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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Notice of Proposed Rulemaking

IURC RM #09-09

LSA #09-478

The Indiana Utility Regulatory Commission (the "Commission"), pursuant to IC 8-1-1-3(g), IC 8-1-2.6-4.1, and IC 8-1-2.6-13, hereby proposes to amend 170 IAC 7 to comply with the provisions of IC 8-1-2.6-4.1 and to fulfill its obligations under IC 8-1-2.6-13. The Commission shall hear public comments on the attached proposed rule at a date and time to be determined, in Suite 220, of the National City Center, 101 W. Washington Street, Indianapolis, Indiana.

The Secretary of the Commission is hereby directed to maintain five (5) copies of the proposed rule continuously on file in the Commission Offices for public inspection, and forward copies of the attached proposed rule to the Indiana Legislative Services Agency for publication in the Indiana Register.

IT IS SO ORDERED.

ATTERHOLT, GOLC, LANDIS, AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED: MAR 03 2010

I hereby certify that the above is a true and correct copy of the Rule as approved.

Brenda A. Howe

Brenda A. Howe
Secretary to the Commission

ARTICLE 7. TELEPHONE UTILITIES

SECTION 1. 170 IAC 7-1.2-1 IS AMENDED TO READ AS FOLLOWS.

Rule 1.2. Obligations of Eligible Telecommunications Carriers; Local Exchange Carriers; Communications Service Providers

170 IAC 7-1.2-1 Applicability and scope

Authority: IC 8-1-1-3, IC 8-1-2.6-13, IC 8-1-29.5-6, IC 8-1-32.5

Affected: IC 8-1-2; IC 8-1-2.6, IC 8-1-32.5

Sec. 1. (a) ~~This rule applies to any local exchange carrier ETC or LEC that is now, or may hereafter be, engaged in the business of rendering telecommunications services to the public under the jurisdiction of the designated as such by the commission, as further defined by this title. This rule is intended to result in the provision of reasonable quality safe and adequate telecommunications services to the public and to establish the obligations of both the ETC or LEC or and the customer. The standards of service provided in this rule create a minimum level of service that an LEC must meet when providing reasonable quality telecommunications services within Indiana.~~

(b) ~~This rule applies to all CSPs not listed in subsection (a) to the extent necessary to comply with IC 8-1-32.5 and IC 8-1-2.6-13.~~

~~(b) Any LEC subject to the service quality standards set forth in this rule (c) An ETC that fails to meet such standards provide reasonable service shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and a hearing, the commission may order lawful enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any LEC fails to comply. Applicable federal or state law regarding an ETC.~~

~~(c) An LEC may be excused from the service quality measures of this rule when such failure is the direct result of customer-owned equipment, negligent acts of a customer, or acts of God as determined by the commission. A CLEC shall not be held responsible for failure to meet any provision of this rule, including the credit provisions, when such failure is directly related to ILEC provided services, systems, or facilities. Sections 3(g), 5, 10, 12, 14, 15, and 18 of this rule do not apply to bundled local resellers of local exchange service or LECs that provide local service via the unbundled network element platform (UNE Platform).~~

~~(d) Credits required by this rule do not apply if the violation of a service quality standard:~~

~~(1) occurs as a result of a negligent or willful act on the part of the customer;~~

~~(2) occurs as a result of a malfunction of customer-owned telephone equipment or inside wiring;~~

~~(3) occurs as a result of, or is extended by, an emergency situation;~~

~~(4) is extended by the carrier's inability to gain access to the customer's premises due to the customer missing an appointment, provided that the violation is not further extended by the carrier;~~

~~(5) occurs as a result of a customer request to change the scheduled appointment, provided that the violation is not further extended by the carrier; or~~

~~(6) occurs as a result of a carrier's right to refuse service to a customer as provided by law.~~

~~(e) The commission may, upon petition of an LEC or (d) Upon the filing of a verified complaint filed by ten (10) or more customers, the utility consumer counselor, upon its own motion, or in response to customer complaints or any class satisfying the standing requirements of IC 8-1-2-54, alleging that a service over which the commission has jurisdiction is unsafe, unjustly discriminatory, or inadequate, or that any service cannot be obtained, the commission may conduct an investigation on an expedited basis and, after notice and an opportunity for hearing, take any of the following actions in accordance with applicable legal and procedural requirements federal and state law, including those enumerated in IC 8-1-29.5-6(b).~~

~~(1) Alter or amend this rule, in whole or in part.~~

~~(2) Require an LEC to offer any other services.~~

~~(3) Require an LEC to utilize or provide any other equipment or facilities.~~

~~(4) Require an LEC to comply with any other service standards.~~

~~(5) At its sole discretion, grant, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.~~

~~(f) When the commission initiates an administrative adjudication under subsection (e), either in response to customer complaints, upon petition of an LEC, the utility consumer counselor or upon the commission's own motion, it shall consider whether public convenience and necessity will be served by granting the requested relief and whether the requested relief is:~~

~~(1) justified under IC 8-1-2.6;~~

~~(2) necessary to avoid unreasonable hardship to an LEC or its customers; or~~

~~(3) necessary to meet other exceptional conditions.~~

~~(g) The adoption of this rule shall not relieve any LEC from any of its duties under the laws of Indiana, applicable federal laws, and applicable commission orders.~~

~~(h) If any provision of this rule is determined by a court of competent jurisdiction to be prohibited or otherwise unenforceable under controlling state or federal law, such provision shall be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof.~~

~~(i) If an LEC's tariff on file with the commission contains provisions that conflict with this rule, this rule supersedes any conflicting tariff provisions. (Indiana Utility Regulatory Commission; 170 IAC 7-1.2-1; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4053, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA)~~

SECTION 2. 170 IAC 7-1.2-2 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.2-2 Definitions

Authority: IC 8-1-1-3, IC 8-1-2.6-13, IC 8-1-32.5-3

Affected: IC 8-1-1.1-2; IC 8-1-2-1; IC 8-1-2-34.5

Sec. 2. The following definitions apply throughout this rule:

~~(1) "Access line" means the facilities and transmission path used to create a telecommunications connection from a network interface device to the serving switch center and composing the local loop.~~

~~(2) "All trunks busy" means any equipment condition in which all trunks (paths) in a given trunk group are busy, causing callers to receive a fast busy signal.~~

~~(3) "Bundled local reseller" means a public utility providing telecommunications services that purchases packages (bundles) of retail local services at wholesale rates from an underlying ILEC for resale to customers. The term does not include carriers that purchase disaggregate local service of an underlying ILEC, such as unbundled network elements, components, functionalities, or facilities to use in its provision of local exchange services.~~

~~(4) (1) "Business days" means all days other than:~~

~~(A) a Saturday;~~

~~(B) a Sunday;~~

~~(C) a legal holiday; or~~

~~(D) a day that the office in which the act is to be done is closed during regular business hours.~~

~~(5) "Busy hour" means the hour of the day during which a telephone system carries the most traffic.~~

~~(6) (2) "Call" means an attempted or completed telephone message.~~

~~(7) "Central office" means a switching unit in a system that provides central office telecommunications services to the general public having the necessary equipment and operating arrangements for terminating and interconnecting access lines and trunks or trunks only. There may be more than one (1) central office in a building.~~

~~(8) (3) "Certificate of territorial authority" or "CTA" means a telecommunication communication service provider's authorization, as granted by the commission in compliance with IC 8-1-2-88 IC 8-1-32.5, to provide service within a designated area.~~

~~(9) "Class of service" means a designation given to an exchange service dependent upon the nature of its use, such as business or residence service.~~

~~(10) (4) "Commercial mobile radio services" or "CMRS" is a mobile service that is, pursuant to 47 CFR 20.3*.~~

~~(5) "Commission" means the Indiana utility regulatory commission.~~

~~(6) "Communications service" has the meaning set forth in IC 8-1-32.5-3.~~

~~(7) "Communications service provider" or "CSP" has the meaning set forth in IC 8-1-32.5-4.~~

~~(11) "Competitive local exchange carrier" or "CLEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and does not qualify as an incumbent local exchange carrier under subdivision (18).~~

~~(12) (8) "Consumer affairs division" means the commission's division that reviews and issues dispositions on informal complaints submitted to the commission by LEC customers under IC 8-1-2-34.5.~~

~~(13) (9) "Customer" means any person, firm, partnership, corporation, municipality, governmental agency, limited liability company, or other entity provided with local exchange carrier telecommunications service and may also be~~

referred to as "end user".

