

August 19, 2021

Beth E. Heline, General Counsel
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500 E
Indianapolis, Indiana 46204
bheline@urc.in.gov
URCCComments@urc.in.gov
Electronically delivered

Re: Comments on IURC Rulemaking #21-02 and Draft Securitization Procedural Schedule

Dear General Counsel Heline,

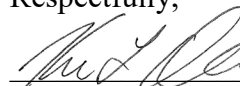
We appreciate the opportunity to comment on the Commission's securitization rulemaking strawman draft proposed rule, IURC RM #21-02, and the draft securitization procedural schedule. Overall, the proposed rules will provide the Commission, the utility, and other parties in interest with guidance that will lead to an efficient process for a securitization petition. However, the strawman rules are not yet complete. We offer a limited number of amendments that ensure the Commission's rule will serve the public interest.

We would like to highlight for the Commission that the word "maturity" in the legislation is ambiguous. While the legislation authorizes securitization, it did not specify whether maturity referred to "scheduled maturity" or "final maturity." We urge the Commission to leave no doubt that maturity means "scheduled maturity" which is based on industry practice. The scheduled maturity is the date on which the principal of the bonds is expected to be paid. The final maturity date is a date 12 to 24 months after the scheduled maturity date upon which all principal and interest must be repaid or an event of default will be declared. Having the scheduled maturity up to 20 years with a final maturity of 22 years provides for the longest possible tenor for the bonds. This reduces the bond repayment charges for ratepayers.

We would also emphasize the importance of requiring the utility to prepare a sensitivity analysis showing various securitization bond lengths versus savings for ratepayers. The Commission will have significant discretion in how it processes a securitization petition, and the Commission's choices can affect the savings available to consumers.

Thank you very much for this opportunity. We look forward to the issuance of the final rule. Please feel free to contact me with any questions or concerns.

Respectfully,



Kerwin L. Olson, Executive Director
Citizens Action Coalition of Indiana
1915 W. 18th Street, Suite C
Indianapolis, Indiana 46202
317-735-7727
kolson@citact.org

Rule 4-10. Cost Securitization for Retired Electric Utility Assets

SECTION 1. 170 IAC 4-10 IS ADDED AS FOLLOWS:

170 IAC 4-10-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 1. This rule is intended to establish procedures and guidelines for cost securitization for retired electric utility assets under IC 8-1-40.5. *(Indiana Utility Regulatory Commission; 170 IAC 4-10-1)*

170 IAC 4-10-2 Applicability under IC 8-1-40.5

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 2. This rule applies to any electric utility, as defined under IC 8-1-40.5-3, that meets the threshold for qualified costs pursuant to IC 8-1-40.5-10(a). *(Indiana Utility Regulatory Commission; 170 IAC 4-10-1)*

170 IAC 4-10-3 No change to other commission processes

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 3. This rule does not replace other commission requirements, including, but not limited to:
(1) a proceeding requesting a certificate of public convenience and necessity; and
(2) the commission's rule 170 IAC 4-7 regarding integrated resource planning.
(Indiana Utility Regulatory Commission; 170 IAC 4-10-1)

170 IAC 4-10-4 Definitions

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 4. (a) The definitions in IC 8-1-40.5 and this section apply throughout this rule:

(b) "Case-in-chief" means the evidence and documentation provided by the utility in support of its petition, including, but not limited to, those listed in subsection 5(c) below at a minimum.

(c) "Commission" means the Indiana utility regulatory commission.

(d) "Discount rate" means utility's weighted average cost of capital ("WACC") in its most recent general rate case.

(e) "Final maturity" means when all the bonds must be completely paid in full.

