TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

NOTE: Pursuant to P.L.113-1987, SECTION 1, the name of the public service commission of Indiana is changed to Indiana utility regulatory commission, effective July 1, 1987.

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Practice and Procedure Before the Commission (Repealed)

(Repealed by Indiana Utility Regulatory Commission; filed Oct 30, 2000, 2:10 p.m.: 24 IR 666)

Rule 1.1. Practice and Procedure Before the Commission

170 IAC 1-1.1-1 Application and scope

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 1. This rule shall govern the practice and procedure in matters before the commission arising under the acts of the general assembly conferring powers upon the commission. This rule supersedes 170 IAC 1-1 in its entirety.

(1) Cases and all other matters arising under the jurisdiction of the Indiana utility regulatory commission initiated on or after November 29, 2000, shall be governed in totality by this rule (170 IAC 1-1.1).

(2) Any case or other matter arising under the jurisdiction of the Indiana utility regulatory commission initiated prior to November 29, 2000 (the effective date of this rule) shall be governed in totality by the former rules of practice and procedure found at 170 IAC 1-1.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-1; filed Oct 30, 2000, 2:10 p.m.: 24 IR 654; filed Feb 4, 2002, 1:00 p.m.: 25 IR 1875; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)

170 IAC 1-1.1-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-2; IC 8-1-1.1-5.1; IC 8-1-2-1; IC 8-1-2-54; IC 8-1.5-1-10

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

(1) "Commission" means the Indiana utility regulatory commission.

(2) "Complainant" means any person or entity that initiates a formal complaint against a utility under IC 8-1-2-54 or any person or entity who formally requests the commission to initiate an investigation of a utility under Indiana law.

(3) "Intervenor" means any person or entity, other than:

(A) a petitioner;
(B) a complainant;
(C) the utility consumer counselor; or
(D) a respondent;

who is admitted as a participant in any proceeding conducted before the commission.

(4) "Party" means any participant in a proceeding before the commission, including:

(A) a petitioner;
(B) a complainant;
(C) the utility consumer counselor;
(D) a respondent; or
(E) an intervenor.

(5) "Petition" includes any written request for relief made by a party or parties with standing to seek relief before the commission.

(6) "Petitioner" means any public or municipally-owned utility or other party that meets the standing requirements of IC 8-1-2-54 seeking relief from the commission.

(7) "Pleading" means any:
(A) petition;
(B) complaint;
(C) answer;
(D) motion;
(E) response;
(F) reply; or
(G) other similar document;
filed to initiate, or in the course of, any proceeding before the commission.
(8) "Presiding officer" means any commissioner or administrative law judge assigned to preside in a particular cause before the commission.
(9) "Respondent" means any person or entity:
(A) required to:
(i) be named as a respondent by statute, rule, or order of the commission; or
(ii) respond to any order of the commission; or
(B) against whom an investigation is initiated on motion of a complainant or on the commission's own motion.
(10) "Service list" refers to the list of attorneys of record and any parties appearing pro se maintained by the secretary of the commission.
(11) "Utility" means any public utility as defined in IC 8-1-2-1 or municipally-owned utility as defined in IC 8-1.5-1-10.
(12) "Utility consumer counselor" means the office established pursuant to IC 8-1-1.1-2.
(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-2; filed Oct 30, 2000, 2:10 p.m.: 24 IR 654; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)

170 IAC 1-1.1-3 Filings and communications with the commission, copies, and computation of time
Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 3. (a) The filing of any communication, paper, or pleading with the commission may be made through the United States mail or in person as follows:
(1) Filings made by mail are considered filed on the date received by the commission. All filings shall be addressed to the secretary of the commission.
(2) Filings made in person are considered filed on the date received by the commission. Unless authorized by a presiding officer, a filing may not be accepted outside of the regular business hours of the commission on the date due.
(b) A presiding officer at any hearing may permit appropriate pleadings or other papers to be filed with the presiding officer at the hearing.
(c) Unless otherwise provided by this rule, the petitioner or other party shall file with the secretary of the commission an original pleading and four (4) copies, one (1) of which must be unbound and printed on only one (1) side of the page, in proceedings assigned only to an administrative law judge. The petitioner or other party shall file with the secretary of the commission an original and five (5) copies, one (1) of which must be unbound and printed on only one (1) side of the page, in proceedings assigned to a commissioner and administrative law judge. A presiding officer may require that a different number of copies be filed. Filings other than:
(1) territorial maps;
(2) engineering drawings; or
(3) other visual aids;
must be made on eight and one-half (8½) inch by eleven (11) inch paper unless otherwise authorized by the presiding officer.
(d) All time periods within which to make filings with the commission are given in calendar days unless otherwise stated. In computing any period of time prescribed or allowed by this rule, by order of the commission or the presiding officer, or by any applicable statute that does not contain a provision regarding computation of time, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless

it is a:

(1) Saturday;

(2) Sunday;

(3) legal holiday as defined by state statute; or

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

(e) In any event, the period runs until the end of the next day that is not a:

(1) Saturday;

(2) Sunday;

(3) legal holiday; or

(4) day on which the commission is closed for business.

When the period of time allowed is less than seven (7) days, intermediate Saturdays, Sundays, legal holidays, and days on which the office is closed shall be excluded from the computations.

(f) Remittances to the commission should be made by money order or check payable to the Indiana utility regulatory commission, except that remittances in payment of the statutory fees for the issuance of securities by municipalities shall be:

(1) by check payable to the "Treasurer of the State of Indiana"; and

(2) delivered to the secretary of the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-3; filed Oct 30, 2000, 2:10 p.m.: 24 IR 654; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)

170 IAC 1-1.1-4 Confidential or privileged information

Authority: IC 8-1-1-3; IC 8-1-2-47

Affected: IC 5-14-3; IC 8-1-1-8; IC 8-1-2-29

Sec. 4. (a) If a party desires to file with or submit to the commission any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that the party believes is confidential in accordance with IC 8-1-2-29 and IC 5-14-3, the party shall apply for a finding by the commission, on or before the date (if any) information is required to be filed, that the information is confidential. The written application for a confidentiality finding must be served on all parties of record. At any time after ten (10) days, or earlier with the consent of the parties or as ordered by the presiding officers, following an application by any party under this subsection, the commission may take any one (1) or more of the following actions:

(1) Find information to be confidential, in whole or in part.

(2) Find information not to be confidential, in whole or in part.

(3) Issue a protective order or docket entry covering the information.

(4) Find that information found not to be confidential should be filed in accordance with this rule.

(b) The application required by subsection (a) shall be accompanied by the sworn statement or testimony of a party that describes the following:

(1) The nature of the confidential information.

(2) The reasons why the information should be treated as confidential information under IC 8-1-2-29 and IC 5-14-3.

(3) The efforts the party has made to maintain the confidentiality of the information.

(c) At the request of the presiding officer or any party, an in camera inspection shall be conducted for the purpose of hearing argument on confidentiality of information submitted under this rule. If an in camera inspection is conducted under this section, the information for which confidential treatment is requested shall be made available during the in camera inspection on a provisional basis for the limited purpose of determining its confidentiality. An in camera inspection conducted under this section may, at the discretion of the presiding officer, be publicly noticed under IC 8-1-1-8.

(d) If, during the in camera inspection, the presiding officer determines that the information in question is not confidential or is only partially confidential, the commission shall maintain the confidentiality of the information until:

(1) any appeal to the full commission has been decided; or

(2) until such time as the motion to amend or withdraw the information has been finally ruled upon;

whichever occurs later.

(e) Information filed with or submitted to the commission prior to a finding by the commission that the information is confidential shall be available to the public under IC 8-1-2-29.

(f) Parties seeking protective orders to prevent or limit discovery of trade secret or other confidential:

(1) research;

(2) development; or

(3) commercial;

information shall make a separate motion under Trial Rule 26(C).

(g) After receiving a preliminary determination that material is entitled to confidential treatment, documents submitted shall comply with the specific directives set forth in the determination. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-4; filed Oct 30, 2000, 2:10 p.m.: 24 IR 655; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-5 Informal complaints; review by commission

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-2-34.5; IC 8-1-2-54

Sec. 5. (a) Any individual or entity may informally complain to the commission's consumer affairs division, with respect to any matter within the jurisdiction of the commission.

(b) An informal complaint is without prejudice to the right to file a formal petition under IC 8-1-2-54.

(c) An informal disposition rendered by the commission's consumer affairs division may be appealed by any party thereto under IC 8-1-2-34.5 upon written request for appeal filed with the commission within twenty (20) days after the informal disposition is rendered. Prior to issuing an order on the appeal, the commission shall afford the parties notice and an opportunity to be heard. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-5; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-6 Office of utility consumer counselor

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 6. The public, as a class, shall be deemed a party in any proceeding in which the office of utility consumer counselor shall appear on behalf of the public. However, individuals or groups may be granted intervention and be represented by independent counsel. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-6; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-7 Attorneys; representation; withdrawal of appearance

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 7. (a) Any person filing an appearance pro se to represent his or her own interest is required to:

(1) sign and verify any pleadings or documents in accordance with section 8(d) of this rule; and

(2) comply with all rules applicable to commission proceedings.

(b) The interest of another person or entity may only be represented by an attorney admitted to practice before the Indiana supreme court in good standing.

(c) An attorney that is not admitted to practice before the Indiana supreme court in good standing, but is a member of the bar of another state or territory of the United States or the District of Columbia must apply for and receive temporary admission through the Indiana Rules for Admission to the Bar and the Discipline of Attorneys Rule 3, Section 2 prior to practicing law before the commission. Upon being granted limited admission to practice before the commission, an attorney must do the following:

(1) File the following with the commission prior to appearing in a cause:

(A) An appearance in the cause.

(B) A copy of the notice of temporary admission filed with the clerk of the Indiana supreme court.

(2) Appear with co-counsel admitted to practice in Indiana at any hearing, unless authorized by the presiding officers to appear at the hearing without the presence of co-counsel. Local counsel shall:

(A) sign all briefs, papers, and pleadings in such cause; and

(B) be jointly responsible therefor.

(d) Any withdrawal of appearance by an attorney on behalf of any party must:

(1) comply with the Indiana Rules of Professional Conduct;

(2) be in writing; and

(3) be granted by leave of the presiding officer.

(e) Except for good cause shown, a request for withdrawal of appearance by an attorney must be filed with the commission at least ten (10) days prior to the next scheduled hearing date. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-7; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; filed Jul 9, 2012, 2:57 p.m.: 20120808-IR-170110590FRA)*

170 IAC 1-1.1-8 Pleadings; general requirements

Authority: IC 8-1-1-3; IC 8-1-2-47

Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 8. (a) An attorney eligible to practice before the commission shall sign all pleadings filed with the commission or as otherwise required by statute or as follows:

(1) By the person, if an individual.

(2) By a partner, if a partnership.

(3) By a corporate officer or, if officers have not been selected, by an incorporator, if a corporation.

(4) By a duly authorized official, if a municipal corporation.

(5) By a bona fide general officer, if an unincorporated association.

(b) Petitions and complaints may be amended or supplemented upon written or oral motion. Leave to amend a petition or complaint shall be freely granted upon failure of any other party to the proceeding to demonstrate undue prejudice. If the amended or supplemented petition or complaint seeks relief substantially different than that originally prayed for:

(1) the caption of the petition or complaint shall be revised to accurately describe the relief being sought; and

(2) republication or renotification of any previously noticed hearing may be required by the commission.

(c) A party may amend his or her pleading once as a matter of course at any time before a responsive pleading is served, or, if the pleading is one to which no responsive pleading is permitted and the cause has not been set for an evidentiary hearing, he or she may so amend it at any time within thirty (30) days after it is served. Otherwise, a party may amend his or her pleading only by leave of the presiding officer or by written consent of the adverse party, and leave shall be given when justice so requires. A party shall plead in response to an amended pleading within:

(1) the time remaining for response to the original pleading; or

(2) twenty (20) days after service of the amended pleading;

whichever period may be the longer, unless the presiding officer otherwise orders.

(d) The signature of the party, if an individual, or of a duly authorized representative, if the party is an entity, or of the attorney for the party constitutes a certificate that:

(1) the signatory has read the pleading;

(2) to the best of the signatory's knowledge, information, and belief, there is a good ground to support the pleading; and

(3) the pleading is not interposed solely for delay.

If a pleading or other document is not signed as required in this subsection, the pleading may be stricken and the action may proceed as though the pleading had not been served. Except as required by law, pleadings or motions need not be verified. Where a pleading or other document of any kind is required to be verified, or where an oath is required to be taken, it is sufficient if the subscriber simply affirms the truth of the matter to be verified by an affirmation or representation in substantially the following language:

"I (we) affirm under penalties for perjury that the foregoing representation(s) is (are) true to the best of my (our) knowledge, information, and belief.