~~(14)~~ **(10) "Eligible telecommunications carrier" or "ETC" means an incumbent local exchange carrier or a common carrier designated as an eligible telecommunications carrier by the commission.**

(11) "Exchange" means a geographic service area established by an incumbent local exchange carrier and approved by the commission, usually embracing a city, town, or village and designated surrounding or adjacent area, that typically encompasses one (1) or more central offices, together with the associated plant used in furnishing telecommunications service to the general public.

~~(15) "Extended area service" or "EAS" means telephone service permitting persons in a given exchange to place and receive calls from one (1) or more other exchanges at monthly flat or measured rates without being assessed toll message charges for each message.~~

~~(16)~~ **(12) "Facility" means any one (1) or all of the elements of physical plant used to provide telecommunications services, sometimes used synonymously with "transmission path", including all of the physical cables and equipment associated with that path.**

~~(17) "Grade of service" means the type of service furnished a customer with respect to the functionality and capabilities of the service offering.~~

~~(18)~~ **(13) "Incumbent local exchange carrier" or "ILEC" means a local service LEC that provides telephone service to customers in the geographic territory served by the local exchange and that:**

(A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b), 60 FR 19530 (April 19, 1995)*; or

(B) is a person or entity that on or after February 8, 1996, became a successor or assign of a member described in clause (A).

~~(19) "Intercept service" means a service arrangement provided by the LEC whereby calls placed to a nonworking, disconnected, or discontinued telephone number are intercepted and the calling party is informed that:~~

~~(A) the called telephone number is not in service or has been changed to another number; or~~

~~(B) the calls are received by another telephone number.~~

~~(20) "Interoffice call" means a telephone call originating in one (1) central office unit or entity but terminating in another central office unit or entity, both of which are in the same designated exchange area.~~

~~(21) "Intraoffice call" means a telephone call originating and terminating within the same central office unit or entity.~~

~~(22)~~ **(14) "Legal holiday" means the following:**

(A) New Year's day.

(B) Dr. Martin Luther King, Jr. day.

~~(C) Washington's birthday.~~

~~(D)~~ (C) Memorial day.

~~(E)~~ (D) Independence day.

~~(F)~~ (E) Labor day.

~~(G)~~ (F) Veteran's day.

~~(H)~~ (G) Thanksgiving day.

~~(I)~~ (H) Christmas day.

~~(J)~~ (I) Any other day appointed as a **federal** holiday by the President or the Congress of the United States or a **state holiday** by the governor of the state of Indiana.

~~(23)~~ **(15) "Local exchange carrier" or "LEC" means a local service telephone utility has the meaning set forth in 47 USC 153(26)* that provides telephone service to customers in the geographic territory served by the local exchange under IC 8-1-2-88 described in the certificate of territorial authority for the LEC on file with the commission and excluding those services provided pursuant to a CTA issued for a radio common carrier or commercial mobile radio service. The agents of an LEC are deemed to be the LEC for purposes of this rule.**

~~(24) "Local service" means telephone service furnished to customers under a specific schedule of exchange rates not including toll charges.~~

~~(25)~~ **(16) "Local service area" means the area within which telephone service is furnished to customers under a specific schedule of exchange rates and without toll charges, which may include one (1) or more exchange areas or portions of exchange areas.**

~~(26) "Loop" means the facilities used to connect the customer premises with the central office.~~

~~(27) "Out-of-service trouble report" means the loss of dial tone or the inability to complete either or both incoming and outgoing calls over the customer's access line. As used in this rule, the term shall not include service difficulties such as slow dial tone, circuits busy, or other network or switching capacity shortages.~~

~~(28) "Primary service" means the initial access line providing local service to a customer.~~

~~(29)~~ **(17) "Outage" has the meaning set forth in 47 CFR 4.5*.**

Public safety answering position" or "PSAP" means a person or group of people who answer 9-1-1 emergency calls.

(30) "Service-affecting trouble report" means any regulated service-related trouble report that does not constitute an out-of-service condition.

(31) "Service interruption" means the loss of dial tone or the inability to complete either or both incoming and outgoing calls over the customer's access line. As used in this rule, the term shall not include service difficulties, such as:

(A) slow dial tone;

(B) circuits busy; or

(C) other network or switching capacity shortages.

(32) "Speed of answer" means the following:

(A) For live operator systems, it is the number of seconds required to reach an operator or service representative who is ready to render assistance and accept the information necessary to process the call.

(B) For automated, interactive answering systems, it is the number of seconds from the time a customer's call exits the automated system until the call is answered by a live operator, service representative, or automated system ready to render assistance and accept the information necessary to process the call.

(33) "Tariff" means a schedule of regulated recurring and nonrecurring charges together with the appropriate general rules and regulations applicable to customers of the LEC for services furnished properly filed with and approved by the commission.

(34) "Toll blocking" means a service that customers may use to block outgoing toll calls from their access lines.

(35) "Toll message" means a completed telephone call between stations in different exchanges for which toll charges are applicable.

(36) "Tracking number" means a number that allows the customer to verify that a requested repair or installation order has been received by the LEC.

(37) "Traffic" means the amount of activity during a given period of time over a circuit, access line, or group of access lines, or the number of messages handled by a data communications switch.

(38) "Trouble report" means any oral or written report to an appropriate LEC representative from the LEC's customer relating to a physical defect in or difficulty with subscribed network facilities providing regulated telecommunications services. For purposes of this rule, trouble reports are classified as either an out-of-service trouble report or a service-affecting trouble report.

(39) "Trunk" means a common communications line between two (2) switching systems. Information from a variety of users goes through the same trunking facilities.

(40) (18) "Utility" means any public utility as defined in IC 8-1-2-1.

(41) (19) "Utility consumer counselor" means the office established pursuant to IC 8-1-1.1-2.

(42) "Valid number" means a number for a specific telephone terminal in an assigned area code and working central office that is equipped to ring and connect a calling party to such terminal number.

(43) "Wire center" means the location where the LEC terminates customer access lines with the necessary testing facilities to maintain the access lines.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Utility Regulatory Commission, 302 101 West Washington Street, Room E306 Suite 1500E, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-2; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4054, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA*)

SECTION 3. 170 IAC 7-1.2-3 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.2-3 Records and reports

Authority: IC 8-1-1-3, IC 8-1-2.6-1.5, IC 8-1-2.6-13, IC 8-1-2.6-13

Affected: IC 8-1-2-52

Sec. 3. (a) The LEC ETC shall **timely** furnish the commission with any information concerning the LEC's ETC's facilities or operations that the commission may request and require. ~~Each LEC shall also furnish to the commission, at such time and in such form as the commission may require, the results of any required tests and summaries of any required records. All such data, unless otherwise specified, shall be consistent and reconcilable with the LEC's annual report to the commission.~~

(b) Where an LEC ETC is operated with another business that is not regulated by the commission, data and records of the LEC ETC shall be separate such that the results of the LEC's ETC's intrastate telephone operations may be determined at any time at the level of detail prescribed under applicable state and federal law. **The requirements of this section shall not**

apply if the Commission order designating the carrier as an ETC specifies alternative requirements for maintaining the ETC's data and records.

