ORIGINAL

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Final Rule
LSA Document #05-100(F)

DIGEST

Amends 170 IAC 5-1-15 and 170 IAC 5-1-16 regarding customer deposits, service disconnections, and reconnections for gas utilities. Effective 30 days after filing with the Secretary of State.

170 IAC 5-1-15
170 IAC 5-1-16

SECTION 1. 170 IAC 5-1-15 IS AMENDED TO READ AS FOLLOWS:

170 IAC 5-1-15 Creditworthiness of customer; deposit; refund
Authority: IC 8-1-1-3
Affected: IC 8-1-2-87; IC 12-14-11; IC 32-34-1-20

Sec. 15. (a) Each utility shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:
(1) without regard to the economic character of the area wherein the applicant or customer resides; and
(2) solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or she lives.

(b) Each new applicant for residential gas service shall be deemed creditworthy and shall not be required to make a ~~cash~~ deposit as a condition of receiving service if the applicant satisfies the following criteria:
(1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:
(A) owes no outstanding bills for service rendered within the past four (4) years by any 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 any 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~~ **the** period; and
(C) within the last two (2) years, did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.
(2) If the applicant has not been a customer of a utility during the previous two (2) years, any two (2) of the following criteria are met:
(A) The applicant either:
(i) has been employed by his or her present employer for two (2) years;
(ii) has been employed by 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) has been employed by 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.
(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) Deposits for residential customers shall be assessed as follows:
(1) Deposits for utilities serving at least thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission, or their affiliates as defined in clause (G) below, shall be assessed as follows:

(A) New applicants who have not been a customer of the utility during the previous four (4) years who fail to establish creditworthiness under subsection (b)(2) may be required to make a deposit not to exceed one-sixth ($^1/_6$) of the estimated annual cost of regulated utility service to be rendered to the applicant.

(B) Subject to the requirements of clause (E), an applicant that has been a customer of the utility during the previous four (4) years may be required to make a deposit not to exceed one-third (⅓) of the estimated annual cost of regulated utility service to be rendered to the applicant, when the applicant:

(i) owes an outstanding bill for service rendered by the utility within the past four (4) years;

(ii) during the last twelve (12) consecutive months that the service was provided, had more than two (2) bills that were delinquent to the utility or, if service was rendered for a period of less than twelve (12) months, had more than one (1) delinquent bill in such period; or

(iii) within the last two (2) years had service disconnected by the utility for nonpayment of a bill for services rendered by that utility.

(C) Subject to the requirements of clause (E), the customer may be required to make a deposit not to exceed one-third (⅓) of the estimated annual cost of regulated utility service to be rendered to the customer when:

(i) the customer has been mailed disconnect notices for two (2) consecutive months;

(ii) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period; or

(iii) the service to the customer has been disconnected within the previous two (2) years under section 16 of this rule.

(D) If a customer has contracted for the budget plan, the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments.

(E) From November 1 to March 15 of any year, applicants or customers who the utility has been informed by the state or its agent are eligible and have applied for low income heating assistance under IC 12-14-11, may be required to make a deposit not to exceed one-sixth ($^1/_6$) of the estimated annual cost of regulated utility service to be rendered to the applicant or customer.

(F) An initial deposit made by an applicant shall be subject to reevaluation upon the request of either the utility or the applicant, based upon actual charges for services rendered, at any time after service has been provided.

(G) The provisions of this subdivision shall apply to any utility, regardless of size, that has an affiliate utility serving at least thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission.

(2) Subject to the provisions of subdivision (1)(G), deposits for utilities serving less than thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission, shall be assessed as follows:

~~(c)~~ **(A)** If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a reasonable ~~cash~~ deposit. ~~Such~~ **The** deposit shall not exceed one-third (⅓) of the estimated annual cost of service to be rendered to the applicant unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments. If a deposit is greater than seventy dollars ($70), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay ~~such~~ **the** deposit in equal installment payments over a period of no less than eight (8) weeks. Service shall be connected upon receipt by the utility of the first such payment.

