

Economic Impact Statement

LSA Document #07-829

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**(1) Estimate of Number of Small Businesses That Will be Subject to this Rule**

This rule affects those small businesses that currently, or may at some time in the future, provide electric, gas, water, sewage disposal, or telecommunications services in Indiana under the jurisdiction of the Indiana Utility Regulatory Commission ("IURC" or "Commission"). There are currently 134 small businesses that are authorized to provide the above referenced types of services under the jurisdiction of the IURC: electric – 0; gas – 6; sewer – 50; water – 25; and telecommunications – 53.

Under [IC 8-1-2.6-1.2](#), as of March 27, 2006, the Commission no longer exercised jurisdiction over nonbasic telecommunications services, which meant that small telecommunications businesses were no longer required to obtain Commission approval over rates for those services. Under [IC 8-1-2.6-1.4](#), as of July 1, 2009, the Commission will no longer exercise jurisdiction over basic telecommunications service. As a result, small telecommunications businesses will no longer be required to obtain Commission approval over any of their rates and charges after July 1, 2009. Therefore, small telecommunications businesses are less likely to take advantage now of the Commission's existing informal 30-day administrative filing process, and these businesses will not be subject to this rule after July 1, 2009.

Of the small businesses in the gas, water, and sewer industries, over the last 10 years, 47 have taken advantage of the Commission's informal 30-day administrative process at least once, and 18 of those utilities have used this process multiple times. Three of those utilities have since withdrawn from Commission jurisdiction, and three are no longer in business.

The number of other small businesses that will be subject to this rule will probably increase gradually over time as property continues to be developed in Indiana and small businesses continue to apply for authorization to offer utility services. However, it is unknown (and there is no way to know) how many small businesses may in the future become subject to IURC jurisdiction. Therefore, the Commission cannot determine (or reasonably estimate) at this time the number of small businesses that will be subject to this rule.

(2) Estimate of Average Annual Reporting, Record Keeping, and Other Administrative Costs

This rule does not impose any annual reporting or record keeping requirements beyond those already required by statute.

The purpose of this rule is to establish via rulemaking an expedited process for certain noncontroversial filings, under [IC 8-1-2-42\(a\)](#). For several decades, the Commission has had an informal 30-day administrative filing process that has been used by many utilities to request certain noncontroversial changes to their rates and charges. There may be some small business utilities that were not aware that they could take advantage of this process and change their rates and charges without the expense in time and money of having to file and go through the process of a full docketed proceeding with hearing before the Commission. By officially establishing the 30-day administrative filing procedures through this rule, the availability of these procedures will be more widely known and small utility businesses will be able to take advantage of the significant savings in time and money that result from an expedited administrative process for noncontroversial changes in rates and charges. Consequently, for those utilities that were not aware of the Commission's informal process or did not previously take advantage of that process, this rule represents a significant savings in time and money for noncontroversial changes.

This rule does require the publication of a notice of a filing made under this rule in one newspaper. The utility industry has indicated that the cost of publication varies (depending on the size of the utility and the nature of the requested change), but has projected it to be between \$35 and \$1,200 per filing under this rule. From 1998 through 2007, small gas, water, and sewer utility businesses made a total of 92 filings under the existing informal process. At an average of nine to 10 filings per year, the estimated aggregate administrative cost for those small business utilities that choose to use this rule would be between \$315 and \$12,000 annually.

Although the publication expense is an administrative cost of this rule, it is a relatively minor one, considering the alternatives of either not raising rates and charges as necessary to recoup costs or having to hire an attorney to file a petition for a significantly more costly and time-consuming process.

(3) Estimate of the Total Economic Impact of this Rule on Small Businesses

If the average number of filings by small business utilities continues at the same rate as in the last 10 years, the total annual economic impact of this rule on small businesses would be between \$315 and \$12,000 annually.

(4) Statement Justifying Any Requirement or Cost Imposed

Notice and the opportunity to be heard are the fundamental principles of due process. Under the existing

informal 30-day administrative process and under this rule, any objection to a filing means that the filing is withdrawn from the 30-day process or denied. In order for a utility to continue with its request to change rates or charges, a formal docketed proceeding with a hearing (or for small utilities a process for requesting a hearing) is required. Under the existing informal 30-day administrative process, notice is provided by the Commission approving preliminary findings and allowing an opportunity for objection prior to final approval. In workshops with the Indiana Office of Utility Consumer Counselor, the utility industry, and citizens groups, all participants wanted to keep the 30-day process for noncontroversial changes to rates and charges. However, it was felt that a more visible form of notice should be provided, and yet not be too burdensome on industry. All participants agreed that the notice provision in [170 IAC 1-6-6](#) satisfied these requirements.

(5) Regulatory Flexibility Analysis

Considering that the notice provision only requires publication in one newspaper, there is no less intrusive or less costly alternative to the purpose of this rule. This rule will assist small businesses in filing for noncontroversial changes to rates and charges and will result in significant savings in time and money over a docketed proceeding. This rule imposes no reporting requirements. No further consolidation or simplification of the compliance requirements is possible that would achieve the purpose of this rule. No design, operational, or performance standards are imposed by this rule. This rule allows small utility businesses to avoid more costly and extensive filing procedures for noncontroversial changes to rates and charges. No further exemption from notice or other requirements is possible without violating principles of due process.

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