~~(c) Upon the direction of the commission and notification to the LEC, any member of the commission staff may, at any reasonable time during normal business hours, visit the LEC's offices or other places of business within or outside Indiana and inspect any accounts, books, records, and papers of the LEC that may be necessary in the discharge of commission duties.~~

~~(d) During such visits by the commission staff, and during comparable visits by the utility consumer counselor's staff, the LEC shall provide staff members with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable to the accommodations the LEC provides for its independent auditors.~~

~~(e) Requirements for location and preservation of records are as follows:~~

~~(1) All records that an LEC is required to keep, by reason of this rule or other rules prescribed by the commission, shall be kept at the office or offices of the LEC located within Indiana unless otherwise authorized by the commission.~~

~~(2) All LECs shall maintain sufficient records necessary to verify and substantiate all requirements of these rules. The failure of an LEC to maintain sufficient records to verify and substantiate the LEC's compliance with a service quality standard shall serve as an admission that the LEC failed to meet that service quality standard.~~

~~(3) An LEC that receives commission authorization to keep its required records in another state shall reimburse the commission for all reasonable out-of-state travel expenses incurred to review records kept in another state.~~

~~(4) An LEC that receives commission authorization to keep its required records in another state shall reimburse the utility consumer counselor for all reasonable out-of-state travel expenses incurred to review records kept in another state if out-of-state inspection and review of records becomes necessary in order to satisfy a discovery request from the utility consumer counselor in any docketed proceeding.~~

~~(5) Unless otherwise directed by the commission, an LEC shall maintain its records in accordance with 47 CFR 42, and the master index maintained pursuant to 47 CFR 42.4, 51 FR 32653 (September 15, 1986)*. Notwithstanding any other provision of this rule, all records necessary to substantiate an LEC's compliance with the requirements of this rule, including any underlying documentation, shall be maintained for at least eighteen (18) months.~~

~~(c) Each LEC/ETC shall maintain suitable maps and records to show the location and description of its toll and exchange plant network and facilities and the extent of area served by the LEC/ETC.~~

(d) As part of an ETC's annual filing with the commission for certification to determine the ETC's eligibility for federal universal service support, such ETC shall report how many requests for service from potential customers were unfulfilled for the past year and the number of complaints per one thousand (1,000) handsets or lines on forms prescribed by the commission.

~~(g) (e) Requirements for reports of interruptions outages are as follows:~~

~~(1) Each LEC/ETC shall inform provide notice to the commission's consumer affairs division and the utility consumer counselor of any interruptions to service exceeding one (1) hour affecting an entire exchange or a substantial portion (twenty-five percent (25%) of the LEC average number of lines per exchange or two thousand (2,000) lines, whichever is fewer) of an exchange or central office outages as required by 47 CFR 4.9* for all outages meeting that criteria and affecting at least ten percent (10%) of the end users served in a designated service area or a 911 special facility as that term is defined in 47 CFR 4.5(e)* within two (2) hours one hundred twenty (120) minutes during normal work hours of the business day after the LEC/ETC becomes aware of such interruption to service and shall within one (1) business day notify the consumer affairs division and the utility consumer counselor when service has been restored. If the offices of the commission and utility consumer counselor are not open for business when any interruptions to service exceeding one (1) hour and affecting an entire exchange or a substantial portion (twenty-five percent (25%) of the LEC's average number of lines per exchange or two thousand (2,000) lines, whichever is fewer) of an exchange or central office occurs, the LEC shall notify the commission's consumer affairs division and the utility consumer counselor of those events during the first two (2) hours on the next regular business day.~~

~~(2) In the event of a 9-1-1 service affecting disruption or impairment that affects all or a substantial portion of an exchange, the LEC shall notify the affected PSAP designated contact immediately upon identification and verification of the service affecting disruption or impairment. A status regarding the restoration of the service affecting disruption or impairment shall be provided by the LEC to the affected PSAP every sixty (60) minutes unless otherwise negotiated with the PSAP. The LEC shall inform the commission's consumer affairs division and the utility consumer counselor of such 9-1-1 service affecting disruption or impairment within two (2) hours during normal work hours of the business day and shall within two (2) hours during normal work hours of the business day notify the commission's consumer affairs division and the utility consumer counselor regarding the restoration of the service. If the offices of the commission and the utility consumer counselor are not open for business when a service affecting disruption or impairment or restoration of service occurs, the LEC shall notify the commission's consumer affairs division and the utility consumer counselor of those events during the first two (2) hours on the next regular business day.~~

~~(h)(f) The commission may require that data be reported by the utilities ETCs in order to determine whether an LEC~~

~~the ETC is providing service consistent with this rule. The LEC shall respond to any quality of service survey that is issued by the commission. The commission may revise, as necessary, the quality of service survey to acknowledge technological advances, deployment of advanced services, changes to the set of universally supported services, or other telecommunications related events.~~

(g) Each LEC shall maintain records reasonably sufficient to show the extent of its compliance with this rule as set forth in 47 CFR 54.202.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Utility Regulatory Commission, 302 101 West Washington Street, Suite E3061500E, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-3; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4055, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA*)

SECTION 4. 170 IAC 7-1.2-4 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.2-4 Rate for local exchange service; maps of service areas

Authority: IC 8-1-1-3, IC 8-1-2.6-13, IC 8-1-2.6-13

Affected: IC 8-1-2-38; IC 8-1-2-39

Sec. 4 (a) Each LEC-ETC shall ~~maintain on file with report annually its current rate for local exchange service to the commission. tariffs which set forth all rates and charges for customer services, applicable local service areas, any applicable classes and grades of service, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relationship between the LEC and its customers. Such tariff filings shall comply with this rule and with other applicable law~~ **Such a report may be made by providing the commission with a specific link to such rate on an ETC's website. For providers that are required to be recertified annually to receive high cost support, this submission may be made as part of the recertification process.**

(b) Each ~~ILEC~~ ETC shall ~~file maps with~~ **submit to the commission maps** depicting the ~~ILEC's~~ ETC's local exchange service areas. The maps shall cover all territory included in the ~~ILEC-CTA~~ ETC's **designated service area** and shall delineate the local exchange service area boundaries in sufficient detail to permit such boundaries to be located in the field. **For ETCs that are providers of last resort**, the maps shall be maintained on a current basis, with signatures of concurrence from duly accredited representatives of each affected ILEC for abutting exchanges, where necessary.

(c) Each LEC shall make copies of the following available for public inspection during normal business hours at all of its public service center locations in Indiana:

(1) All current local exchange tariffs.

(2) All intrastate toll rate schedules showing any applicable tariffed rate structure distinctions.

(3) All local exchange service area maps.

~~The LEC shall provide copies of the items listed in this subsection to the public within twenty-four (24) hours of receiving an oral request or a request in person. The LEC shall provide copies of the items listed in this subsection to the public within seven (7) days of receiving a request by mail or facsimile. If the LEC charges customers for copies of the items listed in this subsection, such charges shall be included in the LEC's approved local exchange service tariffs on file with the commission.~~

(d)(1) Any LEC having a Web site, or with a parent corporation with a Web site, shall place on that Web site the following information:

(A) The LEC effective Indiana jurisdictional tariff.

(B) All pending tariff supplements and revisions.

(2) An LEC shall notify the commission of all applicable Web site addresses. If any changes occur in an LEC's Web site address, the LEC shall notify the commission in writing within seven (7) days of such change. An LEC shall direct this correspondence to the commission's consumer affairs division.

(3) An LEC shall certify to the commission that the electronic tariffs are, and will continue to be, accurate electronic representations of the officially filed tariff. However, the electronic tariffs are not the official documents of the commission, and the Web site user assumes responsibility for any reliance placed on them.

