TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule
LSA Document #20-89

DIGEST

Amends 170 IAC 1-7-1, 170 IAC 1-7-2, 170 IAC 1-7-3, and 170 IAC 1-7-5, and repeals 170 IAC 1-7-4 regarding rates and charges for water and/or wastewater service to property outside of the corporate boundaries of a municipality. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

170 IAC 1-7-1; 170 IAC 1-7-2; 170 IAC 1-7-3; 170 IAC 1-7-4; 170 IAC 1-7-5

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

170 IAC 1-7-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3
Affected: IC 8-1.5-3-8.3

Sec. 1. This rule is intended to establish procedures by which:
(1) a municipality; or
(2) ~~users of the works~~ **customers** whose property is located outside the corporate boundaries of the municipality;
may file a petition under IC 8-1.5-3-8.3(d) ~~and~~ **or** IC 8-1.5-3-8.3(e) for the commission to review and adjust, if necessary, the rates and charges imposed on ~~users~~ **customers** whose property is located outside the corporate boundaries.

(Indiana Utility Regulatory Commission; 170 IAC 1-7-1; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA)

SECTION 2. 170 IAC 1-7-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-7-2 Definitions

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3
Affected: IC 8-1.5-1-3; IC 8-1.5-1-8; IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 2. The definitions in IC 8-1.5-3-8.3 and the following apply throughout this rule:
(1) "Commission" ~~means the Indiana utility regulatory commission~~ **has the meaning set forth in IC 8-1.5-1-3.**
~~(2) "Commission division" means the technical division of the commission for the water and wastewater industry.~~
~~(3) "Conference" means the official regularly scheduled meeting of the commission at which orders and utility articles are presented for approval.~~
~~(4)~~ **(2)** "Customers" means the users of the works ~~whose property is located outside the corporate boundaries~~ of the municipality.
~~(5)~~ **(3)** "Filing date" means the date a filing under this rule is received and file stamped by the secretary of the commission.
~~(6)~~ **(4)** "Municipality" ~~means a:~~
~~(A) city; or~~
~~(B) town.~~ **has the meaning set forth in IC 8-1.5-1-8.**
~~(7)~~ **(5)** "Ordinance" means the ordinance adopted by the municipality ~~under IC 8-1.5-3-8.1~~ **as referenced in IC 8-1.5-3-8.3** that imposes rates and charges on ~~users of the works~~ **customers** outside the corporate boundaries of the municipality that are greater than those imposed on ~~users of the works~~ **customers** whose property is located inside the corporate boundaries of the municipality.
~~(8)~~ **(6)** "OUCC" means the Indiana office of utility consumer counselor.
~~(9)~~ **(7)** "Petition" means a petition meeting the form and manner prescribed by the commission as defined in section ~~4(c)~~ **3** of this rule.
~~(10)~~ **(8)** "Working papers" means documents that were relied upon to support a party's position. ~~Working~~

~~papers:~~
~~(A) may be provided in paper or electronic format; and~~
~~(B) must be:~~
~~(i) legible;~~
~~(ii) paginated; and~~
~~(iii) specifically identified.~~

(Indiana Utility Regulatory Commission; 170 IAC 1-7-2; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA)

SECTION 3. 170 IAC 1-7-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-7-3 Time frames, notices and procedures

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3
Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 3. ~~(a) Under this rule, one hundred twenty (120) days:~~
~~(1) is the statutory amount of time for the commission to make its determination or the stay of the ordinance is automatically lifted; and~~
~~(2) commences as of the date a petition is filed.~~

~~(b)~~ **(a)** A petition filed under this rule must be filed within ~~fourteen (14) days after the municipality has passed the ordinance setting different rates and charges for users within and outside the municipal boundaries~~ **the time allotted in IC 8-1.5-3-8.3(d) or IC 8-1.5-3-8.3(e)**.

(b) Petitions shall be submitted in accordance with 170 IAC 1-1.1 through the commission's electronic filing portal at https://iurc.portal.in.gov/ and shall be in substantial compliance with the sample petitions provided on the commission's water and wastewater division's website at https://www.in.gov/iurc/2338.htm.

