

**“STRAWMAN” DRAFT – VERSION 1
FOR PRE-RULEMAKING WORKSHOP**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule
LSA Document #07-_____

DIGEST

Adds 170 IAC 7-8-1 through 170 IAC 7-8-14 establishing the Indiana lifeline assistance program. Effective 30 days after filing with the Publisher.

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

Rule 8. Indiana lifeline assistance program

170 IAC 7-8-1 Policy and scope
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 1. (a) The purpose of this rule is to establish the Indiana lifeline assistance program.

(b) All providers of intrastate telecommunications services in Indiana shall be subject to this rule.

SECTION 2. 170 IAC 7-8-2 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-2 Definitions
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

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

(a) “Anniversary date” means the yearly recurrence of the month and day a participant was accepted into the program.

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(b) **“Basic telecommunications service” means that part of the telecommunications services a customer receives that is stand alone telephone exchange service (as defined in 47 U.S.C. 153(47)) provided through the customer’s primary line. The term includes, at a minimum, the following:**

- (1) **Voice grade access to the public switched telephone network with minimum bandwidth of three hundred (300) to three thousand (3,000) hertz.**
- (2) **Dual tone multifrequency signaling and single party service.**
- (3) **Access to:**
 - (A) **emergency services, including access to 911 and enhanced 911 if provided by the local government having jurisdiction in the service area;**
 - (B) **operator services;**
 - (C) **local directory assistance;**
 - (D) **telephone relay services; and**
 - (E) **interexchange service.**

(4) **Toll limitation service for qualifying low income customers.**

(c) **“Commission” means the Indiana utility regulatory commission.**

(d) **“Eligible telecommunications carrier” or “ETC” means a local exchange carrier that is designated as an eligible telecommunications carrier by the commission under 47 CFR 54.201.**

(e) **“Federal lifeline program” refers to the retail local service offering:**

- (1) **available only to qualifying low-income consumers (as defined in 47 CFR 54.400(a));**
- (2) **for which qualifying low-income consumers pay reduced charges as a result of the application of the lifeline support amount described in 47 CFR 54.403; and**
- (3) **the includes the services and functionalities set forth in 47 CFR 54.101(a)(1) through 47 CFR 54.101(a)(9);**

as described in 47 CFR 54.401.

(f) **“ILAP” means the Indiana lifeline assistance program established by the commission under this rule.**

(g) **“OUCC” means the Indiana Office of Utility Consumer Counselor.**

(h) **“Participant” means an eligible customer who applies for and receives assistance through the program.**

(i) **“Program” means the Indiana lifeline assistance program established by the commission under this rule pursuant to IC 8-1-36.**

SECTION 3. 170 IAC 7-8-3 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-3 Eligibility Requirements

Authority: IC 8-1-1-3; IC 8-1-36

Affected: IC 8-1-2.6-0.3

Sec. 3. (a) A customer is eligible for the program if:

- (1) **the customer’s income (as defined in 47 CFR 54.400(f)) does not exceed one hundred fifty percent (150%) of the federal poverty guidelines; or**
- (2) **any person in the customer’s household receives or has a child who receives any of the following:**

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- (A) Medicaid.**
- (B) Food stamps.**
- (C) Supplemental Security Income.**
- (D) Federal public housing assistance.**
- (E) Home energy assistance under a program administered by the lieutenant governor under IC 4-4-33-1(3).**
- (F) Assistance under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).**
- (G) Free lunches under the national school lunch program.**

(b) A customer meeting at least one of the eligibility requirements in subsection (a) shall be eligible even if the customer receives nonbasic telecommunications services as defined in IC 8-1-2.6-0.3.

(c) The creditworthiness of a customer shall not be an undue barrier to eligibility in the program.

SECTION 4. 170 IAC 7-8-4 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-4 Creditworthiness of participant; deposit; refund
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 4. (a) This section applies to customers or applicants for residential service who are otherwise eligible for the program. The provider of basic telecommunications service shall comply with the creditworthiness requirements of this section.