(B) Unless a present customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments, a present customer may be required to make a reasonable deposit not exceed an amount equal to one-third (⅓) of the expected annual billings for the customer at the address at which service is rendered when:

(i) the customer has been mailed disconnect notices for two (2) consecutive months;

(ii) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period; or

(iii) the service to the customer has been disconnected within the past four (4) years under section 16 of this rule.

(d) If ~~the~~ **a** utility requires a ~~cash~~ deposit as a condition of providing service, then ~~it~~ **the utility** must:

(1) immediately notify the applicant ~~in writing~~ stating the precise facts upon which the utility based its decision; and

(2) provide the applicant with an opportunity to rebut ~~such~~ **the** facts and show other facts demonstrating his or her creditworthiness.

(e) ~~A utility may require a present customer to make a reasonable cash deposit when:~~

~~(1) the customer has been mailed disconnect notices for two (2) consecutive months;~~
~~(2) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period; or~~
~~(3) the service to the customer has been disconnected within the past four (4) years pursuant to section 16 of this rule.~~
~~The amount of such deposit may not exceed an amount equal to one-third (⅓) of the expected annual billings for the customer at the address at which service is rendered unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments.~~ In the event the required deposit **from a utility serving at least thirty-five thousand (35,000) residential customers, or its affiliate,** is in excess of ~~seventy~~ **one hundred fifty** dollars ~~($70),~~ **($150),** the utility shall advise the customer that he or she may pay ~~such~~ **the** deposit in ~~equal~~ **installments, the initial** installment **being one hundred fifty dollars ($150), with subsequent** payments **of the deposit balance paid** over a period of up to ~~eight (8)~~ **twelve (12)** weeks, except where ~~such~~ **the** deposit is required as a result of a disconnection for nonpayment, in which case full payment of the deposit may be required prior to reconnection. **The utility shall record the terms of any payment arrangement by selecting one (1) of the following methods:**

(1) Sending the customer a letter describing the terms of the payment arrangement, including the following:
(A) The amount of each installment.
(B) The due date or dates.
(C) The total amount due.
(D) An explanation that failure to comply with the terms of the arrangement may lead to disconnection of service.

(2) Describing the terms of the payment arrangement on the customer's bill, including the following:
(A) The amount of each installment.
(B) The due date or dates.
(C) The total amount due.
(D) An explanation that failure to comply with the terms of the arrangement may lead to disconnection of service.

(3) Making a voice recording of a telephone conversation in which the customer agrees to the payment arrangement, including the following:
(A) The amount of each installment.
(B) The due date or dates.
(C) The total amount due.
(D) An explanation that failure to comply with the terms of the arrangement may lead to disconnection of service.

Recordings of telephonic payment arrangements shall be maintained for at least six (6) months after the arrangement is completed or broken by the customer.

(f) Requirements for interest upon deposits shall be as follows:
(1) **For a utility serving less thirty-five thousand (35,000) residential customers, deposits** ~~Deposits~~ held more than twelve (12) months shall earn interest from the date of deposit at a rate of six percent (6%) per annum or at such other rate of interest as the commission may prescribe following a public hearing.
(2) For a utility serving at least thirty-five thousand (35,000) residential customers, a deposit held more than thirty (30) days shall earn interest from the date the deposit is paid in full. 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 (1) year United States Treasury Constant Maturity securities. The interest rate shall 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)~~ **(3)** The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed.

(g) Requirements for refunds shall be as follows:
(1) Any deposit or accrued interest shall be promptly refunded **directly to the customer or credited** to the ~~customer~~ **customer's account** without the customer's request when the customer:
(A) submits satisfactory payment for a period of either:
(i) twelve (12) successive months; or
(ii) twelve (12) out of any fifteen (15) consecutive months without late payment in two (2) consecutive months; or
(B) demonstrates his or her creditworthiness as provided by subsection (b).
(2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.