(4) Tariff files shall be in a widely used and commercially available format. Tariff files shall be in read-only format to prevent Web site users from modifying the tariff language. Tariffs shall continue to be filed in hard copy format pursuant to applicable law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-4; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4057, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; ; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA*)

SECTION 5. 170 IAC 7-1.2-7 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.2-7 Response to commission staff inquiries

Authority: IC 8-1-1-3, IC 8-1-2.6-13, IC 8-1-32.5

Affected: IC 8-1-2-53

Sec. 7. Each LEC CSP, other than providers of commercial mobile service, shall fully and promptly answer all inquiries received from the commission staff concerning ~~service or any other matters pertaining to this rule~~ **the types of service offered, service areas, information needed by the commission to prepare its report to the regulatory flexibility committee, or any other information the commission is authorized to collect under state or federal law.** Each LEC CSP shall fully and promptly answer such requests, at the earliest possible date, ~~not to exceed fifteen (15) calendar days after the LEC receives such an inquiry from the commission unless otherwise directed by the~~ **or as requested by staff.** (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-7; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4058, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; ; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA*)

SECTION 6. 170 IAC 7-1.2-9 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.2-9 Availability of service

Authority: IC 8-1-1-3, IC 8-1-2.6-13, IC 8-1-32.4-9

Affected: IC 8-1-2-4

Sec. 9. ~~(a) Each LEC that provides central office equipment and outside plant facilities shall design and engineer such equipment and facilities in accordance with the following:~~

- ~~(1) Recognized industry technical standards.~~
- ~~(2) The service quality standards and other provisions of this rule.~~
- ~~(3) Reasonable anticipated customer demand for basic telephone service.~~
- ~~(4) Applicable commission orders.~~
- ~~(5) Applicable tariffs.~~

~~(b) Where central office and outside plant facilities are readily available:~~

~~(1) An LEC shall complete at least ninety-two percent (92%) of all requests for primary service in any month within an interval of five (5) business days after receipt of an application. The following conditions must be met for the standards set forth in this subsection to apply:~~

~~(A) The customer applicant has complied with all applicable tariff requirements.~~

~~(B) The customer applicant is prepared to accept the service.~~

~~(C) The customer applicant has not requested a later installation date.~~

~~(D) The requested service does not require the installation of special equipment or the provision of special services.~~

~~(E) For CLECs, all ILEC provisioned services and network elements that are necessary in order for a CLEC to install primary service to end-user customers have been obtained by and are available to the CLEC.~~

~~(2) An LEC shall disclose to a customer its obligation to install primary service within an interval of five (5) business days or provide the customer with a credit, except when the LEC offers an installation date of five (5) days or less, or when the customer requests an installation date that exceeds five (5) days.~~

~~(3) If a customer requests installation of primary service within five (5) business days of the date the request was placed, the following provisions apply:~~

~~(A) The LEC shall advise the customer applicant of the date and time by which the LEC will be able to provide service and inform the customer of the tracking number assigned to the installation request.~~

~~(B) If the installation of service requires the customer to be present, the LEC shall fulfill the requirements of subsection (f).~~

~~(C) If the LEC fails to install primary service within five (5) business days of the date the request was placed, the LEC shall, without the customer's request, credit the customer's billing account twenty percent (20%) of the nonrecurring installation fees associated with the installation for the sixth day and each day thereafter until the LEC completes installation of trouble free primary service, provided, however, that the credit for failure to~~

install primary service within five (5) business days shall not exceed the total amount of the installation fee.

(D) If the LEC fails to install trouble free primary service within ten (10) business days of the date the request was placed, the LEC shall provide the customer with alternative service free of charge.

(4) If a customer requests installation of primary service six (6) or more business days after the date the order was placed, the following provisions apply:

(A) The LEC shall advise the customer applicant of the date and time by which the LEC will be able to provide service.

(B) If the installation of service requires the customer to be present, the LEC shall fulfill the requirements of subsection (f).

(C) If the LEC fails to install service by the customer requested in service date, the LEC shall, without the customer's request, credit the customer's billing account twenty percent (20%) of the nonrecurring installation fees associated with the installation for each day after the customer requested installation date, provided, however, that the credit for failure to timely install primary service shall not exceed the total amount of the installation fee.

(D) If the LEC fails to install trouble free primary service within five (5) business days of the customer request in service date, the LEC shall provide the customer with alternative service free of charge.

(5) Credits issued pursuant to this section shall be applied as soon as practicable but not later than two (2) billing cycles after the date of the completed installation.

(6) This section applies to new primary service installations by LECs and does not apply to service migrations from one (1) LEC to another LEC.

(e) Where central office and outside plant facilities are not readily available, the ILEC shall promptly notify the customer applicant of that fact and provide a date and time acceptable to the customer on which the required central office and outside plant facilities will be available for the ILEC to provide the requested services and provide the customer with a tracking number. Even when central office and outside plant facilities are not readily available, each ILEC shall strive to provide primary service to every customer applicant:

(1) on or before the requested in-service date, whenever possible; or

(2) otherwise, as close to the customer requested in-service date as possible and within thirty (30) days of the application for primary service.

(d) Each LEC shall maintain records reasonably sufficient to show the extent of its compliance with subsections (b) and (c) for the previous eighteen (18) months.

(e) If any ILEC fails to satisfy any primary service request within thirty (30) days of the requested in-service date, the ILEC shall do the following:

(1) File a report of any failure with the commission at the end of each calendar quarter. The report shall include an explanation of relevant circumstances and shall identify any factors outside the ILEC's control that prevented it from providing the requested service within thirty (30) days of the requested in-service date.

(2) Waive the nonrecurring installation charges upon installation of the requested service unless the ILEC requests and the commission grants a waiver for installation beyond thirty (30) days of the requested in-service date.

(f) If it is necessary for the customer to be present during an on-premise installation, the LEC shall make appointments for such installation, at a mutually agreed upon date and time (which shall be identified as occurring within a four (4) hour window, such as morning, afternoon, or evening). If a service installation appointment cannot be kept, the LEC shall make reasonable efforts to notify the customer applicant by 6:00 p.m. on the day prior to the appointment to explain the reason for the delay. The LEC shall obtain a contact point from the customer in order to provide such advance notice. If the LEC fails to notify the customer by 6:00 p.m. on the day prior to the scheduled installation appointment and the LEC fails to keep the installation appointment, the LEC shall, without the customer's request, credit the customer's account twenty-five dollars (\$25).

(d) Each LEC ETC shall maintain records reasonably sufficient to show the extent of its compliance with subsections (b) and (c) for the previous eighteen (18) months provide at a minimum the supported services outlined at 47 CFR 54.101* or as outlined in the commission order designating the carrier as an ETC throughout its designated service area to all prospective customers who make a reasonable request for service. An ETC that is a provider of last resort is required to offer local exchange service as defined at 47 USC 153(47)* throughout its designated service area.

(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-9; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4059, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:36 p.m.: 26 IR 382; readopted filed Oct 2, 2009, 11:05 a.m.:20091028-IR-170090573RFA)

SECTION 7. 170 IAC 7-1.2-18 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.2-18 Emergency operation

Authority: IC 8-1-1-3, IC 8-1-2.6-13

Affected: IC 8-1-2-4

Sec. 18. (a) Each ~~LEC ETC~~ shall make reasonable provisions to meet emergencies resulting from commercial electrical failure and sudden, prolonged increases in traffic due to extraordinary circumstances. Each ~~LEC ETC~~ shall instruct employees on procedures to be followed in the event of such emergencies in order to prevent or mitigate interruption or impairment of telephone **supported** services.