(c) At the time that the customers file their petition, they shall provide notice to the municipality by providing the following information:
(1) A copy of the petition.
(2) The date the petition was filed.
(3) Contact information for each individual customer seeking review by the commission or, if the customers are represented by an attorney licensed to practice law in Indiana, then the contact information of the attorney.

(d) At the time that the municipality files its petition, it shall provide notice to the customers by providing the following information:
(1) The municipality has filed a petition under this rule.
(2) The date the petition was filed.
(3) How the customer can obtain a copy of the petition.
(4) The deadline by which the customer may respond to the petition as set forth in subsection (h).
(5) A statement that the customer may also contact the commission concerning a complaint.
(6) Contact information for the commission.

(e) Notice under this section must be sent by U.S. mail no later than the date on which the petition is filed.

~~(c)~~ **(f)** Within ten (10) days after a petition is filed under this rule, the municipality must file its case in support of the rate differential, which may include:
(1) testimony;
(2) revenue requirements;
(3) cost of service studies;
(4) related ~~work~~ **working** papers; and
(5) other documentation or analysis relied upon when approving the ordinance;

that supports the rates and charges imposed on the customers and that would assist the utility in meeting its burden of proof as required by IC 8-1.5-3-8.3.

(g) Working papers shall be submitted in accordance with 170 IAC 1-1.1 and must be:
(1) legible;
(2) paginated; and
(3) specifically identified.

~~(d) Filings to the commission under this rule shall also be served the same day upon the following:~~
~~(1) The OUCC.~~
~~(2) The municipality.~~
~~(3) A party to the proceeding.~~

~~(e)~~ **(h)** Within forty (40) days of the date the municipality has filed its case in support of the rate differential with the commission, the following may file its response, including ~~work~~ **working** papers, with the commission:
(1) The OUCC.
(2) A party to the proceeding.

~~(f)~~ **(i)** Within fifteen (15) days after the response is filed with the commission, the municipality may file its rebuttal.

(j) Filings to the commission under this rule shall also be served no later than the date filed, by email, U.S. mail, or as agreed to by the parties, upon the following:
(1) The OUCC.
(2) The municipality.
(3) A party to the proceeding.

~~(g)~~ **(k)** To the extent appropriate and pursuant to the statutory time limitation, the commission procedures in 170 IAC 1-1.1 shall be used for proceedings under this rule.

(Indiana Utility Regulatory Commission; 170 IAC 1-7-3; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA)

SECTION 4. 170 IAC 1-7-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-7-5 Commission determination and order

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3
Affected: IC 8-1.5-3-8; IC 8-1.5-3-8.3

Sec. 5. ~~If the commission disapproves the municipality's petition and determines that the percentage difference between the rates and charges imposed on customers outside the corporate boundaries and those imposed on users of the works inside the corporate boundaries is not just, reasonable, and nondiscriminatory under IC 8-1.5-3-8.3, it may:~~
~~(1) establish nondiscriminatory, reasonable, and just rates and charges for the customers outside the corporate boundaries in accordance with IC 8-1.5-3-8.3(h) and IC 8-1.5-3-8.3(i);~~
~~(2) order the municipal legislative body to adopt an ordinance imposing the nondiscriminatory, reasonable, and just rates and charges; and~~
~~(3) if necessary, establish an additional procedural timetable for the establishment of just and reasonable rates.~~ **(a) The commission must make its determination on a petition within the time allotted in IC 8-1.5-3-8.3(g).**

(b) If the commission determines that the percentage difference between the rates and charges imposed on customers outside the corporate boundaries and those imposed on customers inside the corporate boundaries is not just, reasonable, and nondiscriminatory under IC 8-1.5-3-8.3, it may, if necessary, establish an additional procedural timetable for the establishment of just and reasonable rates under IC 8-1.5-3-8.3(i).

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SECTION 5. 170 IAC 1-7-4 IS REPEALED.

Notice of Public Hearing

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