Signed _____

Date _____".

(e) An individual who knowingly falsifies an affirmation or representation of fact is subject to the same penalties as prescribed by law for perjury under IC 35-44-2-1 *[IC 35-44 was repealed by P.L.126-2012, SECTION 53, effective July 1, 2012.]*.

(f) Every pleading of a party represented by an attorney must:

(1) be signed by at least one (1) attorney of record; and

(2) include the attorney's:

(A) address;

(B) telephone number;

(C) fax number;

(D) electronic mail address; and

(E) attorney number.

This subsection does not apply to pleadings and motions made orally and transcribed as a result of a hearing. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-8; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-9 Petitions

Authority: IC 8-1-1-3; IC 8-1-2-47

Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 9. (a) In addition to the matters required by section 8 of this rule, petitions must comply with the requirements of the statute under which they are filed and must contain the following:

(1) A caption that describes, in general terms, the relief being sought.

(2) A plain and concise statement of the facts showing the interest of each of the petitioners in the matters involved in the proceeding.

(3) A plain and concise statement of the facts that necessitate or justify relief.

(4) A reference to the statutes under which the commission has jurisdiction and the rules of the commission deemed applicable.

(5) A statement designating the person in Indiana authorized to accept for the petitioner service of pleadings in the proceeding, including that person's:

(A) address;

(B) telephone number;

(C) fax number; and

(D) electronic mail address.

(6) The name of the respondent as required.

(7) Specific prayers for the relief requested.

(b) In any utility rate proceeding where the petitioner in its petition requests a specific test year and cutoff date, the commission shall, in consultation with the parties at the time of the prehearing conference or by agreement of the parties in writing as set forth in section 15 of this rule, by order, fix the test year and cutoff date for purposes of accounting, engineering, and other evidence to be presented in such proceeding, which shall be binding upon all parties.

(c) In any proceeding in which the petitioner is required by law to publish notice of the filing of the petition, the petitioner shall, following publication of the notice, certify to the commission that the publication has occurred, listing the names of the newspapers and the county or counties in which the notice was published. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-9; filed Oct 30, 2000, 2:10 p.m.: 24 IR 657; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-10 Complaints and answers

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 10. (a) In addition to the matters required by sections 8 and 9 of this rule, complaints must also state the name of each respondent and each individual or entity, if any, who, under any applicable statute or commission rule, is required to be named in the complaint because of the individual's or entity's interest or possible interest in the subject matter. The complaint must state the address of each respondent, individual, or entity, if known. If the address is unknown, the complaint must state that each of the parties joining in the complaint has been unable to ascertain the address upon reasonable inquiry.

(b) Concurrently with the filing of any complaint with the commission, the complainant shall serve a copy on each named respondent.

(c) Answers to any complaint must conform to the following:

(1) Answers to complaints must be filed with the commission within twenty (20) days after service of the complaint unless a different time is prescribed by:

(A) statute;

(B) the commission; or

(C) the presiding officer.

(2) All answers must be in writing and be drawn as to advise the parties and the commission fully and completely of the nature of the defense. The respondent shall:

(A) admit or controvert each material allegation of the complaint; and

(B) state clearly and concisely the facts and matters of law relied upon.

Any allegation contained in a complaint that is not specifically admitted or controverted by an answer is considered denied by the respondent. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an allegation, the respondent shall so state and the statement shall be considered a denial. Failure to file an answer within the time allowed under this subsection constitutes a general denial thereto.

(3) In its answer, a respondent may seek relief against other parties in that proceeding by reason of the presence of common questions of law or fact. The respondent shall set forth in the answer the following:

(A) The facts constituting the grounds for the claim.

(B) The provisions of the:

(i) statutes;

(ii) rules;

(iii) regulations; or

(iv) orders;

relied upon.

(C) The injury complained of.

(D) The relief sought.

The answer must, in all other respects, conform to the requirements of this rule for answers generally.

(4) If the respondent desires affirmative relief, the answer shall also contain the following:

(A) A plain and concise statement of the facts that are deemed to necessitate or justify relief.

(B) Specific prayers for the relief deemed appropriate.

(5) Unless otherwise permitted by a presiding officer, replies to answers seeking affirmative relief must be filed with the commission:

(A) not more than ten (10) days after service of the answer; and

(B) not less than five (5) days prior to the date set for the commencement of the hearing, if any.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-10; filed Oct 30, 2000, 2:10 p.m.: 24 IR 657; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)

170 IAC 1-1.1-11 Petitions to intervene

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 11. (a) A petition to intervene may be filed by any person or entity alleging a substantial interest in the subject matter of the proceeding in which the person or entity requests leave to intervene.

(b) Petitions to intervene shall set out clearly and concisely facts showing the following:

(1) The proposed intervenor's substantial interest in the subject matter of the proceeding.

(2) The position of the proposed intervenor with respect to the matters involved in the proceeding.

(3) Specific prayers for affirmative relief, if desired.

(4) A prayer for leave to intervene and to be made a party to the proceeding.

(c) A petition to intervene shall be filed not less than five (5) days prior to the date set for the initial public evidentiary hearing on the merits. A petition to intervene may be filed and granted thereafter at the discretion of the presiding officer, upon good cause shown.

(d) If a petition to intervene satisfies this section and shows the proposed intervenor has a substantial interest in the subject matter of the proceeding or any part thereof, and the proposed intervenor's participation will not unduly broaden the issues or result in unreasonable delay of the proceeding, the presiding officer may grant the prayer for leave to intervene, in whole or in part and, thereupon, the intervenor becomes a party to the proceeding with respect to the matters set out in the intervention petition.

(e) An intervenor is bound by all rulings and other matters of record prior to the time the intervenor is made a party and takes the case as the intervenor finds it as of the date of intervention.

(f) Petitions to intervene, when filed with the commission, shall show service thereof upon all parties to the proceeding, in conformity with section 13 of this rule.

(g) A party may object to a petition to intervene, and, absent objection thereto, may be deemed to have waived any objection to the granting of the petition. Any response shall be filed within seven (7) days after service of the petition to intervene and shall be served upon all other parties unless the presiding officer prescribes a different time. Any reply to the responses shall be filed within five (5) days after service of the response unless the presiding officer prescribes a different time. Responses or replies may be made orally at the time of hearing or prehearing conference if there exists insufficient time prior to the hearing or conference to make written response or reply according to the deadlines provided under this section. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-11; filed Oct 30, 2000, 2:10 p.m.: 24 IR 658; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-12 Motions

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-3-1

Sec. 12. (a) A motion must state the grounds therefor and the relief sought. Parties may file motions:

(1) to strike any insufficient claim or defense;

(2) to:

(A) add additional parties;

(B) strike out improper parties; or

(C) substitute parties;

(3) to dismiss a proceeding for:

(A) lack of jurisdiction;

(B) insufficiency of the petition; or

(C) other sufficient cause;

(4) for:

(A) a continuance of a hearing; or

(B) an extension of time for:

(i) filing a pleading; or

(ii) complying with an order; or

(5) for other appropriate relief.

(b) Motions based on a matter that does not appear of record shall be supported by affidavit.

(c) Motions may be accompanied by memoranda in support thereof.

(d) A party may make a motion in writing. Motions made during hearings may be stated orally upon the record. The presiding officer may require that such oral motions be:

(1) reduced to writing; and

(2) filed separately.

(e) Responses to motions made during hearings may be stated orally on the record, or the presiding officer may require that oral responses be:

(1) reduced to writing; and

(2) filed separately.

Any response to a written motion must be filed with the commission within ten (10) days after service of the motion unless the presiding officer prescribes a different time.

(f) The moving party may reply to a response made to the party's motion. A reply to responses made orally during a hearing may be stated orally on the record, or the presiding officer may require that a reply be reduced to writing and filed separately. Any written reply to a response shall be filed with the commission within seven (7) days after service of the written response or after the response is made orally on the record unless the presiding officer prescribes a different time.

(g) A presiding officer is authorized to rule upon any and all motions. No ruling by a presiding officer upon any motion shall be deemed a final ruling of the commission for purposes of IC 8-1-3-1 until the commission:

(1) issues a final order in the cause; or

(2) makes a determination upon an appeal of the presiding officer's ruling under section 25 of this rule.

(h) Motions not specifically provided for by this rule shall be made in accordance with any Indiana rule of trial procedure applicable, consistent with section 26(a) of this rule. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-12; filed Oct 30, 2000, 2:10 p.m.: 24 IR 659; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-13 Service and extension of time for service by mail

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 13. (a) First class mail must be used when service is effected by United States mail.

(b) Unless the commission or a presiding officer specifies another method, all orders, notices, and other documents originating with the commission shall be served by United States mail by mailing a copy thereof to the person or persons designated in the commission's service list for that cause, at the person's principal office or place of business. When a party designates multiple persons to receive service, a presiding officer may limit service to one (1) or more persons per party.

(c) Petitions instituting proceedings shall be served by the petitioner upon each named respondent and other individual or entity who is required to be named in the petition under section 10(a) *[170 IAC 1-1.1-10(a)]* of this rule.

(d) All pleadings, briefs, and other documents filed in proceedings pending before the commission shall be served on all parties in the proceeding on the same day the pleading, brief, or other document is filed with the commission, except as may be otherwise ordered by the commission. Service shall be made to each party by delivering in person or by mailing a copy by United States mail, properly addressed with postage prepaid, or as otherwise agreed to by the parties.

(e) In a proceeding where an attorney has filed a pleading or other document on behalf of a party or has entered an appearance under section 7 of this rule, any notice or other written communication required to be served on or furnished to the party shall be served upon or furnished to the attorney in the same manner as prescribed for the party. When any party has appeared by attorney, service on that attorney is service on the party and separate service on the party is not required.

(f) The date of service is the day the document served is:

(1) deposited in the United States mail; or

(2) delivered in person.

(g) Whenever a party has the right or is required to do some act or take some action within a prescribed period after service on the party of a pleading, notice, or other document by United States mail, that party has three (3) additional days to the prescribed period unless the presiding officer or this rule otherwise provide.

(h) Two (2) copies of any petition or complaint shall be served on the utility consumer counselor on the same day the petition or complaint is filed with the commission.

(i) A dated certificate of service must accompany and be attached to each pleading or other document filed with the commission when service is required and shall identify those served.

(j) Any interested person or entity who is not admitted to a proceeding as a party may still request to receive mailings of notices, docket entries, orders, and other documents relating to the proceeding mailed by the commission. Such requests may be granted at the discretion of a presiding officer, although any such interested nonparty will not be added to the service list maintained by the secretary of the commission for that proceeding. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-13; filed Oct 30, 2000, 2:10 p.m.: 24 IR 659; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-14 Subpoenas

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-2-29

Sec. 14. (a) The commission shall, at the request of any party, issue subpoenas for the attendance of witnesses and subpoenas duces tecum. Subpoenas shall be signed by the secretary or a commissioner and shall be issued under the seal of the commission.

(b) Parties shall prepare subpoenas for issuance and shall be responsible for service. Service must be shown by the return of the sheriff or the affidavit of the party or attorney serving the subpoena. The return or affidavit shall be filed promptly with the commission.

(c) Upon motion made at or before the time specified for compliance in that subpoena, the presiding officer or commission may quash or modify the subpoena if it is unreasonable, oppressive, or untimely.

(d) In addition to the other requirements of this section, subpoenas to secure the examination or testimony of any member of the commission staff, in deposition or at a formally docketed hearing, shall:

(1) specify the purpose for which the examination or testimony of the commission staff member will be taken;

(2) specify the approximate duration of the examination; and

(3) certify that copies of such subpoena, when served, have also been served in the same manner as pleadings are served on the utility consumer counselor and all other parties of record.

(e) A subpoena to secure the testimony of any member of the commission staff in a formally docketed proceeding before the commission may not be issued less than forty-eight (48) hours prior to the commencement of the hearing in which the testimony will be given, except upon written leave granted by the presiding officer for good cause shown. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-14; filed Oct 30, 2000, 2:10 p.m.: 24 IR 660; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-15 Preliminary hearings

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-2-29

Sec. 15. (a) In order to:

(1) make possible the more effective use of hearing time in formal proceedings on the merits of a petition or a complaint;

(2) otherwise expedite the orderly conduct and disposition of those proceedings; and

(3) serve the public interest;

the commission may require preliminary hearings, which include prehearing, technical, and attorney conferences, among parties to the proceeding prior to the commencement of an evidentiary hearing on the merits of the petition or complaint. Prehearing conferences and technical conferences shall be convened and conducted on the record of the proceeding following proper publication of notice and notice to all parties.

