

"STRAWMAN" DRAFT FOR PRE-RULEMAKING WORKSHOP
IURC RM 08-03: CONSUMER COMPLAINTS

**TITLE 170 INDIANA UTILITY REGULATORY
COMMISSION**

Proposed Rule

LSA Document #08-_____

DIGEST

Adds 170 IAC 1-7-1 through 170 IAC 1-7-6 establishing procedures for resolution of consumer complaints. Repeals 170 IAC 1-1.1-5; 170 IAC 4-1-17; 170 IAC 5-1-17; 170 IAC 6-1-17; and 170 IAC 8.5-2-5. Effective 30 days after filing with the Publisher.

170 IAC 1-7-1
170 IAC 1-7-2
170 IAC 1-7-3
170 IAC 1-7-4
170 IAC 1-7-5
170 IAC 1-7-6

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

Rule 7. Consumer Complaints

170 IAC 1-7-1 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected:

Sec. 1. (a) Where applicable, terms used in this rule shall have the meaning assigned to them in 8-1-2-1.

(b) As used in this rule, "consumer affairs" means the consumer affairs division of the commission.

(c) As used in this rule, "consumer" means any individual who, or entity that, has agreed to pay for service from a utility, or a person authorized under a valid power of attorney to act on the individual's or the entity's behalf.

SECTION 2. 170 IAC 1-7-2 IS ADDED TO READ AS FOLLOWS:

170 IAC 1-7-2 Consumer complaint process; time periods

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected:

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Sec. 2. (a) Matters regarding utility service or billing for utility service shall be resolved through the following process:

(1) A consumer may file a complaint with a utility service provider in accordance with section 3.

(2) A consumer may appeal a utility's proposed resolution by filing an informal consumer affairs complaint in accordance with section 4.

(3) A consumer or utility may request commission review of a consumer affairs decision in accordance with section 5.

(b) All time periods under this rule are given in calendar days, except that whenever the final day of a period is one of the following days, the final day shall be considered the next applicable day:

(1) a Saturday;

(2) a Sunday;

(3) a legal holiday as by statute; or

(4) a day that the utility or commission office in which the act is to occur is closed during regular business hours.

SECTION 3. 170 IAC 1-7-3 IS ADDED TO READ AS FOLLOWS:

170 IAC 1-7-3 Complaint filed with utility; utility responsibilities

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected:

Sec. 3. (a) If a consumer is dissatisfied with any service or billing matter, consumer may file a complaint with the utility in the following ways:

(1) by telephone;

(2) in writing;

(3) through the utility's website;

(4) at the utility's business office; or

(5) by any other method made available by the utility.

(b) A complaint shall include, at a minimum, the following information:

(1) the consumer's name;

(2) the consumer's service address;

(3) the telephone number at which the consumer may be contacted, if such number is available;

(4) the consumer's account number, if available; and

(5) the general nature of the complaint.

(c) Upon receipt of a complaint, utility shall take the following action:

(1) inform consumer that any portion of a bill which is undisputed on the date the complaint is filed must be paid by the date due stated on the bill in order to avoid disconnection of service in accordance with section 6;

(2) investigate the matter promptly and thoroughly;

(3) make a good faith effort to resolve the matter;

(4) advise the consumer of utility's proposed resolution using the same method by which the complaint was received or, if impractical, in written form mailed to consumer's billing address;

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(5) advise consumer that if he or she is not satisfied with the utility's proposed resolution, consumer may appeal the proposed resolution to consumer affairs within forty-five (45) days of the date rendered; and

(6) offer to provide consumer the following consumer affairs contact information:

- (A) mailing address;
- (B) toll free complaint number; and
- (C) local telephone number.

(d) A utility shall retain a written record, or, if telephonically recorded, a telephonic recording, of complaints received under this section and the resolutions thereof at the office of the utility where such complaints were received for a period of three (3) years from the date of final outcome of the complaint under this section or subsequent judicial appeal.

(1) A utility shall make its record of a complaint retained under this section readily available for inspection and copying upon request by the consumer or the commission.

(2) A utility shall submit a report to the commission annually that states and classifies the following information regarding complaints received pursuant to this section:

- (A) total number received;
- (B) general nature of the subject matter;
- (C) method of receipt; and
- (D) final outcome.