(b) Each ETC shall determine the creditworthiness of applicants or customers in an equitable and nondiscriminatory manner:

- (1) without regard to the race, sex, national origin, or marital status of the applicant or customer, or the economic character of the area wherein the applicant or customer resides or operates; and**
- (2) solely upon the credit risk of the applicant or customer without regard to the collective credit reputation of the area in which the applicant or customer resides or operates.**

(c) Each new applicant for residential telephone service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving basic local service if the applicant satisfies either of the following criteria:

- (1) The applicant has been a customer of a public or municipal utility in the United States within the last two (2) years, and the applicant:**
 - (A) owes no outstanding bills for service rendered within the past four (4) years by such utility;**
 - (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to such utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and**
 - (C) within the last two (2) years did not have a service disconnected by such utility for nonpayment of a bill for services rendered by that utility.**

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(2) The applicant has not been a customer of a utility during the previous two (2) years and any of the following criteria are met:

(A) The applicant either has been employed by:

- (i) his or her present employer for two (2) years;**
- (ii) his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or**
- (iii) the present employer for less than two (2) years and has no previous employment due to recently:**

(AA) graduating from a school, university, or vocational program; or

(BB) being discharged from military service.

(B) The applicant either:

- (i) owns or is buying his or her home; or**
- (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.**

(d) If the applicant fails to establish that he or she is creditworthy under subsection (c), the applicant may be required to make a reasonable initial cash deposit. Such initial deposit shall not exceed one-sixth ($\frac{1}{6}$) of the estimated annual billings for local service to the applicant and shall be paid in full before installation of service. Such initial deposit shall be subject to reevaluation upon the request of either the LEC or the customer, based upon actual charges for services rendered, at any time after service has been provided.

(e) The utility may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility, of payment for all telephone service rendered or to be rendered to the applicant. The guarantor may terminate the guarantee upon thirty (30) days prior written notice. Said guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant’s bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of either:

(1) nine (9) consecutive months; or

(2) ten (10) out of any twelve (12) consecutive months.

(f) If the utility requires a cash deposit or a written guarantee as a condition of providing service, the utility shall advise the applicant of the reason upon which it bases its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating creditworthiness.

(g) The ETC may require a present customer to make a reasonable cash deposit, or an additional deposit in cases where a deposit has been made, when the customer has been mailed disconnect notices for two (2) consecutive months or any three (3) months within the preceding twelve (12) month period. In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make said deposit. When the service has been disconnected within the past four (4) years, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for local service pursuant to this section may not exceed an amount equal to one-sixth ($\frac{1}{6}$) of the annualized estimated billings for the customer at the address at which service is rendered.

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(h) The ETC shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366.

(i) Requirements for interest upon a deposit shall be as follows:

(1) A deposit held more than thirty (30) days shall earn interest from the date of deposit. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then-existing rate for one-year United States treasury bills. The interest rate will be rounded to the nearest one-half (½) of one percent (1%). In December of each year, the commission shall issue a General Administrative Order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed of as provided in subsection (i)(6).

(j) Requirements for refunds shall be as follows:

(1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer’s request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.

(2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.

(3) Following a customer-requested termination of service, the ETC shall:

(A) apply the deposit, plus accrued interest, to the final bill; or

(B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) business days after payment of the final bill.

(4) Each ETC shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current mailing address of the customer.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting such deposit.

(5) Each customer shall be provided a written receipt from the ETC at the time the customer’s deposit is paid in full or when the customer makes a cash partial payment. The ETC shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant or customer to the ETC (less any lawful deductions to be refunded), or any sum the ETC is ordered to refund for telephone services that has remained unclaimed for one (1) year after the ETC has made a diligent effort to locate the customer who made such deposit or the heirs of such customer, shall be presumed abandoned and treated in accordance with IC 32-34-1-20(c).

(7) A deposit may be used by the ETC to cover any unpaid balances owed the ETC following disconnection of any service under section 11 of this rule, provided, however, that any surplus be returned to the customer as provided in this subsection.

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(8) Establishment of credit by cash deposit shall not relieve a customer from the duty of prompt payment of bills.