(b) The commission, or the presiding officer, with or without motion, and after consideration of the probability of beneficial results to be derived therefrom, may direct:

(1) that a preliminary hearing be held; and

(2) the parties to the proceeding to appear to consider any or all of the matters enumerated in subsection (c).

When a petitioner requests in its petition that a date be promptly fixed for a prehearing conference in the proceeding, the prehearing conference shall be held within forty-five (45) days following the date of filing of the petition.

(c) The presiding officer may consider, among other things, the following at a prehearing conference:

(1) The possibilities for settlement of the proceeding, subject to the approval of the commission.

(2) Whether the proceeding is one appropriate for alternative dispute resolution.

(3) The estimated amount of hearing time that will be required to dispose of the proceeding and the establishment of a schedule of evidentiary or other hearing dates.

(4) Arrangements for the submission of written direct testimony of witnesses and exhibits in advance of evidentiary hearing.

(5) Any other matters as may aid in expediting the orderly conduct and disposition of the proceeding, including the following:

(A) Simplification of the issues.

(B) Obtaining admissions as to, or stipulations of, facts not remaining in dispute, or obtaining stipulations as to the authenticity of documents that might properly shorten the evidentiary hearing.

(C) The limitation of the number of witnesses.

(D) Discovery or production of data or other material, and coordination of discovery and a discovery cutoff date.

(d) Representatives of all parties shall:

(1) attend the prehearing conference unless excused by the presiding officer;

(2) be fully prepared to discuss both procedural and substantive matters involved in the proceeding; and

(3) be fully authorized to make commitments with respect to those matters.

In the absence of agreement among parties with respect to procedure and related issues, the parties, unless appearing pro se, should be prepared to have an attorney present in order to introduce evidence necessary to assist the presiding officer to make factual determinations required to order proper disposition of preliminary matters.

(e) If the parties have previously reached agreement on any or all procedural matters to be considered at a prehearing conference, the agreement may be reduced to writing and filed for approval in lieu of the prehearing conference.

(f) Failure of a party to attend a preliminary hearing, after being served with due notice of the time and place thereof, shall constitute waiver of all objections to any agreements reached by the parties in attendance at the preliminary hearing or to the disposition of any issues on which evidence was taken at the preliminary hearing as reflected in any order or ruling made at the preliminary hearing or issued as a result of the preliminary hearing. If a party is excused from attendance at the prehearing conference, the determination of whether a waiver of all objections to such agreements or the disposition issues still applies is at the discretion of the presiding officer.

(g) The presiding officer is authorized, but not limited to, the following actions at attorney and technical conferences:

(1) Participating in technical and legal discussions.

(2) Arranging for recording stipulations or agreements made by the parties to the proceeding.

(3) Discussing procedural matters and issues that may be addressed at prehearing conferences.

(4) Otherwise assisting the parties in their effort to reach an agreement that will:

(A) expedite the proceeding; and

(B) serve the public interest.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-15; filed Oct 30, 2000, 2:10 p.m.: 24 IR 660; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)

170 IAC 1-1.1-16 Discovery

Authority: IC 8-1-1-3; IC 8-1-2-47

Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-2-29

Sec. 16. (a) Parties shall be entitled to all the discovery provisions of Rules 26 through 37 of the Indiana Rules of Trial Procedure as from time to time amended by the Indiana supreme court or general assembly.

(b) Any party may issue a written request for discovery to any other party. Unless otherwise directed by the presiding officer, if the party against whom the discovery is directed does not satisfy the request within ten (10) calendar days following receipt thereof or reach an agreement with the requesting party as to the nature, scope, and time for the requested discovery, the party seeking discovery may make written application to the commission for an order compelling discovery, specifically setting forth and detailing the:

(1) discovery sought;

(2) reasons why it is thought to be relevant to the issues; and

(3) reasonable efforts taken to reach agreement.

The presiding officers shall thereupon grant, grant in part, or deny the application and shall promptly advise the parties of its determination. Where such application is granted, in whole or in part, the party against whom discovery is sought shall allow discovery as specified by the presiding officers. No continuance of a scheduled hearing shall be granted for inability to complete discovery unless the parties have complied with the foregoing provisions.

(c) No discovery shall be ordered with regard to rulemaking proceedings. The commission may, however, in the exercise of its authority, obtain information relating to the subject matter of the proposed rules from any entity under its jurisdiction. Such information shall be available to the public under IC 8-1-2-29.

(d) In order to serve the public interest and expedite the discovery process, the presiding officer, with or without motion, may call one (1) or more informal attorneys' conferences for the purpose of discussing, hearing argument on, and resolving discovery disputes, including discovery issues and discovery schedules. The presiding officer may:

(1) participate in the discussions; and

(2) assist the parties in resolving discovery disputes.

The presiding officer shall reduce to writing in the form of a docket entry any rulings made at the attorneys' conference.

(e) Parties may request a protective order pursuant to the requirements set forth in Indiana Trial Rule 26(C) and, as appropriate, section 4 of this rule. Upon such a request, the presiding officer may grant appropriate protective relief, which may include an informal, off the record attorneys' conference in order to conduct an in camera review of the material sought in discovery. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-16; filed Oct 30, 2000, 2:10 p.m.: 24 IR 661; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-17 Settlements

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 17. (a) It is the policy of the commission to review and accept appropriate settlements. Nothing contained in this rule shall be construed as precluding parties in a proceeding from submitting, at any time prior to the issuance of a final order in the proceeding, settlement proposals or from requesting a hearing for such purpose.

(b) Settlement agreements by some or all of the parties to a proceeding may be filed with the commission and received into evidence as part of the record of the proceeding.

(c) The commission may reject, in whole or in part, any proposed settlement under this section if the commission determines that the settlement is not in the public interest. In the event that the commission rejects a proposed settlement, in whole or in part, the commission must state on the record or by written order the reasons for such rejection.

(d) The settlement must be supported by probative evidence. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-17; filed Oct 30, 2000, 2:10 p.m.: 24 IR 661; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-18 Hearing procedure

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 18. (a) Hearings must be conducted by a commissioner or administrative law judge.

(b) The presiding officer may make rulings with respect to pleadings and other matters not ruled upon.

(c) The presiding officer conducting the hearing must enter upon the record all appearances, with a notation in whose behalf each appearance is made.

(d) In hearings upon complaints or petitions, the complainant, petitioner, or other party having the burden of proof must open and close the presentation of evidence and arguments. In hearings on investigations and in proceedings that have been consolidated for hearing, the presiding officer may direct who shall open and close the record. In proceedings where the evidence is particularly within the knowledge or control of another party, the presiding officer may vary the order of presentation. The presiding officer may, at any time during the hearing, limit repetitive or redundant:

(1) testimony;

(2) cross-examination;

(3) motions; or

(4) objections.

If the commission initiated the proceeding, the proceeding may be opened by presentation of a report prepared at the direction of the commission under IC 8-1-1-5.

(e) When objections to the admission or exclusion of evidence before the commission or the presiding officer are made, the objecting party must briefly state all the grounds relied upon.

(f) The presiding officer may, at his or her discretion, permit a party to furnish designated exhibits after the close of the hearing with copies to all parties of record. The presiding officer must specifically describe and assign an identifying exhibit number at the time of hearing and may admit it into the record of the proceeding with physical production at a later time, provided a party does not object, or if a party objects, the presiding officer shall direct the mode of admissibility, including granting the objecting party reasonable opportunity to question the sponsor of the exhibit regarding its contents. However, this subsection does not make evidence admissible that would otherwise be inadmissible.

(g) The direct testimony of a witness for any party may be presented in written question and answer form and must have any related exhibits attached unless the presiding officer prescribes another format. In any utility rate proceeding, unless otherwise provided in any prehearing conference order or by stipulation of the parties, such prepared testimony and exhibits shall be filed with the commission and served on all parties at least fifteen (15) days prior to the date of the hearing at which the same is to be offered into evidence. This requirement shall not apply to matters provided for in section 21(f) of this rule. Unless otherwise provided by the presiding officer, any prepared testimony and exhibits must be filed with the commission secretary in accordance with section 3 of this rule and served on all parties to the proceeding within the deadline established by the preliminary hearing order or docket entry of the presiding officer. However, nothing in this section requires the prefiling of any testimony without the specific order of a presiding officer or the commission.

(h) Unless otherwise directed by the commission, prefiled testimony, when properly authenticated by the witness under oath or affirmation, may be offered as an exhibit. The written testimony shall be subject to the same rules of admissibility and cross-examination of the sponsoring witness as if the testimony were being presented orally.

(i) Any party to a proceeding may move in writing for an extension of time in which to prefile testimony. The motion should be filed prior to the time set for the filing of the testimony unless a supporting affidavit establishes that the facts, which are the basis of the motion, did not then exist or were not then known to the moving party. For good cause shown, the presiding officer may reschedule a hearing to a later date, if necessary, and fix the extension of time in which to prefile such testimony in order to avoid undue delay and provide reasonable opportunity for all parties to properly prepare their cases. All parties shall be given an opportunity to object to any motion for extension of time.

(j) With the approval of the presiding officer, corrections or changes in the stenographic record may be made upon the written agreement of all parties of record filed with the commission within ten (10) days after parties have been notified that the stenographic record has been completely transcribed. Other corrections or changes may be made only upon order of the commission.

(k) Parties may obtain copies of the stenographic record from the official reporter upon payment of the appropriate charges fixed by the commission.

(l) Due legal notice of the initial evidentiary hearing on the merits, having been given and published as required by law, notice of further hearings or other matters agreed upon or ordered by the presiding officer at the hearing do not need to be

published. It is the obligation of counsel and parties to a formally docketed cause to keep themselves informed of all actions taken in a proceeding before the commission.

(m) After being duly notified, a party who fails to be represented at a scheduled conference or hearing in any proceeding is deemed to have waived the opportunity to participate in the conference or hearing, and is deemed to have consented to, and may not be permitted thereafter to reopen, any matter resolved or accomplished at such conference or hearing, and may not be permitted to recall for further examination witnesses who were excused unless the presiding officer determines that the failure to be represented was unavoidable or that the interests of the other parties and of the public would not be unduly prejudiced by permitting such reopening for further examination. If any witness is recalled for further examination, then the recalling party must pay any expert fees, costs, and expenses. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-18; filed Oct 30, 2000, 2:10 p.m.: 24 IR 662; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-19 Consolidation

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 19. Causes sharing common issues of fact or law may be consolidated at the discretion of a presiding officer. A consolidated cause shall continue to list the captions and cause numbers so consolidated. Where two (2) or more proceedings are consolidated for hearing, the presiding officer shall determine the order in which all the parties introduce evidence. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-19; filed Oct 30, 2000, 2:10 p.m.: 24 IR 663; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-20 Continuance

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 20. Any party may move for continuance of a hearing or filing deadline. Contested motions for continuance of a hearing filed within seven (7) days of the hearing must be verified. If the motion for continuance of a hearing is contested, the moving party must state the positions of the other parties to the case on the issue of continuance. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-20; filed Oct 30, 2000, 2:10 p.m.: 24 IR 663; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-21 Evidence and administrative notice

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 21. (a) The presiding officer has all necessary authority to control the receipt and admissibility of evidence, including, but not limited to, the following:

(1) Ruling on the:
  (A) admissibility of evidence; or
  (B) qualifications of witnesses;

or both.

(2) Confining the evidence to the issues in the proceeding and imposing, where appropriate, the following:
  (A) Limitations on the number of witnesses to be heard.
  (B) Limitations of time and scope for direct and cross-examinations.
  (C) Limitations on the presentation of further cumulative or repetitious evidence.
  (D) Any other necessary limitations.

(3) Taking other appropriate action necessary for the expeditious conduct of the hearing. The presiding officer shall actively employ these powers to direct and focus the proceedings consistent with due process.

(b) Except as otherwise provided in this rule, when writings, recordings, or photographs are offered in evidence, copies shall be furnished to the presiding officer and to the parties present at the hearing unless the presiding officer otherwise directs. The presiding officer may require a party to furnish additional copies of exhibits.

(c) Verified petitions, complaints, and answers thereto, and similar verified documents upon which hearings are held, may, without further action, be admitted into evidence:

(1) by agreement of all parties; or

(2) provided the affiant is made available for cross-examination.

(d) A party may move for the admission of evidence into the record upon presentation of the sponsoring witness, after authentication, or pursuant to stipulation or agreement.

