

(5) Pursuant to IC 8-1-32.5-11(c), all tariffs filed by communications service providers as defined by IC 8-1-32.5-4 shall become effective upon filing. However, a communications service provider is free to submit an intrastate access tariff in advance of the desired effective date, so long as the communications service provider includes in its cover letter the date upon which the communications service provider desires the intrastate access tariff to be considered filed with the Commission for purposes of establishing the effective date pursuant to IC 8-1-32.5-11(c).

(46) For tariffs other than intrastate access tariff filings, all work papers supporting the filing, including revenue and cost projections, which must be clearly explained and include clear explanations of the following:

(A) All assumptions used.

(B) Whether the data used is actual or estimated. It is presumed that actual data shall be used in all supporting calculations. If it is necessary to use estimated data, the utility shall state the following:

(i) The reasons the estimated data is being used.

(ii) How the estimated data was derived.

(iii) Why the estimated data should be used.

(C) The source of the data.

(D) Models or methodologies employed.

(57) A verified statement by the utility, **unless exempted pursuant to IC 8-1-2.6-1.5(d):**

(A) affirming that affected customers have been notified as required under section 6 of this rule;

(B) stating in detail the means used for notification; and

(C) including copies of any written means of notification.

(b) For tariffs other than intrastate access tariffs, a copy of the items listed in subsection (a) shall be provided to the OUCC on the filing date.

(c) The items listed in subsections (a) and (b) may be provided in:

(1) ~~electronic format to the commission and the OUCC:~~

~~(A) via electronic mail; or~~

~~(B) on a compact disk; or~~

(2) ~~paper format with:~~

~~(A) three (3) copies provided to the commission; and~~

~~(B) one (1) copy provided to the OUCC.~~

~~(d) A filing submitted under this rule shall be addressed to the "Secretary of the Commission". who shall distribute the filing to the appropriate commission division.~~ **shall be filed through the commission's electronic filing system. A filing made through the electronic filing system is considered filed on the date reflected in the notice of receipt associated with the filing. Electronic filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with prevailing local time in Indianapolis, Indiana.** *(Indiana Utility Regulatory Commission; 170 IAC 1-6-5; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)*

SECTION 5. 170 IAC 1-6-6 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-6 Notice requirements

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42

Affected: IC 8-1

Sec. 6. (a) A utility that intends to make a filing under this rule shall provide notice, **unless exempted under IC 8-1-2.6-1.5(d)**, prior to the filing date by:

(1) posting the notice described in subsection (b):

(A) in a public place at the utility's local customer service office or offices, to the extent the utility has such offices; and

(B) in an obvious place on the utility's website, which at a minimum is a link on the Indiana homepage of the utility's website, if the utility has a website; and

(2) publishing the notice described in subsection (b) in at least one (1) newspaper of general circulation that has a circulation encompassing the highest number of the utility's customers affected by the filing.

(b) At a minimum, the notice shall contain the following information:

(1) A brief but accurate description of the filing, including the following:

(A) The nature of the filing.

(B) Which customers may be affected.

(C) How those customers may be affected.

(2) The expected filing date.

(3) The date by which approval of the filing is expected.

(4) The contact information, to which an objection should be made, for both the:

(A) secretary of the commission; and

(B) OUCC.

(c) If a utility filing under this rule is already required to provide notice pursuant to a commission order, the notice requirements may be combined into one (1) notice; however, the notice at a minimum shall contain the information required in subsection (b).

~~(d) Commission staff shall post the filing to the commission's electronic gateway as soon as possible on or after the filing date. (Indiana Utility Regulatory Commission; 170 IAC 1-6-6; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)~~

SECTION 6. 170 IAC 1-6-7 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-7 Objections

Authority: IC 8-1-1-3; IC 8-1-2-42

Affected: IC 8-1-1-5; IC 8-1-2-34.5; IC 8-1-2-54

Sec. 7. (a) If any person or entity has an objection to a filing made under this rule, the objection shall

be submitted to the secretary of the commission **filed through the commission's electronic filing system.**

(b) The objection must be: as follows:

(1) In writing in:

(A) paper; or

(B) electronic format.