- (e)(f) “Net present value” means the discount of future costs and benefits by a rate that reflects the alternative cost of money, which shall be calculated using the utility’s weighted average cost of capital (“WACC”) from its most recent general rate case as the discount rate.**
- (d)(g) “OUCC” means the Indiana office of utility consumer counselor established under IC 8-1-1.1.**
- (e)(h) “Removal costs” mean those costs:**
- (1) incurred or expected to be incurred to physically remove retired utility facilities; and**
 - (2) that have not already been recovered from customers.**
- (i) “Restoration costs” mean those costs incurred or expected to be incurred to restore the site of retired utility facilities to a state found to be just and reasonable by the commission.**
- (j) “Scheduled maturity” means the date on which the principal of the bonds is expected to be paid.**
- (k) “Transaction documents” includes but is not limited to bond indenture, servicing agreement, administration agreement, establishment of the limited liability company, the underwriting agreement for the sale, and other pertinent documents to the securitization transaction.**

(Indiana Utility Regulatory Commission; 170 IAC 4-10-2)

170 IAC 4-10-5 Petition and case-in-chief

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 5. (a) An electric utility seeking to securitize costs for retired electric utility assets shall file its petition and its case-in-chief on the same day. The 240 day timeline in IC 8-1-40.5-10(b) does not start until the case-in-chief is filed and the commission finds that the petition complies with all provisions of paragraphs (b) and (c) of this section.

(b) The electric utility’s petition shall contain, at a minimum, the following:

- (1) The amount and terms of the proposed securitization with scheduled maturity not to exceed twenty (20) years and final maturity at a date twelve (12) to twenty-four (24) months after the scheduled maturity date upon which all principal and interest must be repaid or an event of default will be declared.**
- (2) Proposed term in years of the securitization bonds and a sensitivity analysis showing various bond lengths versus savings for ratepayers. The proposed term shall be no less than the remaining regular depreciation schedule.**
- (3) Total jurisdictional rate base at time synchronized with qualified costs at time of bond issuance.**
- (4) An executive summary of the request, in addition to specifying all the terms and conditions.**

(c) The electric utility’s case-in-chief shall contain, at a minimum, the following:

(1) The amount and terms of the proposed securitization with scheduled maturity not to exceed twenty (20) years and final maturity at a date twelve (12) to twenty-four (24) months after the scheduled maturity date upon which all principal and interest must be repaid or an event of default will be declared.

(2) Proposed term in years of the securitization bonds and a sensitivity analysis showing various bond lengths versus savings for ratepayers. The proposed term shall be no less than the remaining regular depreciation schedule.

(3) Total jurisdictional rate base at time synchronized with qualified costs at time of bond issuance.

(4) Descriptions and schedules of the qualified costs to be subject to the securitization, including linking or mapping the qualified costs to the costs currently included in utility rates, as applicable, including any Excel worksheets with formulas intact.

(5) Schedule(s) and supporting assumptions and documentation, including Excel worksheets with formulas intact, comparing the net present value of the proposed securitization charges with the net present value of the recovery of the qualified costs through traditional ratemaking.

(6) Schedule(s) and supporting assumptions and documentation comparing the net present value of savings from securitized bonds of various lengths, highlighting the bond length (tenor) that provides maximum net present value savings, calculated using the utility's weighted average cost of capital ("WACC") from its most recent general rate case as the discount rate.

(7) Identification and list of electric utility assets to be retired for which securitization is being requested.

(8) Proposed process to accomplish the requirements of IC 8-1-40.5-12(c), including an ongoing rate adjustment mechanism and a demonstration that securitization charges will be sufficient to timely provide all payments on debt service and other required amounts and charges in connection with the securitization bonds, including but not limited to an itemization of servicing fees and administration fees.

(9) Identification and description regarding the use of the securitization bonds proceeds and accounting entries at receipt of bond proceeds.

(10) Identification and description of the proposed mechanism to reduce the electric utility's base rates and charges upon assessment of the securitization charges on customer bills, so as to remove any qualified costs from the electric utility's base rates and provide timely savings to customers.

(11) Tariffs and supporting documentation for securitization charges and proposal for removing qualified costs from existing rates, as applicable.