SECTION 4. 170 IAC 1-7-4 IS ADDED TO READ AS FOLLOWS:

170 IAC 1-7-4 Appeal of utility's proposed resolution to consumer affairs; consumer affairs' responsibilities

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected:

Sec. 4. (a) If a consumer is dissatisfied with a utility's proposed resolution of a complaint, consumer may appeal the proposed resolution to consumer affairs by filing an informal complaint. A complaint must be filed under this section within forty-five (45) days of the date consumer receives utility's proposed resolution. At its discretion, consumer affairs may waive the time limitation for good cause. A complaint shall be considered filed upon receipt by consumer affairs, except that a mailed complaint shall be considered filed four (4) days after the postmark date.

(b) A consumer may file a complaint with consumer affairs in the following ways:

- (1) by telephone;
- (2) in writing; or
- (3) by completing a form available at the commission's office and on the commission's website.

(c) Upon receipt of a complaint, consumer affairs shall take the following action:

- (1) notify the utility of the complaint;
- (2) conduct an informal review consisting of not less than a prompt and thorough investigation of the disputed facts of the complaint;

(3) to the extent that consumer affairs may deem necessary to ensure the accuracy and completeness of the consumer affairs record, meet with the parties or require additional information or documentation from the parties, to which parties must respond within fourteen (14) days unless otherwise directed by consumer affairs;

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(4) preserve in a systematic order all information and documentation received and generated during the review, and the consumer affairs decision, which shall comprise the consumer affairs record and be made readily available to the parties for inspection and copying upon request;

(5) render decision to consumer and utility, subject to internal review and action by the director of consumer affairs or director's designee, within thirty (30) days of the complaint file date, except that if the complexity of issues or circumstances involved in a complaint require additional time, consumer affairs shall notify parties within thirty (30) days of the complaint file date that additional time is required, not to exceed ninety (90) days from the complaint file date.

(d) Notwithstanding any other provision in this section, consumer affairs may refer a complaint to the full commission for review at any time during the review process based on the complexity of issues or circumstances involved in a complaint as determined by the director of consumer affairs or director's designee.

SECTION 5. 170 IAC 1-7-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 1-7-5 Request for commission review of consumer affairs decision

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected:

Sec. 5. (a) Either party may request commission review of the consumer affairs decision pursuant to IC 8-1-2-34.5 within ten (10) days from the date the consumer affairs decision is rendered. A request under this section must be in writing and shall be considered filed upon receipt by the commission.

(b) A party requesting review shall certify that a copy of the request has been served upon the opposing party and the utility consumer counselor within ten (10) days from the date the consumer affairs decision is rendered.

(c) Commission review of a consumer affairs decision shall be reasonably limited, as determined by the presiding officer, to a review of the consumer affairs record as compiled during the review conducted pursuant to section 4. Prior to issuing a final order, the commission shall afford the parties notice and an opportunity to be heard.

SECTION 6. 170 IAC 1-7-6 IS ADDED TO READ AS FOLLOWS:

170 IAC 1-7-6 Provision of service during complaint process; payment of undisputed charges; disconnection for nonpayment; determining payment amount

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected:

Sec. 6. (a) If a consumer is receiving service at the time consumer notifies the utility of a complaint filed with consumer affairs pursuant to section 4, and if consumer has paid and continues to pay all undisputed charges, utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint; treat charges related to the subject matter of the complaint as delinquent or subject to collection action; or rebill charges related to the subject matter of the complaint in the next billing cycle, if it is determined under this rule that such charges were appropriate, until at least ten (10) ten days have elapsed from the date a

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consumer affairs decision is rendered under subsection 4(c) if in such time no appeal is filed under section 5 or, if an appeal is filed under section 5, until an order from the commission is issued which shall establish time periods for relevant utility action.

(b) If a consumer and utility cannot agree as to what portion of a bill is undisputed, consumer shall pay on the disputed bill an amount equal to the consumer's average bill for the twelve (12) months immediately preceding the disputed bill.

(c) If a consumer and utility cannot agree as to what portion of a bill is undisputed and consumer has received bills for fewer than twelve (12) months, consumer shall pay an amount equal to one-twelfth (1/12) of the estimated annual billing for service to be rendered to consumer.

SECTION 7. 170 IAC 1-1.1-5 is repealed.

SECTION 8. 170 IAC 4-1-17 is repealed.

SECTION 9. 170 IAC 5-1-17 is repealed.

SECTION 10. 170 IAC 6-1-17 is repealed.

SECTION 11. 170 IAC 8.5-2-5 is repealed.