(e) An offer to prove may be requested when a ruling has been made holding that the witness was not competent to testify or that the evidence to be offered was inadmissible. An offer to prove may also be made when the presiding officer has sustained an objection to the admission of tangible evidence. If the proffered evidence is tangible, the commission shall mark it for identification purposes and that constitutes the offer to prove. If the proffered evidence is oral testimony, the offer to prove must consist of a summary of the evidence that the counsel contends would be adduced by such testimony. The presiding officer may, when requested, permit an offer to prove to be made orally or by the written prefiled testimony of a witness. The presiding officer may also request a statement of the basis for admissibility of such evidence.

(f) When a party desires to offer in evidence any official publication of the commission, any order of the commission in another proceeding, any exhibit introduced in evidence in another commission proceeding, or any other document in the commission's official files, or any part thereof, it shall be:

(1) plainly designated in the stenographic record and an exhibit number assigned thereto; and

(2) if admitted, deemed read in evidence as part of the testimony in the pending proceeding.

(g) The commission shall take administrative notice of any fact that must be judicially noticed by a court of Indiana.

(h) The commission may take administrative notice, on its own motion or upon a party's motion, of relevant administrative rules, commission orders, or other documents previously filed with the commission.

(i) In order for the commission to take administrative notice of a fact or other material, the parties must be:

(1) notified before or during the hearing of the specific facts or material noticed, and the source of the facts or material noticed, including any memoranda or data of the commission staff related thereto;

(2) provided a copy of any document noticed; and

(3) afforded an opportunity, upon timely request, to be heard as to the propriety of taking administrative notice and the tenor of the matter notice. In the absence of prior notification, the request may be made after administrative notice has been taken.

(j) A request by a party for administrative notice of a factual matter that should be included in a party's prefiled testimony shall be made at the same time the related evidence is prefiled.

(k) Any documents administratively noticed by the commission shall become part of the record for the proceeding. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-21; filed Oct 30, 2000, 2:10 p.m.: 24 IR 663; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-22 Posthearing relief

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-3-2; IC 8-1-3-4

Sec. 22. (a) At any time after the record is closed, but before a final order is issued, any party to the proceeding may file with the commission and serve upon all parties of record a petition to reopen the proceeding for the purpose of taking additional evidence.

(b) A petition to reopen the record shall set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including the following:

(1) Material changes of fact or law alleged to have occurred since the conclusion of the hearing.

(2) The reason or reasons such changes of fact or law could not have been reasonably foreseen by the moving party prior to the closing of the record.

(3) A statement of how such changes of fact or law purportedly would affect the outcome of the proceeding if received into evidence.

(4) A showing that such evidence will not be merely cumulative.

A petition to reopen the record shall be verified or supported by affidavit.

(c) Within ten (10) days following the service of such petition to reopen upon all parties to the proceeding, any other party may file a response to the petition unless the presiding officer shall prescribe a different time. Any reply to such responses shall be filed within seven (7) days following service of the response unless the presiding officer shall prescribe a different time.

(d) Before a final order is issued, and upon notice to the parties, the commission, on its own motion, may reopen the proceeding for the receipt of further evidence if justice so requires.

(e) Following a final order, any party to a proceeding may file with the commission and serve upon all parties of record a petition for rehearing and reconsideration within twenty (20) days of the entry of the final order, unless an applicable statute shall specifically fix a longer period. The following are required for a petition for rehearing and reconsideration:

(1) Such petition shall be concise, stating the specific grounds relied upon, with appropriate record references and specific requests for the findings or orders desired. If the petition seeks rehearing, it shall be verified or supported by affidavit and shall set forth the following:

(A) The nature and purpose of the evidence to be introduced at rehearing.

(B) The reason or reasons such new evidence was not available at the time of the hearing or could not be discovered with due diligence.

(C) A statement of how such evidence purportedly would affect the outcome of the proceeding if received into the record.

(D) A showing that such evidence will not be merely cumulative.

(2) Responses to such petitions shall be filed and served within ten (10) days after service of the petition upon the responding party unless the presiding officer shall prescribe a different time. Any reply to such responses shall be filed within seven (7) days after service of the response unless the presiding officer shall prescribe a different time.

(3) In response to such a petition, the commission may:

(A) reconsider the final order and uphold it without modification;

(B) correct errors by modifying or clarifying it without further hearing based upon the existing record;

(C) upon notice to the parties, reopen the proceeding for the receipt of further evidence on particular issues; or

(D) reverse the final order.

(4) A petition for reconsideration shall be deemed a petition for rehearing for purposes of IC 8-1-3-2.

(5) A petition for reconsideration shall be deemed denied if not ruled upon or otherwise addressed within sixty (60) days following its filing.

(f) Upon filing of a written request for the record as provided by IC 8-1-3-4, a copy of the request for the record must be served upon the office of the attorney general of Indiana on the same day the request is filed with the commission. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-22; filed Oct 30, 2000, 2:10 p.m.: 24 IR 664; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-23 Briefs and oral arguments; posthearing briefs and proposed orders

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 23. (a) Briefs and proposed orders are to be filed and oral arguments heard only at the request of the presiding officer at the times fixed therefor.

(b) An original and four (4) copies of all briefs shall be filed with the commission and a copy served by the submitting party upon all other parties to the proceeding, such service and proof thereof to be in accordance with section 13 of this rule. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-23; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-24 Dismissal of cases

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 24. (a) The commission may, in its discretion, dismiss any proceeding that has been pending upon the commission docket:

(1) that is not currently set for hearing; and

(2) upon which action has not been taken by any party for a period of sixty (60) days.

(b) Prior to such dismissal, the commission shall notify all parties to the proceeding by United States mail of its intention to dismiss. Notice shall be served at least ten (10) days prior to the entry of dismissal. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-24; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-25 Appeal to the commission of rulings of presiding officer

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-3

Sec. 25. (a) Any ruling of a presiding officer may be appealed to the commission. The determination of the commission, when made, shall be noted in the record and, if made after the hearing is closed, the commission will advise all parties of record of such determination.

(b) Appeals of a presiding officer's oral ruling during a proceeding of record may be made orally, and must be made immediately following the ruling that is appealed. Unless granted additional time by a presiding officer, appeals of docket entry rulings must be made in writing and served on all parties within six (6) business days following the date of such docket entry.

(c) All written appeals to the commission shall be served by the appealing party on all other parties on the same day the appeal is filed with the commission. Any other party wishing to be heard with respect to an appeal to the commission shall file a brief setting forth its position by the close of regular business hours on the fifth day following service of the appeal. The appealing party may file a reply to any such response within five (5) days after service of the appeal. The provisions of section 12 of this rule *[170 IAC 1-1.1-12]* relating to motions generally do not apply to the extent they are in conflict with this section.

(d) Further proceedings in the cause shall be governed according to the commission's determination of the appeal.

(e) An appeal to the commission does not stay proceedings unless the presiding officer or the commission, on its own motion, orders a stay to protect the substantive rights of any of the parties.

(f) Absent a ruling of the presiding officer being overruled by the commission under this section, rulings of the presiding officer are considered rulings of the commission upon the issuance of a final order in a cause. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-25; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

170 IAC 1-1.1-26 Application of other rules

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 26. (a) The commission may be guided generally by relevant provisions of the Indiana Rules of Trial Procedure and the Indiana Rules of Evidence to the extent they are consistent with this rule.

(b) This rule shall be subject to any special rules, regulations, or orders of the commission in effect, from time to time, under or pursuant to the provisions of any laws of the United States of America or regulations or requirements of any federal agency or commission thereunder. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-26; filed Oct 30, 2000, 2:10 p.m.: 24 IR 666; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA)*

Rule 1.2. Motor Carrier Practice and Procedure Before the Commission (Transferred)

NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2) to the Department of State Revenue (45 IAC

16-1.5) by P.L.72-1988, SECTION 12, effective July 1, 1988.

Rule 1.5. Ex Parte Contacts

170 IAC 1-1.5-1 Definitions

Authority: IC 8-1-1-3
Affected: IC 8-1

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Commission" refers to the Indiana utility regulatory commission.

(c) "To file a report" means written testimony filed by or oral testimony presented by, or both, a technical employee in a pending proceeding.

(d) "Proceeding" means a formally docketed proceeding before the commission. The term does not include any of the following:

(1) A rulemaking.
(2) A thirty (30) day filing under IC 8-1-2-42(a).
(3) A filing under IC 8-1-2-61.5(a).
(4) A petition under 170 IAC 7-4.
(5) An informal investigation.
(6) An investigation and disposition by the consumer affairs division of the commission.
(7) An application or notice of change form filed under IC 8-1-32.5.
(8) An application or notice of change form filed under IC 8-1-34.

(e) "Technical employee" means an employee within one (1) of the commission's technical divisions. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-1; filed Dec 9, 1996, 10:00 a.m.: 20 IR 938; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed May 24, 2007, 4:15 p.m.: 20070620-IR-170060514FRA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; filed Sep 29, 2009, 3:49 p.m.: 20091028-IR-170090212FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

170 IAC 1-1.5-2 Pending proceeding

Authority: IC 8-1-1-3
Affected: IC 8-1-1-5

Sec. 2. For purposes of this rule, a proceeding is considered pending from thirty (30) days before the date of filing until the date the commission issues a final order in the proceeding and until:

(1) all petitions for rehearing or reconsideration and all appeals to a court of appellate jurisdiction have been determined or decided;
(2) any opportunity for a further appeal has been exhausted; and
(3) no further action is required by the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-2; filed Dec 9, 1996, 10:00 a.m.: 20 IR 939; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

170 IAC 1-1.5-3 Violations

Authority: IC 8-1-1-3
Affected: IC 8-1-1-5

Sec. 3. (a) Unless required for the disposition of ex parte matters specifically authorized by statute, rule, or order of the commission, all members of the commission, an attorney assigned to a particular proceeding as an administrative law judge, and a technical employee assigned to advise the commission in a particular proceeding may not communicate, directly or indirectly,

regarding any issue in a proceeding while the proceeding is pending with any:

(1) party;

(2) party's employee, attorney, or representative;

(3) entity known to act on behalf of a party;

(4) person who has:

(A) a direct interest in the outcome of the proceeding; or

(B) served as an investigator or advocate in the proceeding or in its preadjudicative stage;

(5) attorney assigned as a settlement judge in a particular proceeding; or

(6) technical employee directed to file a report in the proceeding;

without notice and opportunity for all parties to participate in the communication.

(b) Unless required for the disposition of ex parte matters specifically authorized by statute, rule, or order of the commission, a person described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) may not communicate, directly or indirectly, regarding any issue in a proceeding while the proceeding is pending with any:

(1) member of the commission;

(2) attorney assigned to a particular proceeding as an administrative law judge; or

(3) technical employee assigned to advise the commission in a particular proceeding;

without notice and opportunity for all parties to participate in the communication.

(c) This section does not prohibit any person from communicating ex parte with any member or employee of the commission with respect to undisputed administrative or procedural matters in connection with a proceeding.

(d) Only to the extent not otherwise inconsistent with this rule, any person may make educational or informational communications that are not intended to persuade or advocate a position on an issue in a particular proceeding while the proceeding is pending. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-3; filed Dec 9, 1996, 10:00 a.m.: 20 IR 939; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

170 IAC 1-1.5-4 Communication within the commission

Authority: IC 8-1-1-3
Affected: IC 8-1-1-5

Sec. 4. Members of the commission, its attorneys, and technical employees may communicate with each other regarding a particular proceeding pending before the commission. However, an attorney assigned as a settlement judge or a technical employee directed to file a report in a particular proceeding may not communicate regarding the particular proceeding with members of the commission, attorneys not assigned as settlement judges, or technical employees not assigned to file a report in that particular proceeding. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-4; filed Dec 9, 1996, 10:00 a.m.: 20 IR 939; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

170 IAC 1-1.5-5 Prior communications (Repealed)

Sec. 5. *(Repealed by Indiana Utility Regulatory Commission; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA)*

170 IAC 1-1.5-6 Disclosure

Authority: IC 8-1-1-3
Affected: IC 8-1-1-5

Sec. 6. (a) A member of the commission, an attorney, or a technical employee who receives a communication, which that person reasonably believes violates this rule shall:

(1) tender to the record of the proceeding:

(A) all written communications received;

(B) all written responses to the communication; and

(C) a memorandum stating:

(i) the substance of all oral communications received;

(ii) all oral responses made; and

(iii) the identity of each person from whom an ex parte communication was received; and

(2) advise all parties that the items in subdivision (1) have been tendered to the record.

The presiding officer shall admit into the record all items tendered under this section.

(b) Any party shall be permitted an opportunity to respond on the record of the affected proceeding within ten (10) days after notice of the disclosed communication.

