

**“STRAWMAN” DRAFT FOR
SUB-BILLING PRE-RULEMAKING WORKSHOP**

**INDIANA APARTMENT ASSOCIATION & SPEEDREAD TECHNOLOGY LLC
ALTERNATIVE RULEMAKING PROPOSAL – 10-15-08**

**TITLE 170 INDIANA UTILITY REGULATORY
COMMISSION**

Proposed Rule
LSA Document #08

DIGEST

Adds 170 IAC 6-6-1 through 170 IAC 6-6-6 and 170 IAC 8.5-5-1 through 170 IAC 8.5-5-6 establishing sub-billing procedures for the provision of water or sewage disposal service. Effective 30 days after filing with the Publisher.

- 170 IAC 6-6-1
- 170 IAC 6-6-2
- 170 IAC 6-6-3
- 170 IAC 6-6-4
- 170 IAC 6-6-5
- 170 IAC 6-6-6
- 170 IAC 8.5-5-1
- 170 IAC 8.5-5-2
- 170 IAC 8.5-5-3
- 170 IAC 8.5-5-4
- 170 IAC 8.5-5-5
- 170 IAC 8.5-5-6

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

Rule 6. Sub-billing

170 IAC 6-6-1 — Definitions

Sec. 1. (a) ~~Where applicable, the~~ The definitions set forth in ~~I.C. this section, except where otherwise defined, and, where applicable, in IC 8-1-2-1 and IC 8-1-2-1.2 shall be applied to these rules, apply throughout this article.~~

(b) "Commission" means the Indiana utility regulatory commission.

(c) "Dwelling Unit" means a building or property, or portion thereof, used for residential occupancy, including but not limited to mobile home parks and single-family, two-family and multi-family dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes.

(d) "Initial Set-Up Fee" means the ~~fee a landlord charges~~ landlord's actual administrative cost to establish a new account for a dwelling unit.

(e) "Insufficient Funds Fee" means the ~~fee a landlord charges~~ landlord's actual administrative cost to process insufficient funds of a payment, ~~including charges and any actual fee,~~ assessed to the landlord by a financial institution resulting from insufficient funds of an instrument received in payment of charges for water service.

(f) "Landlord" means the owner of a dwelling unit which is rented or leased to an individual, or an agent acting on the behalf of the owner.

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- (g) “Landlord’s usage” means any water consumed by landlord for personal use or business use including any water consumed in common areas, and any water consumed in common areas including but not limited to water used in a club house, laundry facility, bath house, swimming pool, hot tub, irrigation sprinkler system, fire protection sprinkler system, or for grounds keeping, flushing the mains, or any other common purpose.
- (h) “Master -meter” means the use of a meter device to measure the amount of water consumed by a landlord who distributes such water to tenants by meter device
- (i) “Sub-bill” means a landlord’s request of payment from a tenant for the distribution of water service, which service is provided to the landlord by a public utility or municipally owned utility.
- (j) “Sub-meter” means the use of a meter device to measure the amount of water consumed within an individual dwelling unit for the purpose of sub-billing.
- (k) “Tenant” means any occupant of a dwelling unit who agrees to pay for water service distributed by a landlord.
- (l) “Utility” means the public or municipally owned utility that provides water service to landlord for distribution to dwelling unit.

SECTION 2. ~~170 IAC 6-6-2~~ **Complaints** IS ADDED TO READ AS FOLLOWS:
Sec. 2. Upon the receipt of a complaint that a landlord may be acting as a public utility in violation of I.C. 8-1-2-1.2, the commission shall require the complainant to provide the factual basis for the complaint and the commission shall require the landlord or the landlord’s agent to provide the complainant and the commission with the following information:

- (1) For the dates in dispute, each bill rendered to the tenant for water service, including a statement indicating the period for which each bill was rendered
- (2) If an estimated bill, a clear and conspicuous coding or other indication identifying the bill as an estimated bill;
- (3) If a tenant’s usage is not sub-metered:
 - (a) a verified statement by the landlord which contains the amount due the utility by the landlord for all amounts consumed at the property for the dates in dispute;
 - (b) the dates and meter readings of the master meter at the beginning and end of the period for which each bill in dispute was rendered;
 - (c) the actual or estimated amount that is attributed to landlord’s usage;
 - (d) an explanation of how the landlord calculated the charges to the tenant for water service.
- (4) If a tenant’s usage is sub-metered, the dates and meter readings of tenant’s sub-meter at the beginning and end of the period for which the bill is rendered;
- (5) The billing rate charged;
- (6) The previous balance, if any;
- (7) The amount of any initial set up fee charged;
- (8) The amount of any administrative fee charged;
- (9) The amount of any insufficient funds fee charged;
- (10) The amount and description of any other fee charged;
- (11) The date on which the bill is due;