(b) All existing ~~central switching offices or functional equivalent~~ shall maintain the following:

(1) ~~Central Switching offices or equivalent~~ with installed emergency power generating equipment will have a minimum of three (3) hours ~~central office battery capacity. of busy season, busy hour load~~

(2) ~~Central Switching offices or equivalent~~ without installed emergency power generating equipment shall have a minimum ~~central office battery capacity of five (5) hours. busy season, busy hour load~~ Facilities needed to connect a portable generator shall also be readily available. ~~in each central office~~

(c) ~~It is essential that all central offices have adequate provision for emergency power. All new central offices, central office replacements, and major additions placed on order after the effective date of this rule and standards shall be designed to meet the following objectives:~~

(1) ~~Central offices with installed emergency power generating equipment will have a minimum of three (3) hours central office battery capacity of busy season, busy hour load.~~

(2) ~~Central offices without installed emergency power generating equipment shall have a minimum central office battery capacity of eight (8) hours busy season, busy hour load. Facilities needed to connect a portable generator shall also be readily available in each central office.~~

(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-18; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA)

Rule 1.3. Communications Customer Service Rights and Responsibilities

SECTION 8. 170 IAC 7-1.3-1 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.3-1 Purpose and scope

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1; IC 8-1.5-1-10

Sec. 1. (a) This rule applies to any ~~utility CSP~~ that is now, or may hereafter be, engaged in the business of rendering **telephone communications** services to the public under the jurisdiction of the commission. ~~Excluded under this rule, are those services provided pursuant to a CTA issued for a radio common carrier, or commercial mobile radio service. This rule creates the minimum level of service that an LEC is expected to meet when providing reasonable quality telephone services to the public and to establish the obligations of both the utility and the customer. Sections 3 through 7 and 10 through 12 of this rule do not apply to (CLECs) that serve less than five thousand (5,000) access lines.~~

(b) ~~This rule supersedes 170 IAC 7-1.1-12 through 170 IAC 7-1.1-18.~~

(c) ~~(b) No utility CSP shall discriminate against or penalize a customer for exercising any right granted by this rule. If an LEC's tariff on file with the commission contains provisions that conflict with this rule, this rule supersedes any conflicting tariff provisions.~~

(d) ~~(c) Any LEC CSP subject to the telecommunications customer service rights and responsibilities set forth in this rule that fails to meet such standards shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and a hearing, the commission may order lawful enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any LEC CSP fails to comply.~~

(e) ~~(d) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the petition of any utility or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:~~

(1) ~~Altering or amending this rule in whole or in part.~~

(2) ~~Requiring any other or additional service, equipment, facility, or standard.~~

(3) ~~(2) Making such modifications with respect to the application of this rule as may be found necessary to meet~~

exceptional conditions.

~~(4) Require an LEC to comply with any other service standards.~~

~~(5) (3) At its sole discretion, grant, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.~~

~~(f) (e) The adoption of this rule shall not in any way relieve any utility CSP from any of its duties under the laws of this state.~~

~~(g) (f) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, such provision shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. (Indiana Utility Regulatory Commission; 170 IAC 7-1.3-1; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4066, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:54 p.m.: 26 IR 382; Readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA)~~

SECTION 9. 170 IAC 7-1.3-2 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.3-2 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1; IC 8-1.5-1-10

Sec. 2. The following definitions apply throughout this rule:

~~(1) "Applicant" means any person, company, or designated agent who seeks to become a customer for basic residential or small business telephone services.~~

~~(2) "Basic local service" means the provision to a customer of an access line that transmits two-way interactive switched voice or communication within a local calling area.~~

~~(3) (1) "Business days" means all days other than a:~~

~~(A) Saturday;~~

~~(B) Sunday;~~

~~(C) legal holiday as defined by statute; or~~

~~(D) day that the utility (or service provider) office is closed during regular business hours.~~

~~(4) (2) "Clear and conspicuous notification" means notice that would be apparent to a reasonable consumer.~~

~~(3) "Commercial mobile radio services" or "CMRS" has the meaning set forth in 47 CFR 20.3.~~

~~(5) (4) "Commission" means the Indiana utility regulatory commission.~~

~~(6) "Competitive local exchange carrier" or "CLEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and does not qualify as an incumbent local exchange carrier under subdivision (9).~~

~~(7) (5) "Customer" means the following:~~

~~(A) Any person that requests and obtains telephone service and is responsible for the payment of charges and compliance with filed tariffs, and rules of the utility.~~

~~(B) Any business or institutional entity, whether an individual, partnership, corporation, association, or other business or institutional form that:~~

~~(i) does or will operate with four (4) or fewer single access lines;~~

~~(ii) requests and obtains telephone service for occupational, professional, or institutional purposes; and~~

~~(iii) is responsible for the payment of charges and compliance with filed tariffs, and rules of the utility.~~

~~(C) Any customer whose service has been temporarily disconnected shall continue to be a customer for purposes of this rule until such time as service is permanently disconnected and the customer must reapply for new service.~~

~~(8) "Deniable charges" means charges for basic local service. Delinquency in payment of deniable charges may result in disconnection of basic local service.~~

~~(9) (6) "Electronic letter of agency" or "ELOA" means an electronically signed written statement that:~~

~~(A) authorizes a change to the customer's primary interexchange carrier or primary local exchange carrier; and~~

~~(B) includes the consumer disclosures required by Section 101(c) of the electronic signatures in global and national commerce act, 15 USC 7001(c).~~

~~(7) "Express authorization" means an express, affirmative act by the customer clearly agreeing to the change in PIC or LEC in the form of:~~

- (A) a written authorization;
 - (B) a customer-initiated call to the prospective IXC or LEC;
 - (C) an oral authorization verified and recorded by an independent third party;
 - (D) a recorded electronic authorization;
 - (E) some other form of recorded authorization, such as personal identification numbers (PINs) or passwords; or
 - (F) an electronic authorization.
- (8) "Incumbent local exchange carrier" or "ILEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:
- (A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or
 - (B) is a person or entity that on or after February 8, 1996, became a successor or assignee of a member described in clause (A).
- (9) "Interexchange carrier" or "IXC" means a telecommunications service provider that is authorized to provide long distance telephone service in or between local access transport areas.
- (10) "Letter of agency" or "LOA" means a written statement that the customer signs that authorizes a change to that customer's primary interexchange carrier or primary local exchange carrier.
- (11) "Local access transport area" or "LATA" has the meaning set forth in 47 USC 153(25).
- (10) (12) "Local exchange carrier" or "LEC" means a local serving telephone utility that provides telephone service to customers in the geographic territory served by the local exchange, and excluding those services provided pursuant to a CTA issued for a radio common carrier or commercial mobile radio service.
- (11) ~~"Long distance service" or "toll service" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per unit basis.~~
- (12)
- (13) "Local exchange service" means the provision to a customer of an access line or equivalent that transmits two-way interactive switched voice or communication within a local calling area.
- (14) "Long distance telecommunications service" means service that carries calls to exchanges that are not within the local calling area of the originating number.
- (15) "New service provider" means a service provider that did not bill the customer for service during the service provider's last billing cycle. The term includes only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill unless the service is subsequently canceled.
- (13) ~~"Non-deniable charges" means charges for toll service and unregulated telecommunications services. Delinquency in payment of non-deniable charges shall not result in disconnection of basic local service.~~
- (14) (16) "Primary interexchange carrier" or "PIC" means a provider of presubscribed inter-LATA or intra-LATA long distance telecommunications services. The term includes the following:
- (A) Presubscribed facilities-based carriers of long distance service.
 - (B) Resellers of long distance service.
 - (C) Local exchange carriers providing long distance service.
- In those local exchanges where intra-LATA equal access is available, customers may receive presubscribed long distance service from more than one (1) PIC (one (1) for inter-LATA and one (1) for intra-LATA toll) or may select a single PIC that provides both inter-LATA and intra-LATA toll service.
- (17) "Primary local exchange carrier" or "PLEC" means a carrier to which a customer has presubscribed for local exchange service.
- (18) "Properly disputed" means the filing of a complaint, either verbally or in writing, with the commission.
- (19) "Telemarketing" means the use of telecommunications in marketing campaigns to reach prospective purchasers and sell them goods or services.
- (20) "Temporary disconnection" means a disconnection that has not yet resulted in the customer's account being permanently removed from the telephone provider's network.
- (15) (21) "Utility" means any public utility (as defined in IC 8-1-2-1) or municipal utility (as defined in IC 8-1.5-1-10) that furnishes telephone telecommunications service to the public under the jurisdiction of the commission.