SECTION 5. 170 IAC 7-8-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-5 Certification
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 5. (a) To become a participant in the program, a customer must:

- (1) complete a certification form and**
- (2) if establishing eligibility by income pursuant to subsection 3(a)(1) of this rule, provide income documentation substantiating the customer’s household income.**

Acceptable income documents include:

- (A) Prior year’s state, federal, or tribal tax return.**
- (B) Current income statement from an employer or paycheck stub for 3 consecutive months worth of the same type of statements within the last 12 months.**
- (C) Statement of benefits from:
 - (i) Social Security Administration**
 - (ii) Veterans Administration**
 - (iii) Retirement**
 - (iv) Pension**
 - (v) Unemployment**
 - (vi) Workers Compensation****
- (D) A divorce decree**
- (E) Child support documents**
- (F) Other official documents**

(b) The certification form shall:

- (1) be created by the administrator,**
- (2) submitted for approval by the commission, and**
- (3) include a self-certification statement by the customer regarding the customer’s eligibility under subsection 3(1) of this rule.**

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

170 IAC 7-8-6 Verification
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 6. (a) On an annual basis, a participant’s eligibility to remain in the program shall be verified by the following process:

- (1) the ETC shall mail a verification form to the participant no later than 60 days prior to the participant’s anniversary date.**

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- (2) The participant shall complete and sign the verification form and return it to the ETC with supporting documentation by the participant’s anniversary date.
- (3) If the ETC does not receive the verification form and supporting documentation by the participant’s anniversary date, the ETC shall notify the customer that the customer will be withdrawn from the program if the signed verification form and supporting documentation are not returned to the ETC within 60 days of the notice.
- (4) If the customer fails to provide the signed verification form and supporting documentation within 60 days of the notice in subsection (a)(3), the customer shall be withdrawn from the program.
- (5) If the customer provides the signed verification form and supporting documentation within 60 days of the notice in subsection (a)(3), the customer shall continue to be a participant in the program without interruption in receipt of the benefits of the program.
- (6) If the participant:
 - (A) has been withdrawn from the program for failure to comply with subsection (a)(2) and
 - (B) completes and signs the verification form and returns it to the ETC with supporting documentation after the 60 day deadline in the notice,the ETC shall reinstate the participant as of the date of receipt of the form and documentation.

SECTION 7. 170 IAC 7-8-7 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-7 **Toll limitation**
Authority: **IC 8-1-1-3; IC 8-1-36**
Affected: **IC 8-1-36**

Sec. 7. (a) An ETC shall offer toll limitation (as defined in 47 CFR 54.400(d)) to an eligible customer who applies for assistance under the program.
(b) An ETC shall not charge a participant:
(1) an administrative charge or
(2) any other additional amount
for toll limitation.

SECTION 8. 170 IAC 7-8-8 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-8 **Block of interexchange service**
Authority: **IC 8-1-1-3; IC 8-1-36**
Affected: **IC 8-1-36**

Sec. 8. (a) An ETC may block a participant’s access to interexchange service, except for access to toll free numbers, if the participant owes an outstanding amount for basic telecommunications service.
(b) Without additional cost to the participant, the ETC must remove the block upon payment of the outstanding amount.

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SECTION 9. 170 IAC 7-8-9 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-9 Disconnection
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 9. An ETC shall not discontinue a participant’s basic telecommunications service because of nonpayment by the participant of charges for other services billed by the ETC, including interexchange service.

SECTION 10. 170 IAC 7-8-10 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-10 Dispute resolution process
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 10. (a) A participant who believes that their ILAP participation or ILAP discounts have been denied or terminated by an ETC in a manner that does not comply with the provisions of the ILAP may request a dispute resolution process by contacting the consumer affairs division of the IURC.

(b) Such complaints may be made in person, by telephone, in writing, or by completing a form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission’s consumer affairs division, except mailed complaints shall be considered filed as of the post mark date. In requesting a dispute resolution, the customer shall state, at a minimum, his or her name, service address, telephone number, and the basis for which they believe ILAP eligibility or discounts have been unduly denied by the ETC. The consumer affairs division shall pass through the complaint information to the communications division once a complaint is has been received.

(c) Without the commission’s permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the dispute while the commission review or investigation is pending. The participant shall continue to pay all undisputed charges and shall continue to receive the ILAP discount for basic telecommunications services.