(c) In any proceeding in which a communication has been disclosed in accordance with subsection (a), the commission may determine whether any additional action is necessary in order to maintain a fair and impartial proceeding. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-6; filed Dec 9, 1996, 10:00 a.m.: 20 IR 940; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

Rule 2. Construction and Filing of Schedules of Rates, Tolls and Charges by Public Utilities

170 IAC 1-2-1 Separate schedules for each location and service

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 1. Separate Schedules. Public utilities operating at more than one location must file separate schedules for each location.

Public utilities operating more than one service must file separate schedules for each service and each location, with the following IURC designations:

Electric light and power service . . . . IURC No. E . . . . . .
Gas service . . . . . IURC No. G . . . . . .
Steam service . . . . . IURC No. S . . . . . .
Telephone and telegraph service . . . IURC No. T . . . . . .
Water service . . . . . IURC No. W . . . . . .

Public utilities filing only one class of schedule should not use the above prefixes. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 1; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1765; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-2 Complete schedules; formulas necessary

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 2. Must Include Formulas, etc. No schedule of rates, tolls and charges is complete, or complies with the law, unless it includes all rules, regulations and formulas that in anywise affect the rates, tolls or charges. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 2; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1765; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-3 Form of schedules

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 3. Form of Schedule. All schedules must be in book, sheet or pamphlet form and, in size 8 1/2 by 11 inches (the size of this sheet of paper). Loose-leaf systems may be used so that changes may be made by inserting a single leaf. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 3; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1765; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-4 Title page

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 4. Title Page Shall Show. The title page of each schedule shall show the following:

(1) Name of issuing public utility or utilities and address.

(2) Number of the Schedule. Every schedule must be consecutively numbered, starting with number one, and prefixed with IURC. Below this number, placed in the upper right-hand corner, shall appear, in smaller type, the IURC number or numbers of schedules thereby cancelled.

(3) The locality at which the schedule applies. In event the rates, tolls or charges apply between various points, a description of the territory, briefly stated, must be given.

(4) Reference by name and IURC number to any other schedule which may apply in connection with the schedule.

(5) Date of issue and date effective.

(6) On every schedule issued on less than statutory (30 days) notice with consent or by order of the Commission, there shall be notation that it is issued under special permission or order of the Indiana utility regulatory commission, No._____, Date_____.

(7) Name, title and address of officer by whom schedule is issued.

(8) See Number 2 below.

(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 4; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1766; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)

170 IAC 1-2-5 Contents

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 5. Schedule Shall Contain. The schedule itself shall be arranged so as to show the following:

(1) Index of contents, specifying page or item number, unless it contains so small a volume of matter that it plainly discloses its contents.

(2) (If a joint schedule) Names of public utilities participating, alphabetically arranged. If the number of participating public utilities is not too great, their names may be shown on title page. The form and number of concurrence of participating public utilities must be shown.

(3) Explanation of reference marks and technical abbreviations used in schedule.

(4) Such explanatory statement, in clear and explicit terms, regarding the rates, tolls and charges as may be necessary to remove all doubt as to proper application.

(5) Rules and regulations, and formulas, which govern the schedule, or in any way affect the rates.

(6) An explicit statement of the rates, tolls or charges, in cents or in dollars and cents, per unit.

(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 5; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1766; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)

170 IAC 1-2-6 Amendments and supplements

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-42

Sec. 6. Amendments and Supplements. A change in, or addition to a schedule shall be known as an amendment. It shall be shown in a supplement to the schedule and shall refer to the page or pages, or item or items of the schedule, or of previous supplement, which it amends. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 6; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1767; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-7 Change of ownership; common supplements and schedules

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-42; IC 8-1-2-84

Sec. 7. Change of Ownership. In event of change of ownership, control, or change of name of a public utility, the public utility absorbed, taken over or purchased by another utility, shall unite with that other public utility in common supplements to the schedules on file, withdrawing or accepting and establishing such schedules and all effective supplements thereto. Such common supplements shall be executed jointly by officers of the old and new public utility and be numbered consecutively as supplements to the schedule (even if less than three pages) to which they are directed. Amendments to such schedules must thereafter be filed by the succeeding public utility in consecutively numbered supplements thereto until the schedules are reissued. New schedules reissuing or superseding these shall be numbered in the IURC series of the new public utility. In case of abandonment of utility supplement must be filed withdrawing schedules. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 7; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1767; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-8 Receivership; adoption notice

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-42; IC 8-1-2-84

Sec. 8. In Event of Receivership. Similar adoption notice must be filed by a receiver when assuming possession and control of the property of a public utility. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 8; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1767; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-9 Receipt of schedules; acknowledgment

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 9. Receipt of Schedules. If acknowledgment of receipt of schedule is desired, the letter of transmittal must be sent in duplicate, and one copy will be stamped and returned when passed upon by the Commission. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 9; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1768; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-10 Joint rates defined

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38; IC 8-1-2-41

Sec. 10. Definition of Joint Rates. Joint rates, tolls and charges or rates, tolls and charges in force for service or commodity furnished jointly by two or more public utilities. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 10; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1768; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-11 Original filing of rates, tolls and charges

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 11. Original Filing. In those cases in which rates are being filed for the first time, the letter of transmittal must show that the rates, tolls and charges are not in excess of the rates, tolls and charges in force January 1, 1913, unless such increases have been approved by the Commission. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 11; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1768; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-2-12 Address for schedules and related correspondence

Authority: IC 8-1-1-3; IC 8-1-2-47
Affected: IC 8-1-2-38

Sec. 12. Address for Schedules. All schedules and correspondence relating thereto must be addressed to the Indiana utility regulatory commission, 101 West Washington Street, Suite 1500 E., Indianapolis, Indiana 46204. *(Indiana Utility Regulatory Commission; No. 17687: Construction And Filing Of Schedules, Rates And Charges By Public Utilities 12; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1768; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

Rule 3. Advertising Expenditures by Public Utilities

170 IAC 1-3-1 Definitions

Authority: IC 8-1-1-3
Affected: IC 8-1-2-1

Sec. 1. Definitions. (A) Where applicable the definitions set forth in Ind. Ann. Stat., Section 54-105, (IC 8-1-2-1) shall be applied to these rules *[170 IAC 1-3]*, and

(B) The word "advertising" shall mean:

(1) Printed and published material and descriptive literature and programs of a public utility used in newspapers, magazines, radio and television scripts, billboards and similar displays.

(2) Descriptive literature and sales aids of all kinds issued by a public utility for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, form letters and bill inserts.

(3) Prepared sales talks to the public.

(4) Other materials and procedures enumerated by rule of the commission which promote or provide information to the public about a public utility.

(C) The word "ratepayer" shall mean any person, firm or corporation, municipality or other political subdivision of the State

receiving and paying for services delivered by a public utility. *(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 1; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-3-2 Applicability of rules

Authority: IC 8-1-1-3
Affected: IC 8-1-1-3

Sec. 2. Application of Rules. These rules *[170 IAC 1-3]* shall apply to any public utility subject to the jurisdiction of the commission which is engaged in the conveyance of telegraph or telephone messages, or in the production, transmission, delivery or furnishing of heat, light, water or power, or in the collection, treatment, purification and disposal in a sanitary manner of liquid and solid waste, sewage, night soil and industrial waste. *(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 2; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-3-3 Allowable expenditures; includable costs

Authority: IC 8-1-1-3
Affected: IC 8-1-2-4

Sec. 3. Advertising Allowed. (A) No advertising expenditure of a public utility shall be taken into consideration by the commission for the purposes of establishing rates unless such advertising will produce a material benefit for the ratepayers.

(B) Each such public utility should make every effort to minimize advertising expenses and costs.

(C) As used in these rules, advertising expenditures shall include costs of advertising directly incurred by the public utility and those costs of advertising incurred by contribution to parent or affiliated companies. *(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 3; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-3-4 Material benefit defined

Authority: IC 8-1-1-3
Affected: IC 8-1-2-4

Sec. 4. Material Benefit. Advertising expenditures which "produce a material benefit" are, without limitation because of enumeration:

(A) advertising limited exclusively to demonstration of means for ratepayers to eliminate energy waste;

(B) advertising conveying safety information in the direct use of energy or equipment using such energy;

(C) demonstration of methods by which ratepayers may reduce their costs and those of the serving public utility;

(D) advertising explaining the use, cost, applicability or availability of new or existing telecommunicating equipment and other public utility services where energy consumption would either be reduced or not materially increased;

(E) advertising means or desirability of decreasing consumption, particularly during shortage and peak periods;

(F) furnishing factual and objective data programs in educational institutions on the subject of energy or communications technology;

(G) advertising concerning excavation near the location of underground transmission or distribution lines; and

(H) legal advertising required by statute or notices to ratepayers required by statute, rule or order of the commission.

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 4; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)

170 IAC 1-3-5 Material benefit; burden of proof

Authority: IC 8-1-1-3
Affected: IC 8-1-2-4

Sec. 5. Burden of Proof. The utility shall have the burden of proving that any advertising cost or expenditures proposed for inclusion in its operating expenses for rate making purposes within a given test year fall within the categories enumerated in Rule 4 *[170 IAC 1-3-4]* or where otherwise of material benefit to its ratepayers. *(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 5; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-3-6 Declaration of compliance; hearing; notice

Authority: IC 8-1-1-3
Affected: IC 8-1-1-8; IC 8-1-2-4

Sec. 6. Declaration of Compliance. (A) Before initiating any advertising program or expenditure a public utility may request the commission to issue a declaration of compliance with the above advertising rules.

(B) The commission shall then hold a hearing on the sole issue as to whether the proposed program or expenditure complies with the above rules and issue a declaration in accordance with the evidence presented. Any such declaration shall be res judicata in subsequent rate-making proceedings.

(C) Publication of notice of said hearing shall be made in accordance with the provisions of IC 8-1-1-8. *(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 6; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

170 IAC 1-3-7 Saving clause

Authority: IC 8-1-1-3
Affected: IC 8-1-1-8; IC 8-1-2-4

Sec. 7. Saving Clause. The adoption of these Rules and Regulations *[170 IAC 1-3]* shall in no way preclude the commission from altering or amending the same, in whole or in part, or from adopting rules or regulations containing other provisions whenever the commission shall deem it in the public interest to do so; and, further, these rules and regulations *[170 IAC 1-3]* shall in no way relieve any public utility from any of its duties under the laws of this State. *(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 7; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 393; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA)*

Rule 4. Mediation (Expired)

(Expired under IC 4-22-2.5, effective January 1, 2011.)

Rule 5. Minimum Standard Filing Requirements for an Expedited Rate Case

170 IAC 1-5-1 Definitions

Authority: IC 8-1-1-3
Affected: IC 8-1-2-1; IC 8-1-2-42

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) Where applicable, terms used in this rule shall have the meaning assigned to them in the following:

(1) IC 8-1-2-1.

(2) The NARUC Uniform System of Accounts, incorporated by reference at 170 IAC 4-2-2, 170 IAC 5-2-2, 170 IAC 6-2-2, and 170 IAC 8-2-1.

(3) The FERC Uniform System of Accounts, incorporated by reference at 170 IAC 4-2-1.1 and 170 IAC 5-2-3.

(c) "Allowance for funds used during construction" or "AFUDC" has the meaning set forth in 170 IAC 4-6-1(b).

(d) "Case-in-chief" means the filing by a utility with the commission of the information required under section 6 of this rule.

(e) "Commission" means the Indiana utility regulatory commission.

(f) "Construction work in progress" or "CWIP" has the meaning set forth in 170 IAC 4-6-1(e).

(g) "Cutoff" or "cutoff date" means a specific date on which a value is determined for purposes of a proceeding under this rule.

(h) "Demand side management" or "DSM" has the meaning set forth in 170 IAC 4-8-1(e).

(i) "Electing utility" means a utility that elects to file a case for a general rate change in accordance with this rule.

(j) "FERC" means the Federal Energy Regulatory Commission.

(k) "FERC Uniform System of Accounts" means the rules and regulations governing the classification of accounts applicable to a utility as adopted by FERC and adopted by reference by the commission for Indiana utilities.

(l) "Major project" means a project that is estimated to cost more than one percent (1%) of a utility's proposed rate base under section 9(a)(1) of this rule.

(m) "NARUC" means the National Association of Regulatory Utility Commissioners.

(n) "NARUC Uniform System of Accounts" means the rules and regulations governing the classification of accounts applicable to a utility as developed by NARUC and adopted by reference by the commission for Indiana utilities.

(o) "OUCC" means the Indiana office of utility consumer counselor.

(p) "Parent corporation" means a corporation that owns or controls more than fifty percent (50%) of the voting stock of an electing utility.

