

November 17, 2008

To: Erin Peters and Members of the Consumer Complaint Rulemaking Work Group

In response to the comments submitted by the Indiana Energy Association on November 10, 2008, the OUCC would like to suggest the following considerations:

1. Under Sec. 1 (c), the OUCC does not have any objection in principal to the expanded definition of “consumer” as proposed by the IEA. However, the OUCC suggests that the following words: “*person, municipality, or government agency*” should be deleted from the definition. The definition should instead read: “As used in this rule, “consumer” means any individual who has applied for or received residential service from a utility...” As noted in Suggestion II which was submitted in the IEA’s November 10th letter, the definition of “consumer” should include only those who receive residential service. As the existing rules exclude commercial and industrial customers; the inclusion of these terms in the definition appears contradictory.
2. The OUCC does not have any objection to the use of the term “dispute” as compared with “complaint”.
3. Section 3 (c) (4) and (5) should read as follows:

(c) A utility shall take the following action with regard to each dispute:

(4) advise consumer of utility’s proposed resolution using the same method by which the complaint was received or, if impractical, via telephone and written notice mailed to consumer’s billing address.

(5) advise the consumer in writing that if he or she is not satisfied with the utility’s proposed resolution, consumer may file an informal complaint with consumer affairs within forty-five (45) days...

The OUCC generally would not support the use of e-mail as an alternative means of notifying consumers as many consumers may not have reliable access to e-mail.

The OUCC believes that the forty-five (45) day time period for filing an informal complaint (which was discussed at the previous pre-rulemaking) is reasonable and allows the consumer sufficient time to verify at the next monthly billing cycle whether the dispute has been resolved to his or her satisfaction. The IEA suggests that the commission would have the discretion to allow a complaint to be filed after their recommended twenty-one (21) day period if the consumer finds that the billing does not reflect a resolution to the dispute. However, under these circumstances, the burden is unfairly placed on the consumer to request permission to file the complaint. The OUCC believes it would be more expedient to allow sufficient time for the billing cycle to complete in order for the consumer to confirm whether the dispute is in fact resolved.

4. The timeframe in Section 4 (a) should also be changed from twenty-one (21) days to forty-five (45) days to reflect the change in Section 3 (c) 5.

5. The OUCC believes that the utility should advise the consumer *in writing* of his or her right to file an informal complaint to consumer affairs, and of his or her right to seek the advice of legal counsel. The OUCC suggests that at this point in the process, the consumer and utility have not been able to resolve the dispute, and the consumer, by filing the complaint with consumer affairs, will be in effect establishing a record in the event the matter ends up in a formal review before the commission. While the utilities have the benefit of legal counsel to represent them in these matters; consumers often may not.

6. The OUCC understands the IEA's concerns regarding the potential confusion resulting from using calendar days vs. business days when calculating times under this rule. However, the OUCC believes that under Section 5 (a), as proposed, ten (10) days is not sufficient time for consumers to request commission review of the consumer affairs decision. The OUCC would suggest that the time for requesting commission review should be set at twenty (20) calendar days, which would be consistent with the time proposed by the IEA for the non-requesting party to file an answer.

7. Finally, the OUCC suggests that all records of disputes, including telephonic records, should be kept for a minimum of one year. If the utilities are not opposed to keeping written records for a longer time period, the OUCC would not have any objection. However, if a utility resolves or attempts to resolve a dispute telephonically, the utility should be required to retain the records of those communications in the same manner.

We appreciate the opportunity to submit these comments and look forward to continuing discussions with members of the Work Group. In the meantime, please do not hesitate to contact me with any questions or concerns you may have.

Respectfully submitted,

Carol Stephan
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Office of Utility Consumer Counselor