



legislature to regulate the subject matter of the rule. Several of the rules do not comply with this requirement and must be stricken.

**Rule 170 IAC 7-1.2-1**

Proposed Rule 1.2 cites IC 8-1-1-3, IC 8-1-2.6-13, IC 8-1-29.5-6, and IC 8-32.5 for the legal authority that it may promulgate a rule to ensure safe and adequate telecommunications services. Verizon supports safe and adequate telecommunications service, but the authority cited for the rule does not support Commission regulation of this particular objective. IC 8-1-1-3 may empower the Commission to issue rules, but it does not give the Commission specific authority to ensure safe and adequate telecommunications service. Further, IC 8-1-2.6-13 actually removes authority from the Commission to regulate service quality. IC 8-1-29.5-6 deals with certain types of complaints, but does not provide legal support for this rule. Finally, IC 8-1-32.5 dealing with Certificates of Authority does not empower the Commission to ensure specific levels of service assurance addressed in the rule. The Commission should remove the reference to service level regulation from this rule.

**Rule 170 IAC 7-1.3-1**

Again, the Commission cites to IC 8-1-1-3 for authority to prohibit discrimination against customers. However, this statute does not authorize the Commission to regulate the subject of customer discrimination. The statute authorizing the Commission generally to issue rules does not address the specific authority needed for the subject matter of this rule. Without it, the rule cannot be issued.

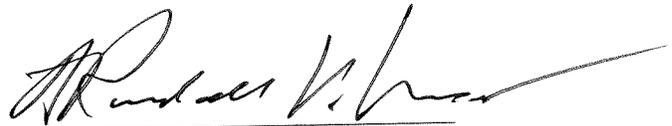
### **Rule 170 IAC 7-1.2-18**

This service quality rule cites IC 8-1-1-3 and 8-1-2.6-13 as support for setting battery capacity in central office switches. Although IC 8-1-2.6-13 does address the Commission's jurisdiction, it does not mandate any battery capacity requirements. The Commission should again specify the legal authority for its proposed rule or, as in this case, if there is no authority it should delete the proposed rule.

### **CONCLUSION**

The Commission and its staff have made significant progress in tailoring its proposed rules to the regulatory authority under HEA 1279. There are still several rules that require changes as described in AT&T's comments. In addition, the rules must be based on specific statutory authorization to regulate the subject matter of the rules and the necessary corrections described above must also be implemented.

Respectfully submitted this 3<sup>th</sup> day of June, 2010.



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