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SENT VIA E-MAIL

Commission Counsel
Indiana Utility Regulatory Commission
101 W. Washington St., Suite 1500 E
Indianapolis, IN 46204

**Re: Sub-billing Pre-rulemaking Workgroup
Comments to Proposed Rule 6. (Sub-billing)**

Dear Commission Counsel:

Together with my client, Conservice Utility Management and Billing (“Conservice”), I submit the following comments and proposed language to the strawman document distributed to the sub-billing workgroup, regarding a proposed administrative rule designed to effectuate the purpose of newly enacted Indiana Code 8-1-2-1.2.

Pursuant to the Commission’s stated intent of creating a regulatory framework for implementation of the statute, below please find our comments, additions and proposed revisions to the strawman proposal. We believe these comments will help to establish bright-line rules that will best serve tenants in examining a landlord’s billing practice and landlords in establishing consistent and fair utility billing practices.

170 IAC 6-6-1 Definitions

We propose replacing the term “*Landlord’s usage*” with “*Common area usage*” and removing the phrase “*any water consumed by landlord for personal use or business use and*”. This change comports with our more significant revision of 170 IAC 6-6-3(b), and is explained in further detail below.

170 IAC 6-6-2 Records

We propose replacing the phrase “at reasonable” with “during business” in subsection (a) to reflect a more commonly acceptable timeframe to inspect a landlord’s utility bills.

170 IAC 6-6-3 Charges

We changed this section to clearly delineate the rules a landlord must follow when billing tenants using a submeter (subsection (a)(1)) and when billing tenants using an allocation method or ratio utility billing system (subsection (a)(2)). In subsection (b) we propose language that specifically addresses common area deductions and the minimum portion of a landlord's bill that must be deducted to take common areas into account. The proposed language is similar to numerous other jurisdictions which implement rules for billing common area usage.

Sec. 3

(a) A tenant's bill shall be calculated in the following manner:

(1) If a tenant is billed with a submeter, upon receipt of utility's water bill, the landlord shall multiply the amount registered on the tenant's submeter by the "per unit" rate charged to the landlord by the utility.

(2) If a tenant is billed without a submeter or with a submeter that does not measure all the water within the unit, then a landlord may charge the tenant for water and sewer service by first subtracting the common area usage specified in subsection 3(b) and then multiplying the remaining utility charges by:

(A) the number of occupants in the tenant's dwelling unit divided by the total number of occupants in all dwelling units at the beginning of the month for which bills are being rendered; or

(B) a factor using a combination of square footage and occupancy in which no more than 50% is based on square footage. The square footage portion shall be based on the total square footage living area of the dwelling units of the apartment house; or

(C) the individually submetered hot or cold water usage of the tenant's dwelling unit divided by all submetered hot or cold water usage in all dwelling units.

(b) Before a landlord bills a tenant for water and sewer service without a submeter, the landlord shall first deduct:

(1) dwelling unit base charges or customer service charge, if applicable; and

(2) common area usage such as installed landscape irrigation systems, pools and laundry rooms, if any, as follows:

(A) if all common areas are separately metered or submetered, deduct the actual common area usage;

(B) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is an installed landscape irrigation system, deduct at least 15% of the retail public utility's master meter bill;

(C) if all water used for an installed landscape irrigation system is metered or submetered and there are other common areas such as pools or laundry rooms that are not metered or submetered, deduct at least 5% of the retail public utility's master meter bill; or

(D) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is no installed landscape irrigation system, deduct at least 5% of the retail public utility's master meter bill.

(c) In addition to the charges in section (a), landlord may charge tenant only the following costs for the provision of water service:

- (1) A reasonable initial set up fee for any tenant that is not currently sub-billed by the landlord as of January 1, 2009;*
- (2) A reasonable administrative fee not to exceed the current statutory limit; and*
- (3) A reasonable insufficient funds fee.*

170 IAC 6-6-4 Standards of Billing

We propose removing subsection (c)(2) in its entirety, which would require a landlord to include in a tenant's allocated bill the dates and meter readings of a master meter, as well as the gallon amount attributable to the landlord's usage. We do not believe this information is of use to the tenant in evaluating a landlord's billing practice, and is unfairly burdensome on the landlord. Additionally, any concerns regarding the gallon usage attributable to a landlord are addressed in 170 IAC 6-6-3 (b) as it pertains to charges for common area usage.

Conservice appreciates the opportunity to engage in these pre-rulemaking discussions and looks forward to further assisting the Commission in this process.

Very truly yours,

Sabrina C. Patterson

cc: Marc Treitler, General Counsel – Conservice