(q) "Presiding officer" means one (1) or more persons assigned by the commission to preside over a case and shall include the following:

(1) One (1) or more administrative law judges.

(2) If so assigned, one (1) or more commissioners.

(r) "Working papers" means all documents required to be submitted under sections 7 through 16 of this rule. Working papers may be provided in paper or electronic format but shall be organized according to the sections and subsections of this rule. Each working paper must be:

(1) legible;

(2) paginated; and

(3) specifically identified.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-1; filed Oct 28, 1998, 3:38 p.m.: 22 IR 719; errata filed Nov 22, 1999, 3:32 p.m.: 23 IR 812; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-2 Purpose and applicability

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 2. (a) This rule is designed to:

(1) assist the commission in thoroughly and expeditiously reviewing a petition for a general rate change by an electing utility;

(2) provide support for the electing utility's rate petition; and

(3) reduce or avoid disputes.

(b) Notwithstanding any other provisions of this rule, this rule shall not:

(1) limit any rights of the commission or any party to a proceeding to obtain further information from a utility through the discovery process or otherwise;

(2) constitute a waiver of any objection by the commission or any party to the admission of information into the record of any proceeding;

(3) limit a utility's right in a proceeding to supplement the information it files under this rule as the utility deems appropriate; or

(4) be construed to require the production or disclosure of any information that is subject to or protected by any applicable privilege or found by the commission to be confidential under section 3 of this rule.

(c) This rule shall apply at the option of the electing utility. A utility exercising its option to file its case in accordance with this rule shall file a notice of its intent to do so at the time it files its petition for a general rate change.

(d) This rule and its expedited time frame are intended to apply to general rate case filings that comply with this rule.

(e) After review of the documents filed by the electing utility in its petition for a general rate case, the commission may enter a finding that the:

(1) test year proposed by the utility is reasonably representative of the electing utility's ongoing operations;

(2) cutoff dates filed by the electing utility shall be the cutoff dates used in a proceeding filed under this rule;

(3) accounting methodology proposed by the electing utility conforms with the guidelines set forth in section 5 of this rule; and

(4) case-in-chief filed by the electing utility meets the requirements of this rule to the extent not otherwise waived. However, such a finding by the commission is not a finding as to the accuracy or reasonableness of the information.

(f) The commission may waive the requirements of this rule, in whole or in part, under section 4(b) of this rule. *(Indiana Utility Regulatory Commission; 170 IAC 1-5-2; filed Oct 28, 1998, 3:38 p.m.: 22 IR 720; errata filed Nov 22, 1999, 3:32 p.m.: 23 IR 812; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)*

170 IAC 1-5-2.1 Time frame and procedural schedule

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 2.1. (a) Ten (10) months is the expected amount of time to complete a proceeding under this rule.

(b) The ten (10) month time frame commences as of the date an electing utility has filed its:

(1) petition;

(2) case-in-chief; and

(3) working papers;

with the commission.

(c) At the prehearing conference, the presiding officer shall:

(1) address any issues regarding the completeness of the electing utility's filing; and

(2) establish procedural dates that will allow completion of the case within ten (10) months in accordance with this rule, including specific dates for the:

(A) filing of testimony;

(B) plant cutoff date for updating the rate base to include the cost of all plant, which date shall be not later than the date the presiding officer sets for the hearing on the utility's case-in-chief;

(C) major project cutoff date for updating the rate base to include the cost of a major project, consistent with section 5 of this rule;

(D) holding of hearings;

(E) filing of posthearing briefs;

(F) filing of proposed orders; and

(G) filing of exceptions to any proposed order.

(d) In the event the parties agree that the proceeding should not be bifurcated, then the general rate base cutoff date shall be determined by the presiding officer, with due consideration of the input of the parties.

(e) The presiding officer may do the following:

(1) Equitably divide the time allotted to the various procedural steps based upon all relevant factors. However, in general, approximately three (3) months should be allotted for the preparation and issuance of an order after the submission of any exceptions to a proposed order.

(2) Extend the procedural schedule to twelve (12) months for good cause. Extensions beyond twelve (12) months shall only be allowed upon the concurrence of a majority of the commissioners.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-2.1; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-3 Confidential or privileged information

Authority: IC 8-1-1-3
Affected: IC 5-14-3; IC 8-1-2-29

Sec. 3. (a) If an electing utility believes that any information covered by this rule is confidential in accordance with IC 8-1-2-29 and IC 5-14-3, the electing utility may request confidential treatment under the provisions of 170 IAC 1-1.1-4.

(b) To the extent a confidentiality agreement that would cover documents provided as part of a proceeding under this rule is not already in place:

(1) the electing utility shall:

(A) proffer to; or

(B) request from;

the OUCC a proposed confidentiality agreement; and

(2) parties to a proceeding under this rule shall work together with reasonable speed to negotiate an acceptable confidentiality agreement in order to avoid delay in producing documents on which a claim of confidentiality is made.

(c) An acceptable confidentiality agreement under subsection (b) shall include procedures for the following:

(1) Requesting a determination from the commission that a document shall be considered confidential.

(2) Maintaining the confidentiality of the documents before a determination regarding confidentiality has been made by the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-3; filed Oct 28, 1998, 3:38 p.m.: 22 IR 721; errata filed Nov 22, 1999, 3:32 p.m.: 23 IR 812; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-4 Filing and responses; waiver

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 4. (a) Within twenty (20) calendar days of the date an electing utility has filed its:

(1) petition;

(2) case-in-chief; and

(3) working papers;

with the commission, any party to the proceeding may file with the commission a notice that the information does not comply with this rule, identifying the alleged defect or defects and the requirements necessary to cure the alleged defect or defects. The notice shall be served upon the electing utility and all other parties to the proceeding.

(b) With the filing of its case-in-chief, an electing utility may request a waiver of compliance with any or all of the requirements of this rule by:

(1) submitting a written request for a waiver; and

(2) serving a copy of the request on all parties to a proceeding.

The presiding officer shall rule on a waiver request within thirty (30) days of its filing.

(c) The granting of a waiver hereunder shall not preclude a party from seeking the information that was the subject of the waiver through discovery or otherwise.

(d) If the utility updates its rate base at any time after its initial filing, the applicable working papers shall be updated accordingly and filed within two (2) business days of the update.

(e) All filings by the electing utility to the commission under this rule shall also be served on the following:

(1) The OUCC on the same day as filed.

(2) Any other party to the proceeding that has filed a written request for the information:
(A) on the same day as filed; or
(B) within five (5) business days of the filing of the written request.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-4; filed Oct 28, 1998, 3:38 p.m.: 22 IR 721; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-5 Accounting methodology and guidelines for cutoffs

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 5. All information filed by an electing utility under this rule shall conform to the following accounting guidelines:
(1) The test year shall be historical for a twelve (12) month period, the end of which may not be more than one hundred eighty (180) days prior to the filing of the utility's case-in-chief.
(2) Accounting data shall be adjusted for changes that:
(A) for ratemaking purposes, are:
(i) fixed;
(ii) known; and
(iii) measurable; and
(B) will occur within twelve (12) months following the end of the test year.
(3) The general rate base cutoff shall be the end of the test year for used and useful property.
(4) The cost of plant, to the extent not offset by:
(A) growth in the depreciation reserve;
(B) net contributions in aid of construction;
(C) net customer advances; or
(D) any combination of clauses (A) through (C);
may be updated to the plant cutoff date set by the presiding officer under section 2.1(c)(2)(B) of this rule.
(5) The cutoff for a major project shall be based on the latest information available at the time of the major project cutoff date set by the presiding officer under section 2.1(c)(2)(C) of this rule so long as the following tests are met:
(A) The major project is specifically identified in the utility's petition for a general rate change and should include a complete description of the project. A complete description of the project includes, among other things, the scope and location of the project.
(B) An estimate of the investment to be made by the utility in a major project is included in the utility's case-in-chief.
(C) The amount included in the utility's rate base with respect to the major project does not exceed the amount of the estimate referred to in clause (B).
(D) A monthly investment update is filed with the commission and served on all parties following the filing of a utility's case-in-chief.
(E) The major project is declared by the electing utility to be used and useful ten (10) business days before the final hearing.
(6) A utility's capital structure may be based on the latest information available at the time of the final hearing.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-5; filed Oct 28, 1998, 3:38 p.m.: 22 IR 722; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-6 Filing of case-in-chief

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 6. An electing utility shall submit the following basic accounting exhibits with its case-in-chief under the sponsorship

of one (1) or more witnesses submitting prefiled, direct testimony in support of the utility's request for relief:

(1) Comparative financial statements including the following:

(A) Balance sheets as of the last day of the following:

(i) The test year.

(ii) The twelve (12) month period immediately prior to the test year.

(B) A statement of cash flow for the test year.

(C) Income statements for the following:

(i) The test year.

(ii) The twelve (12) month period immediately prior to the test year.

(2) Revenue requirement calculation.

(3) Net operating income on a jurisdictional basis as:

(A) set forth in the utility's operating financial statements; and

(B) adjusted for ratemaking purposes under present and proposed rates.

(4) Jurisdictional rate base as:

(A) set forth in the utility's operating financial statements; and

(B) adjusted for ratemaking purposes.

(5) Capital structure and cost of capital, including supporting schedules.

(6) Gross revenue conversion factor.

(7) Effective income tax rate for the utility.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-6; filed Oct 28, 1998, 3:38 p.m.: 22 IR 722; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-7 Working papers and data; general information

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 7. An electing utility shall submit the following information:

(1) A chart of accounts that:

(A) details the types of charges incurred in specific subaccounts; and

(B) describes the utility's format for:

(i) account numbering; and

(ii) coding.

(2) A listing of standard monthly journal entries.

(3) All annual and quarterly reports to shareowners of the utility and its ultimate parent corporation, if any, or, if public information, the web address where the reports can be viewed for the:

(A) last two (2) years; and

(B) year subsequent to the test year, as available.

(4) All reports of the utility and its parent corporation, if any, filed with the Securities and Exchange Commission for the:

(A) test year;

(B) year preceding the test year; and

(C) year following the test year;

as available. In lieu of hard copies, the utility may provide a listing of the reports filed, entity filing name, and web address where the reports may be viewed.

(5) The results of the latest FERC staff audit of the utility for compliance with the FERC Uniform System of Accounts.

(6) The utility's operating and construction budgets for the following:

(A) The test year.

(B) The year following the test year.

(7) A statement of the budgeting assumptions included in the budgets listed in subdivision (6).

(8) For an electric utility, the current system interconnection or operating agreement governing system power operations between affiliates.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-7; filed Oct 28, 1998, 3:38 p.m.: 22 IR 722; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-8 Working papers and data; revenues, expenses, and taxes

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 8. (a) An electing utility shall submit the following information:

(1) Operating income statements as follows:

(A) An unadjusted income statement for the test year.

(B) An income statement for the test year under the utility's present rates after adjustments for ratemaking purposes to the following:

(i) Revenues.
(ii) Expenses.
(iii) Taxes.

(C) An income statement for the test year under the rates being proposed by the electing utility with expenses summarized by the following classifications:

(i) Operating expenses.
(ii) Depreciation.
(iii) Taxes other than income taxes.
(iv) Operating income before income taxes.
(v) Current federal income taxes.
(vi) Current state income taxes.
(vii) Deferred federal income taxes.
(viii) Deferred state income taxes.
(ix) Income tax credits.
(x) Other charges and credits.
(xi) Net utility operating income.

(2) All supporting working papers for each pro forma adjustment listed in subdivision (1), including the following:

(A) Actual test year expenses.
(B) Adjustments to test year expenses.
(C) A description of adjustment methodology.

(3) The following monthly information by rate class for the test year:

(A) Operating revenues.
(B) Sales or deliveries.
(C) Number of customers.
(D) Unbilled revenues.

(4) Pro forma:

(A) revenues;
(B) sales or deliveries; and
(C) numbers of customers;

for the test year, including detailed calculations supporting adjustments, if any, for annualization.

(5) Pro forma revenue adjustment and support therefor relating to the proposed change in any nonrecurring charge, including, but not limited to, the following, as applicable:

(A) Insufficient funds check charge.
(B) Reconnect charge.

(C) Disconnect charge.
(D) Records charge.
(E) Collection charge.
(F) Meter testing charge.
(G) Meter reading charge.
(H) Meter tampering charge.
(I) Connection or tap fee.

(6) The utility's written policies and procedures, if any, related to the write-off of any customer accounts as uncollectible.

(7) The utility's actual operating expenses by account and subaccount for the test year.

(8) A schedule detailing purchases for resale of gas, electricity, and water, including costs and volumes purchased during the test year.

