
NATURAL RESOURCES COMMISSION
Information Bulletin #20 (Second Amendment)

SUBJECT: Ratemaking Process for Resorts and Marinas under Lease with the Department of Natural Resources

1. Purpose

The purpose of this information bulletin is to implement an informal process for the administrative review of ratemaking recommendations for resorts and marinas under lease with the Department of Natural Resources (Department). The process was established by the Natural Resources Commission (Commission) during a meeting held March 24, 1998, and made applicable to rate increases to become effective in 1999 and in subsequent years. The process was published in the Indiana Register on May 1, 1998 (21 IR 3209) as Information Bulletin #20. The Commission amended the information bulletin on May 20, 2003, effective July 1, 2003, and published at 26 IR 3761. On January 13, 2009, the Commission approved a second amendment to this bulletin. The time frames established by this information bulletin are essential to its effective implementation.

2. Rate Establishment and Increase Requests

A lessee shall not impose any fee upon a member of the public without first having obtained approval from the Commission and the U.S. Army Corps of Engineers. A lessee shall submit its request for rate establishment and increase to the Department's Division of State Parks and Reservoirs in accordance with the existing lease agreement for the following year by April 1 of the preceding year. The lessee shall include justification for the request along with comparable rates from other marinas.

3. Processing Rate Establishment and Increase Requests and Comments

(A) Within fourteen (14) days of receiving a request, the Department shall inform the Division of Hearings of the Commission (Hearings Division). The Hearings Division will assign a cause number and, in consultation with the Department, select the date, time, and location in Marion County for a rate hearing to be held. Not later than May 1, the Department shall advise the lessee of the date, time, and location of the rate hearing. This hearing will be held in early June or July of each year.

(B) By May 30, the lessee shall provide written notice, by personal delivery or U.S. first class mail, to each slip renter or buoy renter that the lessee is requesting a rate establishment or increase. The notice shall include the time, date, and location of the rate hearing as well as the proposed new rates. The notice shall also advise the renter of the opportunity to provide comments to the hearing officer, either by U.S. first class mail sent to the Division of Hearings, Natural Resources Commission, Indiana Government Center North, Room N501, 100 North Senate Avenue, Indianapolis, Indiana 46204-2200 or by electronic mail. The lessee shall also provide the renter with the hearing officer's electronic mail address. Before the public hearing, the lessee must provide the Hearings Division with a copy of the notice and a listing that includes the names and addresses of persons notified under this paragraph. The lessee shall, by affidavit or affirmation, authenticate that all addressees were served as indicated in the listing. If the lessee asserts the listing contains trade secrets, the Uniform Trade Secrets Act ([IC 24-2-3](#)) applies.

(C) Petitions, requests, documentation, exhibits, and other pertinent materials concerning the rate establishment or increase request shall be made available for the public to review at the lessee's business office, during normal business hours, from May 30 until the date of the rate hearing. A copy will be available for review at the Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, IN 46204. The listing of persons notified required in paragraph (B) is not governed by this paragraph.

(D) Any person may send written comments concerning the rate establishment or increase request to the Division of Hearings, Natural Resources Commission, Indiana Government Center North, 100 North Senate Avenue, Room N501, Indianapolis, IN 46204-2200. E-mail comments may also be submitted to the hearing officer at the electronic mail address provided in the notice issued in accordance with paragraph (B).

(E) In accordance with the existing lease agreements, the Department will analyze comparable facilities to compare rates with those sought by the lessee. Results of that analysis will be presented at the rate hearing conducted by the hearing officer. Information used in this analysis will also be available for inspection at the Division of State Parks and Reservoirs office in Indianapolis.

4. Public Hearing and Presentation to Commission

Any person may attend the rate hearing and provide oral or written statements. The hearing officer shall conduct the hearing in an orderly and informal manner designed to develop a fair and complete agency record. The administrative orders and procedures act ([IC 4-21.5](#)) does not apply, but the Commission delegates authority to the hearing officer under [IC 14-11-1-3](#) to make any reasonable orders to implement this information bulletin. The lessee's request and any supporting documentation, written comments, the analysis by the Department, and oral and written statements received during the rate hearing form the record upon which the hearing officer shall review the request for rate establishment or increase. Following the completion of the review, the hearing officer

shall make a written report to the Commission. The report shall include written findings with respect to the requested rate establishment or increase and a proposal to the Commission for recommendations to the U.S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the Department, and any other person who requests a copy.

The hearing officer shall present the findings and recommendations to the Commission during a meeting to be held in August or September. During that meeting, the Commission shall either recommend approval of the rate establishment or increase, disapproval of the rate establishment or increase, or approval of a rate establishment or increase in an amount less than requested by the lessee. Recommendation for favorable consideration of a rate establishment or increase shall not be withheld unless, in the opinion of the Commission, the rates proposed exceed the fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

5. Recommendation by Commission and Final Action by Army Corps

The Commission's secretary shall memorialize the Commission recommendations in writing. Within seven (7) days after the Commission meeting, the Department shall forward the recommendation to the District Engineer of the U.S. Army Corps of Engineers for final action.

6. Setting Interim Rates

The Commission delegates authority to the director of the Division of State Parks and Reservoirs to set interim rates for any fee based item that become available after April 1 due to new construction, modification of existing facilities or lessee initiatives, such that a rate cannot be established through this process for the year in which the item first becomes available. The lessee may charge the interim rates for only one season. The lessee shall submit a request for rate establishment in accordance with paragraph 2 before April 1 following the establishment of the interim rate.

7. Index of Commission Findings and Recommendations

The Hearings Division is directed to index, and place on the Commission's website, findings and recommendations made under this information bulletin after August 1, 2003. To promote equity and consistency, the department and the Commission may consider these indexed findings and recommendations as precedents.

8. History

Information Bulletin #20 (First Amendment), published at 26 IR 3761, superseded Information Bulletin #20 published at 26 IR 3439. The Commission's findings and recommendations made under this information bulletin after August 1, 2003 are indexed and posted to the Commission's homepage at <http://www.in.gov/nrc/2389.htm>.

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