(3) Following customer-requested termination of service, the utility 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) days after payment of the final bill.
(4) Each utility 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 address of the customer so long as he or she maintains an active account with the utility in his or her name.
(C) The amount of the deposit.
(D) The date the deposit was made.
(E) A record of each transaction affecting ~~such~~ **the** deposit.
(5) Each customer shall be provided a written receipt from the utility:
(A) at the time his or her deposit is paid in full; or
(B) when he or she makes a ~~cash~~ partial payment.
The public utility 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, customer, or any other person to the utility (less any lawful deductions), or any sum the utility is ordered to refund for utility service, that has remained unclaimed for one (1) year after the utility has made diligent efforts to locate the person who made ~~such~~ **the** deposit or the heirs of ~~such~~ **the** person, shall be presumed abandoned and treated in accordance with ~~IC 32-9-1.5-20(c)(10).~~ **IC 32-34-1 et seq.**
(7) A deposit may be used by the utility to cover any unpaid balance following disconnection of service under section 16 of this rule, provided, however, that any surplus be returned to the customer as provided in subsection (f) and this subsection.

(h) The commission may require that data be reported by utilities in order to determine whether a utility is providing service consistent with this rule. The utility shall respond to any survey that is issued by the commission in a timely manner, and provide copies of such survey responses to the office of the utility consumer counselor. Requested information in the survey may include, but is not limited to the following:
(1) the amount of collected deposits;
(2) the number of customers assessed deposits;
(3) the number of customers served who are receiving low-income heating assistance; and
(4) the amount of uncollected debt.

(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 15; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 401; filed Oct 28, 1998, 3:22 p.m.: 22 IR 730; errata filed Nov 22, 1999, 3:31 p.m.: 23 IR 812; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

SECTION 2. 170 IAC 5-1-16 IS AMENDED TO READ AS FOLLOWS:

170 IAC 5-1-16 Disconnection of service; prohibited disconnections; reconnection
Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4
Affected: IC 8-1-2-87; IC 8-1-2-122; IC 8-1-2.5

Sec. 16. (a) The customer shall notify the utility at least three (3) days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billings therefor until service is disconnected pursuant to such notice. Upon request by a customer of a utility to disconnect service, the utility shall disconnect the service within three (3) working days of the requested disconnection date. The customer shall not be liable for any service rendered to ~~such~~ **the** address or location after the expiration of three (3) such days.

(b) A utility may disconnect service without request by the customer of the service and without prior notice only:
(1) if a condition dangerous or hazardous to life, physical safety, or property exists; ~~or~~
(2) upon order by any court, the commission, or other duly authorized public authority; ~~or~~
(3) if fraudulent or unauthorized use of gas is detected and the utility has reasonable grounds to believe the affected customer is responsible for ~~such~~ **the** use; ~~or~~

(4) if the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for ~~such~~ **the** tampering; **or**

(5) if the utility's equipment is used in a manner disruptive to the service of other customers.

In all other instances a utility, upon providing the customer with proper notice (as defined in subsection ~~(e) of this section),~~ **(f)),** may disconnect service subject to the other provisions of ~~170 IAC 5-1.~~ **this rule.**

(c) Except as otherwise provided in subsections (a) and (b), ~~of this section,~~ a utility shall postpone the disconnection of service for ten (10) days if, ~~prior to~~ **before** the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official ~~which~~ **that** states that disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one **(1)** additional ten (10) day period upon the provision of an additional such medical statement. **The utility shall be required to provide the customer a total of twenty (20) days postponement of disconnection for medical reasons under this subsection only once in any twelve (12) month period. Further postponement of disconnection for medical reasons shall be at the utility's discretion.**

(d) A utility may not disconnect service to the customer **as follows:**

(1) Upon ~~his~~ **the customer's** failure to pay for:

