

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**COMMENTS OF INDIANA ENERGY ASSOCIATION REGARDING
THE “STRAWMAN” DRAFT OF REVISIONS TO THE COMMISSION’S
MINIMUM STANDARD FILING REQUIREMENTS
PRESENTED AT A WORKSHOP ON AUGUST 20, 2007**

INTRODUCTION

The Indiana Energy Association (“IEA”) hereby submits its comments to the “Strawman” Draft of revisions to the Indiana Utility Regulatory Commission’s (“Commission’s”) Minimum Standard Filing Requirements (“MSFRs”), as first discussed at a Workshop held by the Commission on August 20, 2007 (the Commission’s initial draft of revisions is hereinafter referred to as the “Strawman”). The IEA represents 14 gas and electric utilities in the State of Indiana. The IEA appreciates the opportunity to provide comments on the Strawman MSFR revisions.

The MSFRs were initially approved by the Commission in 1998, and were a response to issues of regulatory lag that were common in the early to mid 1990s. The following chart illustrates a few of the cases that preceded adoption of the MSFRs.

Cause	Utility	Petition Filed	Petitioner’s Direct Filing	Last Hearing Date	Order Date	Total Months from Petition	Total Months from Case-in-Chief
39314	I&M	11/12/91	4/27/92	11/23/92	11/12/93	24	19
39871	SIGECO	12/22/93	5/16/94	11/28/94	6/21/95	18	13
40003	PSI	7/14/94	5/15/95	2/15/96	9/27/96	26	16

The current rule was developed by a commission created task force made up of representatives of the utility bar to look into procedural time frames. Through considerable work and deliberations, consensus was reached that the rule should require an order to be issued on a properly filed case in ten months. This was not a novel concept as it was recognized that many, if not most, states had more stringent deadlines for the issuance of orders. The trade off, or quid pro quo, was a substantial burden on the moving utility to file substantial financial and accounting information as well as all necessary testimony in order for the strict deadlines to be applicable. Indiana has historically been viewed as a favorable regulatory environment by the investment community. That view provides a number of benefits to Indiana, including lower cost of capital for utilities and in turn lower rates for their customers. The proposed changes to the timeframes provided in the Strawman could be interpreted by the financial

community as a step backwards regarding the timeliness of orders. This is a message that can and should be avoided.

With this general foundation, IEA's detailed comments to the specific revisions follow. IEA has also prepared a redline of the Strawman, which is attached to these comments.

DETAILED COMMENTS AND PROPOSED CHANGES

Section 2

Timeframe for general rate proceeding

Comment

The Strawman provides that if a general rate proceeding contains requests for rate relief outside the general rate case, the 10 month timeframe ("expedited timeframe") may be adjusted or eliminated by the presiding officers. The Strawman does not provide any guidance on time parameters for such adjustments, and therefore, it must be assumed to be at the discretion of the presiding officers. The result is the elimination of the relative certainty for processing of general rate cases that has been provided by the rule, and since most rate cases will include some form of request for cost recovery via a tracker, the proposed modification makes every case subject to potentially longer time frames.

In addition, currently pursuant to 170 IAC 1-5-2(c)(4), the procedural schedule can be extended to twelve months by the presiding administrative law judge or commissioner if good cause can be shown and only in extraordinary circumstances may it exceed twelve months. 170 IAC 1-5-2.1 replaces this language, and the presiding officer has the ability to extend the schedule for an unspecified period of time.

Proposed Changes

Based on the dialogue at the workshop, the IEA has proposed changes that preserve the intended benefits of the Rule in terms of the time frame for processing cases, while providing clear assurance that the Commission will always have a 90 day period after all post-hearing filings within which to issue a decision. See. Section 2.1(f) below.

170 IAC 1-5-2(d):

(d) This rule and its expedited timeframe are intended to apply to general rate case filings that comply with this rule. To the extent the utility's petition includes one or more requests for alternative regulation or tracking mechanisms of a type not previously considered by the Commission, the presiding officers may extend the timeframe provided for in section 2.1; provided that any such extension will be as minimal as possible in consideration of the alternative relief requested. Notwithstanding the foregoing, in no event shall an extension beyond 12 months from the filing of the case-in-chief to issue a final order be granted, unless extraordinary circumstances exist as determined by a majority of the commissioners.

Section 2.1

Timeframe and procedural schedule (170 IAC 1-5-2.1(b))

Comment

IEA believes that Section 2.1(b) should be clarified to state that the ten month limit for issuing an order begins when the case-in-chief and workpapers of the utility are filed.

Proposed Changes to Address Concerns

170 IAC 1-5-2.1(b):

(b) The ten (10) month timeframe commences as of the date an electing utility's case-in-chief and working papers are filed, subject only to a finding under section 4 of the rule that the utility's filing does not comply with the requirements of this rule.

Plant and Major Project Update Cut-off (170 IAC 1-5-2.1(c)(3) and (4))

Comment

Currently, rate base is generally updated prior to the first hearing, and the utility selects the cut-off date. Under the Strawman, the presiding officer will establish the cut-off date for updating rate base for plant and major projects.

Proposed Changes to Address Concerns

170 IAC 1-5-2(c)(3):

(3) the plant cutoff date for updating rate base by either adopting a reasonable cutoff date used in the utility's case-in-chief or, if not already filed, then establishing such date pursuant to section 5 of this rule

170 IAC 1-5-2(c)(4):

(4) the major project cutoff date for updating the rate base to include the cost of a major project consistent with section (5) hereof;

Section 4

Filing Compliance (170 IAC 1-5-4)

Comment

The Strawman clarifies whether days are counted in business or calendar days and some minor adjustments were made to number days allocated for various activities. However, concern was expressed regarding the adequacy of time to review the utility's workpapers. Currently, the parties have 20 days after the workpapers are filed to allege that the utility has not provided information in compliance with the MSFRs. The Strawman states that parties have 20 calendar days after the case-in-chief is filed, which would only give them six days to review the workpapers.

There also was concern that a procedural schedule could be delayed due to non-material omissions in the MSFR filing. These two issues are addressed in IEA's proposed changes.

Proposed Changes to Address Concerns

170 IAC 1-5-4:

(a) Within twenty (20) calendar days of the date an electing utility's case-in-chief and the supporting workpapers are filed with the commission, any party to the proceeding may file with the commission a notice that such information does not comply with this rule, identifying the alleged defect(s) and the requirements necessary to cure the alleged defect(s).

(b) Within forty-five (45) calendar days of the date an electing utility's case-in-chief and the supporting workpapers are filed with the commission, the presiding officer may notify the electing utility and all parties to the proceeding that the case-in-chief and working papers do not comply with the requirements of this rule. The notice shall identify the nature of the defect(s) and state with specificity the requirements necessary to cure any and all defects. The electing utility shall either cure such defect(s), or contest whether defects exist, within ten (10) business days of such notice. In the event a dispute exists regarding compliance, a hearing shall be held to resolve any such issue. The schedule established under section 2.1 shall not be modified unless a material non-compliance issue is found to exist.

Sections 6 - 8

IEA proposes a few modifications to the Commission's rules regarding the documentation that should be provided and recommends that technical representatives of all interested parties should meet to discuss the "Supporting Documentation" that should be provided with an MSFR filing and what format that should be provided to give more clarity to utilities of what is expected.

CONCLUSION

The IEA appreciates the opportunity to provide these comments and recommends that the Strawman be modified to address the above-raised concerns.

Respectfully submitted,

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