170 IAC 6-6-3 ~~6-6-2~~ Records

Sec. 3. The information described in 170 IAC 6-6-2(a)(1) through (11) shall be:

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- (1) retained by a landlord or the landlord’s agent for a period of at least one (1) year². (a) Landlord shall retain all bills received, from the date a bill for water service is rendered to the tenant;
- (2) made utility for a period of not less than twenty-four (24) months, and shall be available during reasonable hours for inspection without charge or copying for a nominal fee upon request by any tenant, or a person who was a tenant during the billing period in question, question, at reasonable hours and without charge.

(b) A nominal fee can be charged if landlord provides a copy of any bill under this section.

SECTION 3. 170 IAC 6-6-3 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-4 6-6-3 Charges

Sec. 4. (a) 3. (a) A tenant’s bill shall be calculated in the following manner:

(1) If the utility charges the landlord for usage measured by a master meter, upon receipt of utility’s water bill, the landlord shall divide the total net charges for water consumption including plus applicable tax, by the total amount of water master-metered to obtain an average cost per unit volume. The average water cost per unit volume shall then be multiplied by the estimated or actual unit volume consumed by each dwelling unit; unit.

(b) If the landlord sub-meters a dwelling unit’s consumption, the landlord shall charge the tenant for the actual unit volume consumed by the tenant’s dwelling unit multiplied by the actual rate charged by the providing utility for the water service.

(b) A landlord may not charge a tenant for any water reasonably attributed to the landlord’s usage.

(c) In addition to the charges in sections (a) and (b), a landlord may charge a tenant only the following costs delineated in I.C. 8-1-2-1.2(c) for the provision of water service; service:

(d) Landlords (1) A reasonable initial set up fee for any tenant that is not currently sub-bill or ed 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.

SECTION 4. 170 IAC 6-6-4 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-4 Standards of Billing

Sec. 4. (a) Landlord shall render bills to tenant with the same frequency that bills are rendered to landlord by the utility.

(b) Bills shall be rendered to tenant separately from rent.

(c) Bills rendered to tenant shall show at least the following information:

- (1) The billing date;
- (2) If tenant’s usage is not sub-meter shall itemize charges for ed, the dates and meter readings of the master meter at the beginning and end of the period for which the bill is rendered, and the gallon amount that is attributed to landlord’s usage;
- (3) If tenant’s usage is sub-metered, the dates and meter readings of tenant’s sub-meter at the beginning and end of the period for which the bill is rendered;
- (4) The billing rate charged;
- (5) The previous balance, if any;
- (6) The amount of the bill;
- (7) If a first bill, a reasonable initial set up fee, if any;
- (8) A reasonable administrative fee, if any, not to exceed the statutory limit;
- (9) A reasonable insufficient funds fee, if due;
- (10) The date on which the bill is due;
- (11) If an estimated bill, a clear and conspicuous coding or other indication identifying the bill as an estimated bill;

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- (12) An explanation, which can be readily understood, of all codes and/or symbols shown on the bill;
- (13) The name and telephone number of a person for tenant to contact about billing matters;
- (14) The name and telephone number of a person for the tenant to contact about water service separately and distinctly from any other charges matters, and
- (15) The following statement: “If you believe you are being charged in violation of state law, you have a right to file a complaint with the Indiana Utility Regulatory at (insert phone number for the tenant to contact the commission) or (insert website for the tenant to contact the commission).”

SECTION 5. 170 IAC 6-6-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-5 — Notice

Sec. 5. A landlord shall provide written notice to tenants, including but not limited to rent charges, pursuant to the disclosure requirements in IC 8-1-2-1.2(b)(3).

SECTION 6. 170 IAC 7-6-5 Action on Complaints 6-6-6 IS ADDED TO READ AS FOLLOWS:

Sec. 5. If after review of the information provided pursuant to 170 IAC 7-6-2, the commission determines that the landlord has failed to comply with the requirements of I.C. 8-1-2-1.2 or this rule, the commission shall require the landlord to refund any overcharges to the known date of error or for a period of one year, whichever is less, and adjust its billing practices prospectively.

1246347 170 IAC 6-6-6 — Filing a complaint

Sec. 6. A tenant may file a complaint against the landlord with the commission’s division of consumer affairs for violations of this rule by following the commission’s complaint procedures found at 170 IAC 1-1-1.

[The new Consumer Affairs rule may include a statement that for purposes of filing a complaint, a tenant will be considered a customer and a landlord will be considered a utility.]

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