(A) merchandise or appliances purchased from the utility furnishing the gas **or other nonutility or unregulated services;**

~~(2) upon his failure to pay for~~ **(B)** the service rendered at a different metering point, residence, or location if ~~such~~ **the** bill has remained unpaid for less than forty-five (45) days;

~~(3) upon his failure to pay for~~ **(C)** services to a previous occupant of premises to be served, unless the utility has good reason to believe the customer is attempting to defraud the utility; ~~by using another name;~~ **or**

~~(4) upon his failure to pay for~~ **(D)** a different form or class of utility service. ~~or~~

~~(5)~~ **(2)** If the customer shows cause for ~~his~~ **the customer's** inability to pay the full amount due (financial hardship shall constitute cause), and ~~said~~ **the** customer:

(A) pays a reasonable portion, not to exceed: ~~$10~~

(i) twenty-five dollars ($25); or

(ii) one-tenth ($^1/_{10}$) of the bill;

whichever is less, unless the customer agrees to a greater portion, of the bill; ~~and~~

(B) agrees to pay:

(i) the remainder of the outstanding bill within three (3) months; and

~~(C) agrees to pay~~ **(ii)** all undisputed future bills for service as they become due; and

~~(D)~~ **(C)** has not breached any similar agreement with the utility made ~~pursuant to~~ **under** this section within the past twelve **(12)** months.

Provided, however, that the utility may add to the outstanding bill a late payment charge not to exceed the amount set ~~pursuant to 170 IAC 5-1-13(b).~~ **under section 13(B) of this rule.** Provided further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and by a representative of the utility. Only one **(1)** late payment charge may be charged to the customer under this section. **"Unregulated services", as used in subsection (d)(1)(A), does not include utility services provided under an alternative regulatory plan approved by the commission under IC 8-1-2.5 et seq.**

~~(6)~~ **(3)** If a customer is unable to pay a bill, which is unusually large due to prior incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two **(2)** months, stopped or slow meters, or any human or mechanical error of the utility, and the customer:

(A) pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the twelve (12) bills immediately preceding the bill in question; and

(B) agrees to pay:

(i) the remainder at a reasonable rate; and

~~(C) agrees to pay~~ **(ii)** all undisputed future bills for service as they become due.

Provided, however, that the utility may not add to the outstanding bill any late fee. Provided, further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and a representative of the utility. If a customer proceeds with a review ~~pursuant to 170 IAC 5-1-17(b),~~ **under section 17(B) of this rule,** the utility may disconnect only as provided in ~~170 IAC 5-1-17(c).~~ **section 17(C) of this rule.**

~~(d)~~ **(e)** No utility may disconnect service unless it is done between the hours of 8:00 a.m. and 3:00 p.m., prevailing local time. Disconnection ~~pursuant to~~ **under** subsections (a) and (b) ~~of this section~~ are not subject to this limitation. A utility may not disconnect service for nonpayment on any day on which the utility office is closed to the public, or after ~~twelve~~ noon ~~(12:00 noon)~~ of the day immediately preceding any day on which the utility office is not open to the public.

~~(e)~~ **(f)** Except as otherwise provided herein, gas service to any residential customer shall not be disconnected for a violation of any rule or regulation of a utility or for the nonpayment of a bill, except after fourteen (14) days prior written notice to ~~such~~ **the** customer by either:

(1) mailing the notice to ~~such~~ **the** residential customer at the address shown on the records of the public utility; or

(2) personal delivery of the notice to the residential customer or a responsible member of ~~his~~ **the customer's** household at the address shown on the records of the utility.

~~(3)~~ No disconnect notice for nonpayment may be rendered prior to the date on which the account becomes delinquent.

(g) The notice **in subsection (f)** must be in language ~~which~~ **that** is clear, concise, and easily understandable to a ~~layman~~ **layperson** and shall state in separately numbered large types or printed paragraphs **the following:**

(1) The date of **the** proposed disconnection.