(12) Identification and description of current and anticipated market conditions and expected bond structure, including how the proposal maximizes net present value savings for customers and contemplates a sensitivity analysis for changes in interest rates.

(13) Proposed plan for capital investment in Indiana, with justification of any plan investment that is not identified as a clean energy resource.

(14) Basis and supporting documentation for any and all estimated numbers.

~~(415)~~ A description of any debt or equity securities to be refinanced or retired, including previously issued securitization bonds, including a detailed description of the use of bond proceeds and the cost of such refinancing or retirement.

~~(4216)~~ A copy of all transaction documents with as much information made public as possible any contract, agreement, or arrangement that is proposed or has been made, or examples of, for the sale of the securitization bonds proposed to be issued.

~~(4317)~~ Demonstration of the proposed process to be used to correct any over collections or under collections of securitization charges.

~~(4418)~~ Proposed financing order.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-3)

170 IAC 4-10-6 Notice to OUCC and likely intervenors

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 6. The electric utility shall provide notice at least 60 days prior to filing its petition to:

- (1) the OUCC; and
- (2) any person or entity the electric utility thinks may be likely to intervene in the securitization proceeding.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-4)

170 IAC 4-10-7 Notice to customers

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 7. (a) Within two weeks of the filing of its petition, the electric utility shall provide notice to its customers by:

- (1) posting notice on the electric utility's website; and
- (2) publishing notice through an advertisement in a newspaper of general circulation in each county served by the electric utility.

(b) The notice shall state:

- (1) That the electric utility has filed with the commission a petition for securitization financing order and authority for a finance subsidiary to issue securitization bonds;
- (2) The total amount of the securitization bonds requested, including an itemization of counsel fees by function and other fees and expenses, as well as the basis for those estimated fees and expenses;
- (3) The proposed securitization charges, including any ongoing costs included the charges, and the number of years it will be collected in accordance with its scheduled maturity;
- (4) The net impact on customer rates and bills in the first year after the securitization is completed compared to existing rates and bills;

(45) That interested persons may send comments to the OUCC; and

(56) The mailing and website addresses for the OUCC and the commission.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-5)

DRAFT

Draft Securitization Procedural Schedule

The following procedural schedule may be reset at any time the Commission deems the utility's petition and case-in-chief incomplete. A utility petitioning for securitization bears the burden of proof and must submit sufficient evidence as part of its case-in-chief to satisfy its burden. Utility petitions will be dismissed for failure to present a complete case.

The following minimum discovery rules shall apply: Discovery is available to all parties and shall be conducted on an informal basis. Any response or objection to a discovery request shall be made within ten (10) calendar days of the receipt of such request until the date by which Rebuttal Testimony is filed. Thereafter, any response or objection to a discovery request shall be made within five (5) calendar days of the receipt of such request. Subject to the protection of confidential information, all parties will be served with discovery requests and responses.

Day (week)	Filing/Event	Comments
0	Petition/Case-in-chief/proposed procedural schedule	<u>As noted above, the procedural schedule may be reset at any time the Commission deems the utility's petition and case-in-chief incomplete. A utility petitioning for securitization bears the burden of proof and must submit sufficient evidence as part of its case-in-chief to satisfy its burden. Utility petitions will be dismissed for failure to present a complete case.</u>
28 (4)	Prehearing Conference/Technical Conference	If necessary, to resolve contested issues regarding procedural schedule and allow for discussion of issues
80 (11)	OUCG/Intervenors Case-in-chief	
110 (16)	Petitioner's Rebuttal and OUCG/Intervenor Cross-answering testimony	
120 (17)	Settlement Agreement	Last day to submit settlement agreement/supporting testimony of all parties and maintain schedule
140 (20)	<u>Evidentiary</u> Hearing	
160 (23)	Proposed Orders	

190 (27)	Responses/Exceptions to Proposed Orders	
240 (34)	Order	

DRAFT