(9) The number of employees by month for the test year categorized by the following:
(A) Bargaining unit.
(B) Exempt status.
(C) Nonexempt status.

(10) Actual payroll dollars charged for the test year to accounts for the following:
(A) Construction.
(B) Operation.
(C) Maintenance.
(D) Other.

(11) The following information by employee category identified in subdivision (9) for each payroll increase during the test year:
(A) The date.
(B) The percentage increase.

(12) A description of the utility's other employee compensation programs paid or granted by the utility during the test year, including, but not limited to, the following:
(A) Performance bonuses.
(B) Incentive payments.
(C) Stock and stock options.

(13) Regarding benefits provided by the utility to employees, the following:
(A) A list of the categories of benefits.
(B) The associated cost of each category.
(C) The amount charged to operation and maintenance expense during the test year with respect to each category.
(D) The amount of payroll benefits capitalized during the test year with respect to each category.

(14) The utility's pension expense for the test year and an identification of any unfunded amounts.

(15) The latest pension actuarial study used by the utility for determining pension accrual.

(16) The latest actuarial study for other postretirement employee benefits.

(17) Schedules of net charges by category or account for each affiliated company for services rendered during the test year, including the following:
(A) An explanation of the nature of services provided.
(B) An explanation of the basis or pricing methodology for charges.
(C) If charges are allocated, for each type of charge allocated, the following:
(i) A detailed explanation of the allocation methodology used.
(ii) The specific allocation factors used.

(18) The monthly amounts of injury and damage for the test year, including the following:
(A) Claims paid by the utility.
(B) Expense accrued.

(19) If applicable, test year data applicable to each DSM program of the utility, including the following:
(A) A description of the DSM program conducted.

(B) Costs related to the program.
(C) The accounting treatment of the costs.
(D) Reference to the applicable commission orders, if any, regarding each DSM program.

(20) Expenditures incurred by the utility during the test year and amounting to more than ten thousand dollars ($10,000) to an individual payee for:
(A) outside services;
(B) consulting services; or
(C) legal services.

(21) A schedule of all charitable and civic contributions recorded to utility operations during the test year.

(22) A schedule of all research and development expenditures incurred during the test year and recorded to utility operations.

(23) A schedule of:
(A) trade;
(B) social; and
(C) service;
organization memberships paid during the test year and recorded to utility operations.

(24) A schedule of estimated rate case expenses, including supporting detail, for the following:
(A) Outside services to be rendered.
(B) The expected costs of those services.

(25) Regarding advertising recorded to utility operations during the test year, the following:
(A) A schedule of expenditures by the utility.
(B) Representative samples of the advertising by major media category, including, but not limited to, the following:
(i) Television.
(ii) Radio.
(iii) Newspaper.

(26) The schedule required by subdivision (25) shall identify expenditures by the following subject matters:
(A) Public health and safety.
(B) Conservation.
(C) An explanation of rates, billing practices, and other administrative matters.
(D) Other advertising programs.

(27) A description of the utility's methodology for capitalizing construction overheads during the test year.

(28) A description of the allocation methodology of multiutility common expenses that are allocated to the utility in the rate proceeding covered by this rule.

(29) A schedule of amounts of taxes other than income taxes recorded to utility operations during the test year for the following categories:
(A) Social Security.
(B) Unemployment.
(C) Public utility fee.
(D) Property.
(E) Utility receipts tax.
(F) Other revenue related.
(G) Other.

(30) A schedule of book value and taxing authority assessed value for the determination of real and personal property tax for the following:
(A) The test year.
(B) To the extent reasonably available, the latest information subsequent to the test year.

(31) A schedule of the following:
(A) Deferred tax balances of the utility at the:
(i) beginning; and
(ii) end;

of the test year.

(B) Net provisions and paybacks during the test year.

(32) Computations showing the deferred income taxes of the utility derived by using accelerated tax depreciation with separate computations provided for the following:

(A) State income taxes.

(B) Federal income taxes.

(33) A reconciliation of any difference between:

(A) the deferred tax balance, as shown as:

(i) a reduction to rate base; or

(ii) cost-free capital; and

(B) the deferred tax balance of the utility as shown on the balance sheet.

(34) A schedule showing the breakdown of accumulated investment tax credits of the utility, including a description of the methodology used to write off the unamortized balances.

(35) Supporting working papers for the development of the state and federal composite income tax rate used by the utility during the test year to defer income tax expense.

(36) The calculation of the interest deduction used by the utility to compute income taxes.

(b) In addition to the information listed in subsection (a), an electric utility shall submit the following information related to electric generating facility maintenance by station:

(1) Actual and budgeted maintenance costs during the test year.

(2) Budgeted maintenance schedule for the test year and any future period or periods as available.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-8; filed Oct 28, 1998, 3:38 p.m.: 22 IR 723; errata filed Nov 22, 1999, 3:32 p.m.: 23 IR 812; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-9 Working papers and data; rate base and general information

Authority: IC 8-1-1-3

Affected: IC 8-1-2-6.6; IC 8-1-2-42

Sec. 9. (a) An electing utility shall submit the following information:

(1) A summary schedule showing the utility's proposed rate base. The schedule shall show the following:

(A) Beginning balances per the utility's books.

(B) Proposed pro forma adjustments.

(2) The following data for each regulatory asset for which the utility seeks rate base treatment:

(A) Beginning test year balance.

(B) End of test year balance.

(C) Proposed balance to be included in rates.

(D) Where applicable, any:

(i) commission order;

(ii) accounting pronouncement; or

(iii) other authorization;

establishing the asset.

(3) A schedule showing the fair value of the utility's proposed rate base.

(b) If a utility proposes to add investment in qualified pollution control properties as defined in IC 8-1-2-6.6 to the value of its electric property, the utility shall also submit a filing that complies with the requirements of 170 IAC 4-6. *(Indiana Utility Regulatory Commission; 170 IAC 1-5-9; filed Oct 28, 1998, 3:38 p.m.: 22 IR 725; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)*

170 IAC 1-5-10 Working papers and data; rate base, utility plant in service

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 10. An electing utility shall submit the following information:

(1) Any valuation study performed by or for the utility, including all assumptions used in that study, that serves as the basis for the utility's proposed fair value of its utility plant in service, including any supporting working papers.

(2) A schedule showing end of test year balances for the following:

(A) A utility's plant in service.

(B) Accumulated depreciation by subaccount.

(3) The utility's construction budget for the following:

(A) The test year.

(B) As available, the period that ends with the plant cutoff date used to determine the plant in service rate base proposed by the utility.

(4) An annual summary by subaccount of actual net plant additions to a utility's plant in service used to determine the plant in service rate base proposed by the utility, showing:

(A) plant additions;

(B) retirements; and

(C) other changes to plant in service;

for the test year and, as available, for the period subsequent to the test year ending with the plant cutoff date.

(5) A schedule of pro forma utility additions subsequent to the test year ending with the proposed plant cutoff date, including the following:

(A) Estimated in service date or dates.

(B) Actual costs per books at the end of the test year.

(C) Estimated cost of utility additions based on costs as defined by the applicable NARUC or FERC Uniform System of Accounts.

(D) Pro forma retirements, cost to retire, or net proceeds received from the sale of property related to the proposed addition to rate base.

(E) For those utility additions that have received CWIP ratemaking treatment, the utility shall show AFUDC as a separate component of cost and include an explanation of the allocation of AFUDC to retail customers receiving service from the utility in Indiana.

(6) A narrative statement of the criteria used to select projects included in the utility's proposed pro forma additions to the end of test year plant in service.

(7) A narrative statement of all policies and procedures used to account for the capitalization of AFUDC.

(8) A listing of cause numbers of all commission orders that precertify projects added to the end of test year plant in service.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-10; filed Oct 28, 1998, 3:38 p.m.: 22 IR 725; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-11 Working papers and data; rate base, depreciation

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 11. (a) An electing utility shall submit the following information:

(1) If applicable, the cause number and order date of the commission's rate order authorizing the utility's current depreciation rates and the cause number approving the last depreciation study.

(2) A description of each adjustment proposed by the utility to its book accumulated provision for depreciation and depreciation expense for the test year.

(b) If a utility is seeking a change in its depreciation accrual rates, the utility shall also submit the following information:

(1) The depreciation study performed by or for the utility that serves as the basis for the requested change in depreciation accrual rates.
(2) A copy of the dismantlement or demolition studies performed by or for the utility.
(3) Supporting working papers for the documents required in subdivisions (1) and (2).

(Indiana Utility Regulatory Commission; 170 IAC 1-5-11; filed Oct 28, 1998, 3:38 p.m.: 22 IR 725; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-12 Working papers and data; rate base, working capital

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 12. An electing utility shall submit the following information:
(1) If the utility is requesting an allowance for cash working capital, a copy of all studies, including working papers, supporting the request.
(2) For an electric utility, the following:
(A) A complete description of the fuel inventory level policies used for planning purposes by the utility.
(B) Copies of all analyses completed within the last three (3) years by or for the utility establishing the optimal fuel inventory level for each generating station.
(C) When determining the pro forma fuel inventory level to be used for regulatory purposes based on a daily burn concept, for each generating unit or plant, or both, the following:
(i) Tons of fuel consumed for the test year or applicable adjusted period.
(ii) The daily burn in:
(AA) tons;
(BB) gallons; or
(CC) cubic feet.
(iii) The pro forma optimal number of days supply required for each plant or unit.
(iv) The pro forma inventory of tons or gallons burned by the generating unit or plant.
(v) The fuel cost per ton or gallon.
(vi) The per books fuel inventory.
(D) Any request for an adjustment to the utility's proposed fuel inventory level intended to meet normal operations must include the following:
(i) A narrative discussion of the factors considered in determining that an adjustment is warranted.
(ii) A detailed exhibit demonstrating the development of the proposed adjustment.
(3) For a gas utility, the following:
(A) The leased and contract storage balances at the beginning of the first month and end of each month of the test year with the average of thirteen (13) monthly balances shown separately. If any of the balances are not representative of the utility's current operating plan, the utility shall include an explanation of the relevant circumstances.
(B) A complete description of the gas storage and supply policies used for planning purposes by the utility.
(C) Copies of all analyses conducted by or for the utility establishing the optimal storage and supply level for the utility's system.
(4) The materials and supplies balances at the beginning of the first month and end of each month of the test year with the average of thirteen (13) monthly balances shown separately. If any of the balances are not representative of the utility's current operating plan, the utility shall include an explanation of the relevant circumstances.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-12; filed Oct 28, 1998, 3:38 p.m.: 22 IR 726; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-13 Working papers and data; rate of return and capital structure

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 13. (a) An electing utility shall submit the following information:

(1) Capitalization and capitalization ratios at the end of the test year and at the end of the year beginning twelve (12) months prior to the test year, respectively, including the following information:

(A) Year-end interest coverage ratios for the test year and the year ended twelve (12) months prior to the end of the test year and a pro forma interest coverage under the rates proposed by the utility.

(B) Year-end preferred stock dividend coverage ratios for the test year and the year ended twelve (12) months prior to the end of the test year.

(C) The supporting calculations for the information described in clauses (A) and (B).

(2) The following financial data relating to the utility as of the end of the most recent five (5) fiscal years:

(A) Annual price earnings ratio.

(B) Earnings-book value ratio on a per share basis, using average book value.

(C) Annual dividend yield.

(D) Annual earnings per share in dollars.

(E) Annual dividends per share in dollars.

(F) A book value per share yearly.

(G) Average annual market price per share calculated using monthly high and low share market prices.

(H) Pretax interest coverage ratio.

(I) Posttax interest coverage ratio.

(J) Market price-book value ratio average.

(K) The supporting calculations for the information described in this subdivision.

(3) The utility's capital structure and weighted average cost of capital as of the test year end, including the following information:

(A) Common equity.

(B) Long-term debt, including that maturing within one (1) year.

(C) Other debt, with specificity.

(D) Preferred or preference stock.

(E) Customer deposits.

(F) Sources of cost free capital, including the following:

(i) Pre-1971 investment tax credit.

(ii) Deferred taxes for ratemaking.

(iii) FAS 106 nonexternally funded liabilities.

(G) Post-1970 investment tax credit and other components as appropriate.

(4) If an electing utility is asking for special treatment because of the provisions of any of the following documents of the utility or its parent company, or both, then copies of the document or documents with the affecting provision or provisions must also be submitted:

(A) Articles of incorporation or a similar document.

(B) Indentures.

(C) Other loan documents.

(D) Other documents that describe the following:

(i) Coverage requirements.

(ii) Limits on proportions of types of capital outstanding.

(iii) Restrictions on dividend payouts.

(5) A schedule of preferred stock outstanding by series, including current maturities, for the end of the test year and the latest date reasonably available.