(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-2; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4066, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata, 26 IR 1565; errata, 26 IR 2375; Readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA)

SECTION 10. 170 IAC 7-1.3-5 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.3-5 Notice of proposed rate change

Authority: IC 8-1-1-3; IC 8-1-32.5-11

Affected: IC 8-1-2-40

Sec. 5. (a) ~~Each utility shall supply to each customer on an annual basis, without charge, a brief summary of the customer's rights and responsibilities contained in this rule. Each utility shall forward a copy to the commission annually to be kept on record with the commission's consumer affairs division. This section shall apply to all CSPs with the exception of CMRS providers.~~

~~(b) When a utility representative takes an order for new telephone service, the representative shall describe to the applicant the least expensive telephone service available. Such description shall include lifeline/link-up services for eligible customers.~~

~~(c) Each utility shall have a copy of this rule in all of its business offices that shall be available for inspection by applicants and customers.~~

~~(d) (b) Each utility CSP shall furnish advance notice of rate increases to its affected customers that fairly summarizes the nature and extent of the increase. within forty five (45) days of such request and prior to the date of the initial public hearing. If the rate change is one that does not require a hearing, then notice should be included in the first bill where the change is effective. (Indiana Utility Regulatory Commission; 170 IAC 7-1.3-5; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; Readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA)~~

SECTION 11. 170 IAC 7-1.3-6 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.3-6 Bills for utility service

Authority: IC 8-1-1-3, I.C. 8-1-29-5, I.C. 8-1-2.6-13

Affected: IC 8-1-2-4

Sec. 6. (a) Bills rendered periodically to customers for telephone telecommunication services shall show at least the following, excluding CMRS, shall be clearly organized and must include the following required information:

~~(1) The customer's name, billing address, telephone number, and date of bill.~~

~~(2) For measured service, details shall include the number of additional local calls, rate, and total amount of charges.~~

~~(3) Itemization of toll calls and charges.~~

~~(4) State and federal taxes.~~

~~(5) Previous balance.~~

~~(6) Explanation of codes and abbreviations.~~

~~(7) The past due date or the date on which the bill becomes delinquent.~~

~~(8) The total amount of bill.~~

~~(9) (1) The name for the service provider associated with each charge shall be clearly identified.~~

~~(10) (2) Where charges for two (2) or more telephone carriers appear on the same telephone bill, the charges shall be separated by service provider, and the billing entity shall provide clear and conspicuous notification of any change in service provider, including notification to the customer that a new service provider has begun providing service. The notification shall describe the nature of the relationship with the customer, including a description of whether the new service provider is the presubscribed:~~

~~(A) local exchange carrier;~~

~~(B) intra-LATA interexchange carrier; or~~

~~(C) inter-LATA interexchange carrier.~~

~~(11) (3) Charges contained on telephone bills shall be accompanied by a brief, clear, non-misleading, plain language description of the individual service or services rendered. The description shall be sufficiently clear in presentation and specific enough in content so that:~~

~~(A) a customer can accurately assess that the services for which he or she is billed correspond to those that he or she has requested and received; and~~

~~(B) the costs assessed for those services conform to the customer's understanding of the price charged.~~

~~(12) (4) Telephone bills shall contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges on, the bill. The bill shall contain a clear and conspicuous notice that the customer may dispute charges on the bill prior to payment, including, but not limited to, the following:~~

(A) A prominent display on each bill of a toll free number of the carrier by which a customer may inquire or dispute any charge contained on the bill.

(B) A carrier may list a toll free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Where the customer does not receive a paper copy of his or her telephone bill, but instead accesses that bill only by e-mail or Internet, the carrier may comply with this subdivision by providing on the bill an e-mail or Web site address. Each carrier shall make a business address available upon request from a customer.

(b) The billing requirements of subsection (a)(9)(1) through (a)(11)(3) may be waived for business customers if those customers consent in writing to such waiver.

~~(e) A utility service bill, which has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill, shall be a delinquent bill. A utility service bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, the net bill shall become a delinquent bill and a late payment charge may be added in the amount of ten percent (10%) of the first three dollars (\$3) and three percent (3%) of the excess of three dollars (\$3).~~

~~(d) (c) The LEC may only change a monthly billing cycle to another periodic form of billing if the customer agrees in writing to such change.~~

~~(e) Where a bill contains charges for basic local service in addition to charges for toll service and unregulated services, the bill shall distinguish between deniable and non-deniable charges. The carrier shall:~~

~~(1) explain the distinction between non-deniable and deniable charges to the customer; and~~

~~(2) clearly and conspicuously identify on the bill those charges for which nonpayment will result in disconnection of basic local service.~~

~~(f) If a customer is delinquent in payment of non-deniable charges, the telephone carrier may remove or restrict those services for which there is a non-deniable charge from the customer's account without the customer's consent. If toll service is removed or restricted, the LEC may require a deposit pursuant to section 3 of this rule before restoring those services to the customer's account. (Indiana Utility Regulatory Commission; 170 IAC 7-1.3-6; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; Readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA)~~

SECTION 12. 170 IAC 7-1.3-7 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.3-7 Billing adjustments

Authority: IC 8-1-1-3, IC 8-1-2.6-13, 8-1-2.6-13

Affected: IC 8-1-2-34.5

~~Sec. 7. (a) Adjustment of a disputed non-deniable charge shall be made in accordance with sections 8 and 9 of this rule.~~

~~(b) A billing error including an incorrect tariff application may be adjusted to the known date of error or for a period of eighteen (18) months, whichever period is shorter. (Indiana Utility Regulatory Commission; 170 IAC 7-1.3-7; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4070, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; Readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA)~~

SECTION 13. 170 IAC 7-1.3-8.1 IS ADDED TO READ AS FOLLOWS.

170 IAC 7-1.3-8.1 Unauthorized switching of telecommunications providers; billing for telecommunications or other services added without customer's consent

Authority: IC 8-1-1-3; IC 8-1-29; IC 8-1-2.6-13

Affected: IC 8-1-2-4

Sec. 8.1. (a) The definitions in 170 IAC 7-1.3-2 apply to this rule.

(b) No prospective PIC shall submit to a LEC a PIC change order generated by telemarketing unless the prospective PIC has first obtained express authorization from the customer. No prospective LEC shall submit a PLEC change order generated by telemarketing unless the prospective LEC has first obtained express authorization from the customer.

(c) The prospective PIC or prospective LEC shall confirm such express authorization through one (1) of the

following procedures:

(1) The prospective PIC or prospective LEC shall obtain the customer's written or electronic authorization in a form that meets the requirements of clauses (e) through (n).

(2) The prospective PIC or prospective LEC shall obtain the customer's electronic authorization, placed from the telephone number or numbers on which the PIC or PLEC is to be changed, to submit a PIC or PLEC change order. The authorization shall include the information described in clause (i). Prospective PICs or prospective LECs electing to confirm sales electronically shall establish one (1) or more toll-free telephone numbers exclusively for that purpose. A call to the number or numbers will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC or PLEC change, including automatically recording the automatic number identification (ANI).

(3) An appropriately qualified and independent third party shall obtain the customer's oral authorization to submit the PIC or PLEC change order. Such authorization shall confirm and include appropriate verification data, for example, the customer's date of birth, mother's maiden name, or Social Security number or part thereof. Such authorization is valid only if the entity that obtained the authorization:

(A) is independent of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC;

(B) complies with this section regarding changes to telecommunications carriers;

(C) has a written policy regarding customer complaints and abides by that policy;

(D) has a written policy requiring the maintenance and storage of recorded electronic authorizations for a minimum period of one (1) year and abides by that policy;

(E) has a written script that it uses when obtaining verifications, and the script provides clear and unambiguous notice to the customer:

(i) that the customer is authorizing a change in primary interexchange or primary local exchange carrier;

(ii) of the identity of the new primary interexchange or primary local exchange carrier;

(iii) of a toll-free or local number of the LEC that the customer can call to verify whether the change has occurred;

(iv) that, for any one (1) telephone number:

(AA) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;

(BB) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and

(CC) only one (1) intrastate primary LEC may be designated as the subscriber's primary LEC; and

(v) that the PIC change will automatically apply to both inter-LATA and intra-LATA long distance service offerings unless the customer directs otherwise; and

(vi) that the carrier change can be effectuated once the verification has been completed in full, even when the consumer has additional questions for the sales representative after the verification process.