(d) Upon receiving a request for dispute resolution under this rule, the following action shall be taken:

- (1) The ETC shall be notified that a dispute resolution process has been requested;**
- (2) The dispute shall be investigated;**
- (3) The participant and the ETC shall be notified of the decision made on the dispute in accordance with applicable law.**

(e) The customer or the ETC may make a written request that a decision made pursuant to subsection (d) be reviewed informally by the communications division director or designee. Such written request shall be made within fourteen (14) days of the decision. The records of the commission relating to such review shall be kept in systematic order.

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(f) Upon receiving a request for informal review of the dispute resolution, the commission shall provide an informal review within thirty (30) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the ETC within (30) days after its receipt of the request.

(g) The participant may make a written request that the commission investigate the disposition of the informal review. Such written request shall be made within fourteen (14) days of the notice of disposition pursuant to subsection (f). Prior to entering an order upon a commission investigation, the commission shall afford the customer and the ETC notice and an opportunity to be heard.

(h) Without the participant’s permission, the ETC shall not disconnect, remove or restrict any disputed service or discontinue ILAP participation until at least 14 days from the postmark date of the disposition pursuant to subsection (f) or the commission order upon investigation, if any.

(i) A customer who:

(1) is not eligible for the program and

(2) has falsely self-certified and participated in the program

will be responsible to pay the difference between the program service rate and the otherwise applicable service rate for the length of time the customer participated in the program and was not eligible.

SECTION 11. 170 IAC 7-8-11 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-8-11 Consumer education
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36**

Sec. 11. (a) An ETC shall make available the following consumer outreach materials in order to advertise the availability of the program to consumers in the following manner:

(1) To the extent that an ETC has a bill payment center or main office which accepts and processes consumer payments or complaints, posters, signs, brochures or flyers that explain the program and eligibility requirements in addition to Lifeline/Link-Up application forms;

(2) ETCs shall provide program and eligibility information on their websites with electronic download capability for application forms;

(3) Information about the program and eligibility requirements shall be provided to consumers during one 30-day period on an annual basis in the form of bill inserts or bill messages;

(4) Whenever an ETC provides a new customer with information regarding new telephone service, they shall also provide brochures and applications information about the program and eligibility requirements;

(5) Customer service representatives shall initiate discussions with consumers at such time as installation appointments are being set and whenever consumers are arranging payment plans over the phone. To the extent that a customer service representative discusses the parameters of payment arrangements with a consumer, they should also advise the consumer at that time of their rights regarding the

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Commission’s dispute resolution procedures available to Lifeline/Link-Up customers ;

- (6) An ETC shall publicize through quarterly newspaper advertisements and/or radio announcements the availability of the program and eligibility requirements for qualified consumers. Classified ads, legal notices or other similar types of ads shall not be deemed an acceptable method of fulfilling this requirement;
- (7) Information shall be made available to qualified participants on disconnect notices along with a brief recitation of their rights under Commission’s dispute resolution processes for Lifeline/Link-Up consumers;
- (8) The Commission shall post information about the program and eligibility requirements on their website along with an explanation of the dispute resolution processes available to Lifeline/Link-Up consumers.
- (9) An ETC shall provide at least one of the following optional outreach methods to qualified consumers on an annual basis:
 - (A) Brochure and application about the program and eligibility requirements contained in a company newsletter;
 - (B) Brochure and application distributed to school system administrators regarding the school lunch program;
 - (C) Paid radio and TV advertisements;
 - (D) Public service announcements;
 - (E) Bus signs;
 - (F) Public access displays (grocery stores, libraries, churches, etc.)
 - (G) Brochures/flyers provided to community social service agencies, township trustees, and community/senior centers.
- (b) The following shall also be available in the Spanish language:
 - (1) Brochures,
 - (2) Applications, and
 - (3) Educational materials.

SECTION 12. 170 IAC 7-8-12 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-12 Administration
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 12. (a) At any time while the program is in effect, the commission may elect to perform the functions of the administrator itself. If the commission does not make such an election, the administrator shall be selected by the commission through a request for proposal (RFP) process acceptable to the commission, with the selection to be based upon neutrality, experience in low income program administration, professional qualifications, and the fees charged for administering the program.

