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December 14, 2007

*Via Email Transmission (bkroads@urc.in.gov)*

Beth K. Roads, Esq.  
Indiana Utility Regulatory Commission  
101 W. Washington Street, Suite 1500 East  
Indianapolis, Indiana 46204

Dear Ms. Roads:

Enclosed please find a copy of Comments for the Commission's consideration, which is being submitted on behalf of the Indiana Energy Association.

Very truly yours,



Claudia J. Earls

cc: S. Pinegar, Indiana Energy Association

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## STATE OF INDIANA

### INDIANA UTILITY REGULATORY COMMISSION

#### COMMENTS OF INDIANA ENERGY ASSOCIATION REGARDING REVISIONS TO THE COMMISSION'S MINIMUM STANDARD FILING REQUIREMENTS

##### 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”), next discussed at a November 13, 2007 Workshop, and finally discussed at a Workshop hosted by the Indiana Office of Utility Consumer Counselor (“OUCC”) on December 7, 2007. The IEA represents 14 gas and electric utilities in the State of Indiana. The IEA appreciates the opportunity to provide comments on the proposed MSFR revisions.

It is IEA’s understanding that the OUCC will submit a redline of the Strawman, which contains the consensus reached on various technical revisions to the MSFR and procedural issues. There remain a few areas of disagreement:

#### 1. Section 2

##### *Timeframe for general rate proceeding*

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. As explained in IEA’s Comments, which were submitted on October 1, 2007, this requirement is of utmost importance to IEA, and was viewed as the benefit of the bargain, as it were, for the adoption of the MSFR.

Proposed Section 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.

This issue was discussed at the first Workshop and based on the dialogue at the Workshop, the IEA proposed changes that preserve its understanding of 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.

IEA proposes the following language (new language is in bold and red font):

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.

2. Section 2.1

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

Comment

IEA believes that Section 2.1(a) and (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(a)

(a) Except as otherwise provided herein, the commission shall issue a final order in a proceeding under this rule within ten (10) months ~~is the expected amount of time to complete a proceeding under this rule.~~

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.

3. 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. Although IEA representatives believed consensus was reached at the Workshop regarding how best to address this issue, neither the OUCC nor the Industrial Group were willing to agree to IEA's proposed language for purposes of this filing.

IEA's Proposed Changes to Address Concerns

170 IAC 1-5-2.1(c)

**(c) The presiding officer shall establish procedural dates and cut off dates that comply with this rule and will ensure ~~allow~~ completion of the case within ten (10) months from the date the electing utility's case-in-chief and working papers are filed including specific dates for:**

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170 IAC 1-5-2.1(c)(3):

**(3) the plant cutoff date for updating the rate base to include the cost of all plant 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 1-5-2.1(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,**

4. **Procedural Schedule Extensions** (170 IAC 1-5-2.1(f))

Comment

At the first workshop it was explained that the purpose of 2.1(f) was to preserve the three month period for the presiding officer to issue an Order if the procedural schedule was extended for good cause shown. IEA, in its October 1<sup>st</sup> Comments, suggested language to address this issue.

IEA's Proposed Changes to Address Concerns:

170 IAC 1-5-2.1(f):

**The presiding officer may extend the procedural schedule ~~for good cause shown. Any extension to the procedural schedule shall also extend the expected amount of time to complete a proceeding under this rule~~ to retain the 3 month period for issuance of an order referenced in (e) above to the extent the electing utility has caused or agreed to delays or extensions to the procedural schedule.**

5. **Filing Compliance** (170 IAC 1-5-4)

Comment

There is a concern that the procedural schedule could be delayed due to non-material omissions in the MSFR filing. This issue is addressed in IEA's proposed changes.

IEA's Proposed Changes to Address Concerns

170 IAC 1-5-4:

**(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.**

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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