(F) is in a location that is physically separate from that of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC.

(G) records the date of verification at the time of the verification such that it is readily identifiable by parties that review the verification at a later date.

(d) A PIC or PLEC change made in violation of any of the requirements of this section is invalid. A prospective PIC or PLEC must provide all information regarding disputed carrier changes and services billings to the commission within thirty (30) days of a commission request for said information.

(e) If the prospective PIC or prospective LEC utilizes the authorization procedure in clause (c)(1), the prospective PIC or LEC shall obtain any necessary written authorization from a subscriber for a PIC or PLEC change by using a letter of agency or electronic letter of agency as specified in clauses (f) through (n). Any letter of agency or electronic letter of agency that does not conform to those subsections is invalid.

(f) The LOA or ELOA shall be a separate document (or an easily separable document) or located on a separate screen or Web page containing only the authorizing language described in clause (i), whose sole purpose is to authorize a prospective PIC or LEC to initiate a PIC or PLEC change. The LOA must be signed and dated by the subscriber to the telephone line or lines requesting the PIC or PLEC change. The subscriber (or authorized agent in the case of a business customer) whose name appears on bills for local and interexchange service shall be the only party authorized to execute a LOA.

(g) The LOA shall not be combined with inducements of any kind on the same document, screen, or Web page.

(h) Notwithstanding clauses (f) and (g), the LOA may be combined with checks that contain only the required LOA language prescribed in clause (i) and the necessary information to make the check a negotiable instrument. The LOA check shall not contain any promotional language or material. The LOA check shall contain, in easily readable, bold-face type on the front of the check, a notice that the consumer is authorizing a PIC or PLEC change by signing the check. The LOA language shall also be placed near the signature line on the back of the check.

(i) At a minimum, the LOA must be printed with a typeface of sufficient size and clarity to be clearly legible and must contain clear and unambiguous language that confirms:

(1) the subscriber's billing name and address and each telephone number to be covered by the PIC or PLEC change order;

(2) the subscriber's decision to change the PIC or PLEC from the current IXC or LEC to the prospective IXC or prospective LEC;

(3) that the subscriber designates the prospective IXC or prospective LEC to act as the subscriber's agent for the PIC or PLEC change;

(4) that the subscriber understands that, for any one (1) telephone number:

(A) only one (1) prospective PIC may be designated as the subscriber's inter-LATA PIC;

(B) only one (1) prospective PIC may be designated as the subscriber's intra-LATA PIC; and

(C) only one (1) intrastate primary LEC may be designated as the subscriber's intrastate primary LEC;

(5) that the subscriber understands that any change in PIC or primary LEC may result in a charge to the subscriber; and

(6) the LEC's toll-free or local number that the customer can call to verify whether the change has occurred.

(j) To the extent a customer selects separate carriers for inter-LATA, intra-LATA, and LEC services, the LOA must contain separate statements regarding those choices. Any carrier designated as a PIC for inter-LATA service must be the carrier directly setting the inter-LATA service rates for the subscriber. Any carrier designated as a PIC for intra-LATA services must be the carrier directly setting the intra-LATA service rates for the subscriber. Any carrier designated as a PLEC must be the LEC directly setting the local exchange service rates for the subscriber. One (1) IXC can be both a subscriber's inter-LATA PIC and a subscriber's intra-LATA PIC.

(k) LOAs shall not suggest or require that a subscriber take some action in order to retain the subscriber's current IXC or LEC.

(l) If any portion of a LOA is translated into a language other than English, then all portions of the LOA must be translated into that language. Every LOA must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the LOA.

(m) The LOA shall provide the toll-free telephone number and mailing address of the consumer affairs division of the Indiana utility regulatory commission and shall inform the customer of his or her right to file a complaint with that division.

(n) LOAs submitted with an electronically signed authorization must include the consumer disclosures required by section 101(c) of the electronic signatures in global and national commerce act, 15 USC 7001(c).

(o) Upon request of the customer, offers to provide telecommunications interexchange or local exchange services shall be sent to the customer in written form describing the terms and conditions of service.

(p) Except for customer-initiated or one-time use products, such as collect calling services, optional pay-per-use services (including automatic callback, repeat dialing, and three-way calling), no PIC or LEC or any billing agent acting for said PIC or LEC shall bill a customer for any service unless the PIC, LEC, or billing agent possesses written or electronic documentation that shows:

(1) the name of the customer requesting the service;

(2) a description of the service requested by the customer;

(3) the date on which the customer requested the service;

(4) the means by which the customer requested the service; and

(5) the name, address, and telephone number of all sales agents involved.

(q) No PIC, LEC, or billing agent for any PIC or LEC shall be entitled to any compensation from a customer for services rendered in violation of this rule.

(r) The customer's local exchange company shall not disconnect the customer's phone service for nonpayment where the customer has properly disputed a carrier change or service billing.

(s) A telecommunications carrier shall submit a preferred carrier change order on behalf of a subscriber within no more than sixty (60) days of obtaining a written or electronically signed letter of agency. However, LOAs for multiline and/or multi-location business customers that have entered into negotiated agreements with carriers to add presubscribed lines to their business locations during the course of a term agreement shall be valid for the period

specified in the term agreement.

(t) A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscribers' express authorization provided that the acquiring carrier complies with the following streamlined procedures:

(I) No later than thirty (30) days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file notice with the commission providing:

(A) the names of the parties to the transaction;

(B) the types of telecommunication service to be provided to the affected subscribers;

(C) date of transfer of the subscriber base to the acquiring carrier.

(D) certification that the acquiring carrier shall comply with the requirement to provide advance consumer notice in accordance with 47 CFR 64.1120(e)(3).

(u) This rule shall apply only to the extent not preempted by federal law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-8.1*)

SECTION 14. 170 IAC 7-1.3-9 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-1.3-9 Customer complaints to the commission

Authority: IC 8-1-1-3, IC 8-1-2-34.5, IC 8-1-2.6-13, IC 8-1-29

Affected: IC 8-1-2-34.5

Sec. 9. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission, **including but not limited to slamming and cramming, numbering issues and video complaints under the federal communications commission's customer service standards formally adopted by the commission in General Administrative Order 2007-2.** Such complaints may be made in person, by telephone, in writing, or by completing a form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

~~(b)~~(b) **References to CSP in this section exclude radio common carriers, CMRS providers and information service providers.**

(c) Without the customer's permission, the ~~utility~~ CSP shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of such complaint is pending. The customer shall continue to pay all undisputed charges. In those instances when the customer and ~~utility~~ CSP cannot agree as to what portion of a bill is undisputed, the customer shall pay on the disputed bill an amount equal to the customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the customer has received fewer than twelve (12) bills, the customer shall pay an amount equal to one-twelfth ($1/12$) of the estimated annual billing for service to be rendered to the customer.

~~(e)~~ (d) If the customer is dissatisfied with a ~~utility's~~ CSP's notice of its proposed disposition of the complaint as ~~provided in section 8 of this rule~~ the customer or applicant may, within ~~twenty-one (21)~~ **seven (7)** days after the postmark date of the notice, file a consumer complaint with the commission's consumer affairs division.

~~(e)~~ (e) Upon receiving a consumer complaint, the following actions shall be taken:

(1) The ~~utility~~ CSP shall be notified that a complaint has been made.