(b) The administrator shall be compensated on a monthly basis by the fund for the costs/expenses it incurs in fulfilling its responsibilities from the amounts assessed and collected for the operation of the ILAP.

(c) The administrator shall comply with the following standards of performance:

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- (1) The administrator must follow written procedures as established by the commission and maintain neutrality in its implementation of the procedures and treatment of all telecommunications carriers and interested parties;**
- (2) The administrator shall be independent from any telecommunications company or provider affected by the program;**
- (3) The administrator may not require carrier payments to the ILAP in excess of those authorized by the commission. Any earnings realized from the monies collected from the carriers shall be used to reduce subsequent ILAP assessments.**
- (4) Financial records of the administrator with regard to the operation of the ILAP, shall be made available to the commission upon request and shall be subject to an audit on an annual basis by an independent accounting firm acceptable to the Commission.**
- (5) The financial records of any telecommunications carrier with regard to its funding obligations for the ILAP, as well as any ETC with regard to its reimbursement costs for lost revenues associated with reduced charges for Indiana Lifeline support, as well as administration and outreach expenses incurred for the ILAP shall be made available to the commission upon the commission’s request. Such information shall be subject to audit as reasonably determined, expedient and necessary by the commission. Appropriate confidentiality protection will be accorded to each carrier for the submission of any competitively sensitive data. In the event a dispute arises over the claimed expenses of a telecommunications carrier, a participating party may obtain access to relevant documents pursuant to an appropriate non-disclosure agreement between such party and the carrier.**
- (d) The administrator shall perform the following duties:**
 - (1) Manage the daily operations and affairs of the ILAP in an efficient, fair, and competitively neutral manner;**
 - (2) Calculate and collect the proper ILAP contribution assessment amount from every intrastate retail telecommunications provider operating in Indiana.**
 - (3) Ensure that required contributions to the ILAP are timely received from each carrier and that such funds are promptly deposited in the ILAP fund.**
 - (4) Disburse the proper Lifeline support amounts ensuring that only qualified ETCs receive ILAP funds for qualified expenses.**
 - (5) Perform any periodic audits of the ILAP deemed necessary by the administrator and/or the commission regarding any operations of the ILAP;**
 - (6) Report not less frequently than annually to the commission and the OUCCas to all receipts and disbursements made from the ILAP fund that it has administered;**
 - (7) Notify the commission of any carriers that are in violation of any requirements to support the ILAP fund;**
 - (8) Compute the anticipated annual funding requirements and administrative costs of the ILAP, including reasonable outreach expenses and account for earnings realized on monies collected from providers;**
 - (9) Establish a reserve for such contingencies as late payments and uncollectibles as deemed appropriate by the commission;**
 - (10) Provide any and all information necessary to support external audits of the ILAP;**
 - (11) Resolve informal assessment disputes with any carrier;**

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- (12) Maintain complete and thorough records of all costs directly and reasonably associated with the operation of the ILAP;**
- (13) Establish an appropriate true-up methodology for the ILAP assessment;**
- (14) Maintain a sufficient surety bond in such amount as required by the RFP process to guarantee the faithful performance of the duties of the Administrator with regard to the management and operations of the ILAP; and**
- (15) Other duties deemed necessary by the commission.**

(e) The administrator shall report to the commission no less frequently than on an annual basis regarding all of the receipts and disbursements from the ILAP fund that it has administered, in addition to any other information that the commission deems appropriate and necessary for fund operations. This report should show the total amount of funds collected from each telecommunications carrier, any earnings realized from monies collected from carriers, and the total funds disbursed on a monthly basis to each ETC during that calendar year. All reports shall be filed by the administrator in accordance with the commission’s current confidentiality requirements.

SECTION 13. 170 IAC 7-8-13 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-13 Funding
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 13. [TO BE DETERMINED BASED ON ORDER IN IURC CAUSE NO. 43082]

SECTION 14. 170 IAC 7-8-14 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-8-14 Benefits to participants
Authority: IC 8-1-1-3; IC 8-1-36
Affected: IC 8-1-36

Sec. 14. (a) Participants shall receive reduced monthly rates on their primary exchange line, which is the basic telecommunications services portion of the participant’s bill.

(b) The commission by general administrative order shall set the amount of the reduction in monthly rates each participant shall receive.