(1) received no later than fifteen (15) calendar business days after the date the filing is submitted to the commission; and

~~(2) Based on a statement that at least one (1) of the following applies to the filing:~~

(2) emailed to the utility using the contact information in the filing outlined in 170 IAC 1-6-5(a)(2)(D).

~~(c) The commission division shall promptly notify the utility, via electronic mail or facsimile, of any objections it receives.~~

(c) The objection shall include a description of:

(1) how the objector would be adversely affected if the filing is approved; and

(2) the reason why that at least one (1) of the following applies to the filing:

(A) It is a violation of:

(i) applicable law;

(ii) a prior commission order; or

(iii) a commission rule;

under which the filing was made.

(B) Information in the filing is inaccurate.

(C) The filing is:

(i) incomplete; or

(ii) prohibited under section 4 of this rule.

~~(d) Within ten (10) calendar days following notification by the commission division~~ **objection being emailed to the utility, the utility may submit through the commission's electronic filing system one (1) or more of the following:**

(1) A response to the objection.

(2) Clarification of the filing.

(3) Additional information.

(4) An amendment to the filing.

(5) A withdrawal of its filing.

A filing may be withdrawn at any time before it is presented to the commission for approval under section 8 of this rule.

~~(d)~~**(e) If the objection is resolved to the satisfaction of the:**

(1) objector;

(2) utility;

(3) OUCC; and

(4) commission division;

the filing may continue through the recommendation and approval process in section 8 of this rule. Otherwise, if the filing has not been previously withdrawn by the utility, the filing, under IC 8-1-1-5, shall not be presented to the commission for consideration upon an objection that complies with this section.

~~(e)~~(f) If an objection that complies with this section is not received by the commission at least three ~~(3) business days before the filing is approved~~ by the deadline specified in subsection (b)(1), the objection may still be:

- (1) a basis for an investigation by the commission;
- (2) used as part of a complaint that complies with:
 - (A) IC 8-1-2-54; or
 - (B) IC 8-1-2-34.5(b); and
- (3) considered by the commission in accordance with the commission's procedural rules and evidentiary standards in subsequent related filings by the utility.

~~(f)~~(g) Nothing in this rule shall restrict:

- (1) a person's or entity's rights regarding, or access to, the complaint processes and procedures of the commission; or
- (2) the commission's investigatory authority.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-7; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)

SECTION 7. 170 IAC 1-6-8 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-8 Commission approval

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42

Affected: IC 8-1

Sec. 8. (a) The commission division shall review the filings for its respective utility industry and promptly inform the utility of any:

- (1) missing information;
- (2) incomplete information; or
- (3) additional information;

it requires to complete review of the filing.

(b) Upon completing its review, the commission division shall recommend the filing for approval or denial by the commission. If the commission division recommends the filing be denied, it shall notify the utility of its decision in writing via electronic mail ~~or facsimile~~ at least five (5) calendar days prior to submitting its recommendations to the commission. The utility may withdraw its filing at any time prior to ~~the submission of the commission division's recommendations to~~ **the date of the conference at which the filing is considered by** the commission.

(c) If the utility has not previously withdrawn the filing, the commission division shall submit:

- (1) a description of the filing; and
- (2) the commission division's recommendation;

to the utility articles for consideration at the next conference, which shall be at least thirty (30) days after the filing date unless the commission has approved an order prescribing a different time frame.

(d) A utility may do the following:

- (1) Withdraw its filing at any time without approval of the commission.

(2) Resubmit a filing that has previously been:

(A) withdrawn by the utility; or

(B) denied by the commission.

(e) Any intrastate access tariff filing that does not mirror the applicable interstate or intrastate access tariff may be subject to post-filing review by the commission for reasonableness in accordance with IC 8-1-2-88.6(b). Any tariff determined by the commission or the commission division to be subject to this rule (including any post-filing changes recommended by the commission division) may be included within the scope of the utility articles that are subject to approval by the commission at a conference to be held 30 or more days following the filing date. Application of the tariff review process contemplated in IC 8-1-2-88.6(b) is consistent with and does not in any way nullify or restrict the “effective upon filing” provisions of IC 8-1-32.5-11(c).

(Indiana Utility Regulatory Commission; 170 IAC 1-6-8; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)