(2) The complaint shall be investigated.

(3) The customer and the ~~utility~~ CSP shall be notified of the decision made on the complaint in accordance with applicable law.

~~(e)~~ (f) Requirements for an informal review are as follows:

(1) The customer or the ~~utility~~ CSP may make a written request that a decision made pursuant to subsection (d) be reviewed informally by the consumer affairs director or designee. Such written request shall be made within ~~fourteen (14)~~ **seven (7)** days of the decision. The records of the commission relating to such reviews shall be kept in a systematic order.

(2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review within thirty (30) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the ~~utility~~ CSP within thirty (30) days after its receipt of the customer's request. Upon request by either party or the consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at such place as the consumer affairs director or designee may consider appropriate.

(f) (g) The customer may make a written request that the commission investigate the disposition of the informal review. Such written request shall be made within ~~fourteen (14)~~ **seven (7)** days of the consumer affairs division's notice of disposition. Prior to entering an order upon a commission investigation, the commission shall afford the customer and the utility CSP notice and an opportunity to be heard.

(g) (h) Without the customer's permission, the utility CSP shall not disconnect, remove, or restrict any disputed service until at least ~~fourteen (14)~~ **twenty-one (21)** days have elapsed from the ~~postmark~~ date of the consumer affairs division disposition, or the commission's order upon investigation, if any. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-9; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4071, eff. one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; Readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA*)

SECTION 15. 170 IAC 7-6-3 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-6-3 Notice to the commission; notice to customers

Authority: IC 8-1-1-3; IC 8-1-2-5; IC 8-1-2-34.5; IC 8-1-32.4; IC 8-1-32.5

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) When a LEC serves a notice of disconnection upon another LEC, the notice of disconnection shall be served simultaneously upon the following:

- (1) the ~~telecommunications~~ **communications** division director of the commission via personal service or certified mail, return receipt requested; and
- (2) the LEC that is subject to disconnection via certified mail, return receipt requested.

(b) Five (5) business days after the notice from the disconnecting LEC is mailed, the LEC that is subject to disconnection must provide the ~~telecommunications~~ **communications** division director of the commission, in writing, with one (1) of the following:

- (1) Proof of payment.
- (2) The LEC's customer list, including each customer's:
 - (A) name;
 - (B) address; and
 - (C) telephone number.

Absent a showing to the contrary, the LEC's customer list shall be deemed confidential on a preliminary basis by the commission.

(3) Copy of a complaint, regarding:

- (A) reasonable grounds for nonpayment to the disconnecting LEC; or
- (B) the subject of the disconnection notice;

filed with the commission pursuant to ~~rule 7 of this article~~ **170 IAC 7-7**.

(c)(1) If the LEC subject to disconnection fails to provide the commission with:

- (A) proof of payment under subsection (b)(1); or
- (B) copy of a complaint under subsection (b)(3);

the LEC subject to disconnection must mail notice of disconnection to its customers within ten (10) calendar days after the disconnection notice is sent from the disconnecting LEC.

(2) The LEC subject to disconnection must provide proof of mailing the customer disconnection notice to the commission.

(3) The LEC's notice of disconnection to its customers must include the following:

- (A) A statement that the customer must contact the ~~telephone~~ **communications** service provider of his or her choice for new service.
- (B) The last date of guaranteed service by the LEC.
- (C) The address and toll-free number of the:
 - (i) commission; and
 - (ii) utility consumer counselor.

(D) A statement notifying the customer that if the customer fails to choose a new ~~LEC~~ **communications service provider** on or before the date of disconnection from the LEC, the customer will be without telephone service.

(d) If the LEC subject to disconnection fails to notify its customers or show proof of mailing disconnection notices as required by subsection (c), the commission may do one (1) or more of the following:

- (1) Initiate an investigation or other procedure in accordance with:
 - (A) IC 8-1-2-58;

- (B) IC 8-1-2-69; or
- (C) other related statutes.

(2) Request the disconnecting LEC to provide any customer identifying information it may have, which shall be treated as confidential on a preliminary basis by the commission.

(3) Initiate customer notification itself based on the information received in subsection (b)(2) and subdivision (2).

(e) A LEC may not disconnect another LEC until thirty (30) calendar days after the disconnection notice is sent under subsection (a).

(f) A LEC shall not be disconnected without adequate notice to its customers, either pursuant to the time frames in this rule or as otherwise determined by the commission.

(g) This rule shall not prohibit a LEC from rescinding its disconnection notice to customers after complying with subsection (c) if the LEC makes payment to the disconnecting LEC before its disconnection. The LEC shall notify the commission immediately if it has rescinded its customer disconnection notice.

(h) This rule shall not apply where the disconnecting LEC is without notice of either of the following:

(1) The provider being disconnected is reselling the retail services of the disconnecting LEC to third parties.

(2) The provider being disconnected is using the retail facilities of the disconnecting LEC to serve customers.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-3; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA)

SECTION 16. 170 IAC 7-6-5 IS AMENDED TO READ AS FOLLOWS.

170 IAC 7-6-5 Relinquishment of service by a LEC

Authority: IC 8-1-1-3; IC 8-1-2-5; IC 8-1-2-34.5; IC 8-1-2.6-1.5; IC 8-1-32.4; IC 8-1-32.5

Affected: IC 8-1

Sec. 5. A LEC that intends to cease providing services in all or part of its operating area or relinquish some or all of its Indiana certificate of territorial authority shall provide the following:

(1) Written notice to the commission, the utility consumer counselor, and any LEC from which it purchases services for resale, unbundled network elements, or with whose network the LEC that is ceasing operations or relinquishing authority is interconnected, sent at least sixty (60) calendar days before the date of cessation of operations or relinquishment. The notice to the commission shall include a customer list, which shall be deemed confidential on a preliminary basis by the commission. If the LEC that is ceasing operations or relinquishing authority is a provider of last resort, the notice to the commission must be provided on the form prescribed by the commission.

(2) At least sixty (60) calendar days before the date of cessation of operations or relinquishment, a notice to affected customers, which must include the following:

(A) A statement that the customer must contact the ~~telephone~~ **communications** service provider of his or her choice for new service.

(B) The last date of guaranteed service by the LEC.

(C) The address and toll-free number of the:

(i) commission; and

(ii) utility consumer counselor.

(D) A statement notifying the customer that if the customer fails to choose a new ~~LEC~~ **communications service provider** on or before the date of cessation of operations or relinquishment, the customer will be without telephone service.

(E) At least one (1) toll-free customer service telephone number maintained by the LEC that is ceasing operations or relinquishing authority to facilitate the:

(i) continuation of service; and

(ii) transition of customers to other providers;

if the LEC that is ceasing operations or relinquishing authority is a provider of last resort.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-5; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA)

SECTION 17. THE FOLLOWING ARE REPEALED: 170 IAC 7-1.2-5, 170 IAC 7-1.2-6, 170 IAC 7-1.2-8, 170 IAC 7-1.2-10, 170 IAC 7-1.2-11, 170 IAC 7-1.2-12, 170 IAC 7-1.2-13, 170 IAC 7-1.2-14, 170 IAC 7-1.2-15, 170 IAC 7-1.2-16, 170 IAC 7-1.2-17, 170 IAC 7-1.3-3, 170 IAC 7-1.3-4, 170 IAC 7-1.3-8, 170 IAC 7-1.3-8.1, 170 IAC 7-1.3-10, 170 IAC 7-1.3-11, 170 IAC 7-1.3-12, 170 IAC 7-1.4-1, 170 IAC 7-1.4-2, 170 IAC 7-1.4-3, 170 IAC 7-2.1-2, 170 IAC 7-5-1, 170 IAC 7-5-2, 170 IAC 7-5-3, 170 IAC 7-5-4, 170 IAC 7-5-5, 170 IAC 7-5-6, 170 IAC 7-5-7 AND 170 IAC 7-5-8.