(2) The specific actual basis and reason for the proposed disconnection.

(3) The telephone number of the utility office at which the customer may call during regular business hours in order to question the proposed disconnection or seek information concerning ~~his~~ **the customer's** rights.

(4) A reference to the pamphlet furnished to the customer ~~pursuant to 170 IAC 5-1-18~~ **under section 18 of this rule** for information as to the customer's rights.

~~(f)~~ **(h)** Immediately preceding the actual disconnection of service, the employee of the utility designated to perform ~~such~~ **that** function shall:

(1) make a reasonable attempt to identify himself **or herself** to the customer or any other responsible person then upon the premises; ~~and shall~~

(2) announce the purpose of his **or her** presence; ~~and shall~~

(3) make a record thereof to be maintained for at least thirty (30) days; ~~The employee shall~~

(4) have in his **or her** possession information sufficient to enable him **or her** to inform the customer or other responsible person of the reason for disconnection, including the amount of any delinquent bill of the customer; and ~~shall~~

(5) request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute ~~pursuant to~~ **under** review under ~~170 IAC 5-1-17(b).~~ **section 17(B) of this rule.**

Upon the presentation of such credible evidence, service shall not be disconnected. The employee shall not be required to accept payment from the customer or other responsible person in order to prevent the service from being disconnected. The utility shall notify its customers ~~pursuant to 170 IAC 5-1-18~~ **under section 18 of this rule** of its policy with regard to the acceptance or nonacceptance of payment by ~~such~~ **the** employee and shall uniformly follow ~~such~~ **the** policy without discrimination. When the employee has disconnected the service, the employee shall give to a responsible person at the user's premises, or, if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

~~(g)~~ **(i)** A utility may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of ~~such~~ **the** reconnection fee ~~pursuant to 170 IAC 5-1-18.~~ **under section 18 of this rule.** If the utility disconnects service in violation of ~~170 IAC 5-1,~~ **this rule,** the service shall immediately be restored at no charge to the customer. The utility must reconnect the service to the customer as soon as reasonably possible but at least within one (1) working day after it is requested to do so if the customer has satisfied the requirements of ~~170 IAC 5-1.~~ **this rule.** *(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 16; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 403; filed Oct 13, 1983, 4:02 p.m.: 7 IR 40; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

SECTION 3. **SECTIONS 1 and 2 of this document take effect 30 days after filing with the secretary of state.**

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

Final Rulemaking – Gas Deposits
IURC RM #05-03
LSA #05-100(F)

Upon prior publication of notice, and public hearing held on October 4, 2005 at 10:00 a.m. (local time) in Conference Center Room of the Indiana Government Center South, 302 W. Washington Street, Indianapolis, Indiana, as required by the provisions of I.C. 4-22-2-1, *et seq.*, the Indiana Utility Regulatory Commission, on November 30, 2005 at 1:30 p.m. EST in Room E306, Indiana Government Center-South, Indianapolis, Indiana at which time a majority of members of said Commission were present, adopted the foregoing rule.

The Secretary is hereby directed to submit the original and two (2) copies of the aforesaid rule to the Attorney General and Governor of Indiana, for their approval of same, and thereafter file one (1) duplicate approved copy with the Secretary of State.

David Lott Hardy, Chairman

David W. Hadley, Commissioner

Larry S. Landis, Commissioner

Gregory D. Server, Commissioner

David E. Ziegner, Commissioner

ATTEST:

Pamela White, Acting Secretary to the Commission

Date: NOV 3 0 2005

Approval of the Amendment of Rule

170 IAC 5-1-15 and -16
LSA Document #05-100 (F)
IURC RM #05-03

Approved as to legality,

today: 1/31/06

Steve Carter
Attorney General of Indiana

Approved,

today: 2/15/2006

M E Daniels, Jr.
Mitchell E. Daniels, Jr.
Governor of Indiana

Filed, today: 2/16/06 8:14AM

Todd Rokita
Secretary of State