(6) A schedule of long-term debt outstanding by series, including current maturities, for the end of the test year and the latest

date reasonably available.

(7) A schedule of the following information for the utility as of the end of the test year and as of the latest date reasonably available prior to the postfiling date, respectively:

(A) A computation of the embedded cost rate of long-term debt, including the amount maturing within twelve (12) months.

(B) Computation of the embedded cost rates of other debt.

(C) Computation of the embedded cost rates of preferred or preference stock, including amounts maturing within twelve (12) months.

(8) Schedules required by this subsection should contain all relevant information, including, but not limited to, the following:

(A) The date of issue.

(B) The maturity date.

(C) The dollar amount.

(D) The coupon or dividend rate.

(E) The net proceeds, including discounts and premiums.

(F) The annual interest or dividend paid and balance of principal.

(G) The calculations in this section.

(9) The following information regarding the utility's plans regarding debt, common stock, and preferred stock during the year following the test year end:

(A) Issues that are to be retired or refinanced.

(B) If a refinancing is planned, the following:

(i) The manner in which the refinancing will proceed, that is, sinking fund or refinancing.

(ii) The source of the capital to be used to implement the refinancing.

(iii) The estimated cost rate of new capital, the estimated overall cost of each refinancing operation, and any cost-benefit analyses performed relating to each refinancing.

(10) All relevant reports in the utility's possession by rating agencies on the utility and its parent company for the test year, and thereafter up to the date of the final hearing. The reports should be based on the debt:

(A) used in calculations in the electing utility's filing; or

(B) of a parent company or proxy company whose debt is rated.

(11) Average monthly balance of short-term debt for the test year and the most recently available twelve (12) month period and the utility's current cost for short-term debt.

(b) With respect to the electing utility's proposed cost of equity and proposed fair rate of return, an electing utility shall provide the following:

(1) If an electing utility used a risk premium model to establish its cost of equity, all documents the electing utility used to estimate the risk premium.

(2) If an electing utility used any other cost of equity models, all documents used by the utility to derive its estimate.

(3) If an electing utility used a comparable earnings model and the proxy group contains more than twenty (20) companies, an electronic copy of the analysis used by the utility in whatever format or program was used to derive the electing utility's estimated cost of equity or fair rate of return.

(c) To the extent the electing utility is prohibited from producing copies of the documentation listed in subsection (b)(1) through (b)(3) due to the documentation being licensed or proprietary material by agreement or by copyright law, the electing utility shall provide the following:

(1) A list of which documents may not be copied and the reasons therefor.

(2) Access to the documents listed in subdivision (1) to all parties to the proceeding under this rule at a mutually convenient time and place.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-13; filed Oct 28, 1998, 3:38 p.m.: 22 IR 726; errata filed Nov 22, 1999, 3:32 p.m.: 23 IR 812; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-14 Working papers and data; other

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 14. An electing utility shall provide reasonable access to the following information upon the written request of the presiding officer, OUCC, or any party to the proceeding:

(1) Monthly unaudited financial reports for the utility for the test year and for each month subsequent to the test year through the date of the final hearing in the proceeding.

(2) The utility's latest FERC rate case filing, if any, and latest rate order issued by the FERC, if any, regarding wholesale or interstate rate changes.

(3) The minutes of the board of director's meetings held during the test year and for the year following the test year.

(4) Internal audit reports prepared during the test year.

(5) Contracts regarding the following:

(A) Gas supply.

(B) Gas storage.

(C) Purchased electric, water, and coal.

(D) Transportation and rail contracts.

(6) Accounting information documenting monthly charges applicable to the proposed post-test year utility additions and related retirement projects.

(7) Calculations and source documents for any affiliated transaction, including, but not limited to, the following:

(A) Parent company allocations.

(B) Direct charges.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-14; filed Oct 28, 1998, 3:38 p.m.: 22 IR 727; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-15 Working papers; cost of service study; determination of revenue requirements by customer class

Authority: IC 8-1-1-3
Affected: IC 5-14-3-4; IC 8-1-2-29; IC 8-1-2-61.5

Sec. 15. (a) An electing utility shall submit a jurisdictional separation study, if applicable, and a class cost of service study to the commission, OUCC, and any party to the proceeding.

(b) For an electing utility, the class cost of service study shall include the following information:

(1) Allocation of rate base by rate class.

(2) Pro forma sales revenues at present rates by rate class.

(3) Allocation of other operating revenues (or miscellaneous revenue or other income) by rate class.

(4) Allocation of pro forma operating expenses by:

(A) category or function; and

(B) rate class.

(5) Rate of return by rate class at present rates.

(6) Revenues at equal rates of return by rate class at present rates.

(7) Subsidy or excess at present rates by rate class.

(8) Revenues at equal rates of return by rate class at proposed rates.

(9) The proposed dollar and percent subsidy or excess reduction by rate class.

(10) Revenues at proposed rates by rate class.

(c) For an electing utility that is a water utility, the class cost of service study shall follow the guidelines established in the American Water Works Association Manual, Fifth Edition.

(d) The requirements of this section shall not apply to:

(1) an electing utility that is described in IC 8-1-2-61.5; or

(2) any electing utility that is seeking an equal percentage change to its basic rates and charges for all customer classes.

(e) Information submitted under this section shall:

(1) be provided to the commission electronically or through any other medium agreed to by the commission; and

(2) include all formulas used in completing the jurisdictional study and the class cost of service study, which shall be confidential and protected from disclosure to the public under IC 5-14-3-4 and IC 8-1-2-29.

(f) If impossible or impractical for an electing utility to provide information in the form described in subsection (e), the electing utility shall make available to the commission during normal business hours, on the electing utility's premises, a computer and all software used to create and store the information.

(g) The electing utility shall provide the information submitted to the commission under this section, in the form described in subsection (e), to any other party to the proceeding if the other party and the electing utility enter into a mutually acceptable confidentiality agreement covering the information.

(h) If any party receiving information under subsection (g) wishes to propose data and methodologies for use in the electing utility's jurisdictional separation study or cost of service study, the party shall provide the information to the following:

(1) The commission in the form described in subsection (e).

(2) Any other party to the proceeding that enters into a mutually acceptable confidentiality agreement covering the information among the following:

(A) The party.

(B) The electing utility.

(C) The recipient of the information.

(Indiana Utility Regulatory Commission; 170 IAC 1-5-15; filed Oct 28, 1998, 3:38 p.m.: 22 IR 728; errata filed Nov 22, 1999, 3:32 p.m.: 23 IR 812; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)

170 IAC 1-5-16 Working papers; written testimony; rate design and tariff filing requirements

Authority: IC 8-1-1-3
Affected: IC 8-1-2-42

Sec. 16. (a) An electing utility that proposes to modify the underlying structure of its rates shall submit the following to the commission, OUCC, and any party to the proceeding:

(1) Direct written testimony:

(A) detailing the reason for; and

(B) indicating the methods used in developing;

the proposed rate structure.

(2) The billing determinants and derived rates used to produce the requested revenue requirement for each proposed charge in a rate schedule or rate group.

(3) Cost justification for the establishment of or a change to any nonrecurring charges, including, but not limited to, the following:

(A) Insufficient funds check charge.

(B) Reconnect charge.

(C) Disconnect charge.

(D) Recharge (establish or change account).

(E) Collection charge.

(F) Testing charge.

(G) Meter reading charge.

(H) Meter tampering charge.

(I) Connection or tap fee.

(b) An electing utility that proposes to modify its:

(1) terms and conditions of service;

(2) rules;

(3) regulations;
(4) rates;
(5) charges; or
(6) other tariff provisions;
shall submit a complete set of tariffs to the commission.

(c) Additions to the prior tariff shall be shown:
(1) in bold type; or
(2) underlined;
Deletions from the current tariff shall be shown by striking through the text.

(d) An electing utility shall submit bill comparisons to the commission showing monetary and percentage changes for a typical residential bill that would result from a requested change in rates and charges. *(Indiana Utility Regulatory Commission; 170 IAC 1-5-16; filed Oct 28, 1998, 3:38 p.m.: 22 IR 728; readopted filed Nov 23, 2004, 2:30 p.m.: 28 IR 1315; filed Jul 31, 2009, 8:28 a.m.: 20090826-IR-170080670FRA; readopted filed Jun 9, 2015, 3:18 p.m.: 20150708-IR-170150103RFA)*

Rule 6. Thirty-Day Administrative Filing Procedures and Guidelines

170 IAC 1-6-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-2-42
Affected: IC 8-1-1-5; IC 8-1-37-4

Sec. 1. (a) This rule is intended to establish thirty (30) day administrative filing procedures for certain requests by a utility for changes in:
(1) its rates;
(2) its charges;
(3) its rules;
(4) its regulations; or
(5) any combination of subdivisions (1) through (4);
that are outside the context of a general rate case and that are not subject to other commission rules establishing specific filing requirements for the subject matter of the filing.

(b) Under IC 8-1-1-5 and as defined in this rule, only noncontroversial filings may be approved under this rule.

(c) This rule may also be used by a clean energy resource that provides thermal energy for approval of an alternative equation to determine the number of clean energy credits earned for useful thermal energy produced under 170 IAC 17.1-3-5.

(d) A period of thirty (30) days from the date the filing is received by the commission is the minimum amount of time in which approval of changes to rates and charges may occur under IC 8-1-2-42(a), unless the commission has approved an order prescribing a different time frame. Additional time may be required for reasons including, but not limited to, the following:
(1) Objections under section 7 of this rule.
(2) Failure to follow the procedures as provided in this rule.
(3) Failure to respond promptly to inquiries from:
(A) commission staff; or
(B) OUCC staff.
(4) Complex filings.
(5) Incomplete filings.

(e) The regulatory framework contained in this rule is intended to facilitate expedited consideration of administrative filings that do not require a hearing.

(f) To ensure that a utility's filing under this rule is consistent with the purpose of the procedures in this rule, the commission division will:
(1) review and evaluate the filing; and
(2) recommend to the commission approval or denial;
subject to the provisions of section 8 of this rule. The commission will make the final determination regarding whether the filing

is approved or disapproved. *(Indiana Utility Regulatory Commission; 170 IAC 1-6-1; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

170 IAC 1-6-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1-2-54; IC 8-1-37-3; IC 8-1-37-4

Sec. 2. The following definitions apply throughout this rule:
(1) "Clean energy" has the meaning set forth in 170 IAC 17.1-2-5.
(2) "Clean energy credit" has the meaning set forth in IC 8-1-37-3.
(3) "Clean energy resource" has the meaning set forth in IC 8-1-37-4(a).
(4) "Commission" means the Indiana utility regulatory commission.
(5) "Commission division" means the technical division of the commission for the industry to which the utility making the filing under this rule belongs.
(6) "Conference" means the official regularly scheduled meeting of the commission at which orders and utility articles are presented for approval.
(7) "Customer" means any:
(A) person;
(B) firm;
(C) corporation;
(D) municipality;
(E) government agency; or
(F) other entity;
that has agreed, orally or otherwise, to pay for service received from a utility.
(8) "Filing date" means the date a filing under this rule is received and file stamped by the secretary of the commission.
(9) "New rate" means a rate or charge for utility service not currently encompassed by the utility's tariffs.
(10) "Noncontroversial filing" means any filing regarding which no person or entity has filed an objection as provided under section 7 of this rule.
(11) "Nonrecurring charge" means a charge to a utility customer for costs incurred by the utility outside the context of month-to-month service, which shall include, but not be limited to, the following:
(A) Customer deposits.
(B) Customer checks returned to the utility due to insufficient funds.
(C) Connect fees.
(D) Reconnect fees.
(E) Tap fees.
(12) "OUCC" means the Indiana office of utility consumer counselor.
(13) "Rate" means base rates and charges incident to the provision of usual and customary utility service on a month-to-month basis.
(14) "System development charge" or "SDC" means a one (1) time fee assessed to new customers of water or sewer utilities to help finance development of utility systems, mainly those dealing with facilities for production, treatment, or storage necessary to serve those new customers. The term includes the following:
(A) Impact fee.
(B) Availability fee.
(C) Capacity fee.
(15) "Utility", only for the purposes of this rule, includes a clean energy resource that:
(A) produces thermal energy; and
(B) is seeking approval of an alternative equation to determine the number of clean energy credits earned for the useful thermal energy produced.

(16) "Utility articles" means the summary of filings under this rule and the recommendations of the commission division, which are presented to the commission at conference.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-2; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

170 IAC 1-6-3 Allowable filings

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1

Sec. 3. The following types of filings are allowable under the procedures and guidelines of this rule:
(1) Rates and charges for new services.
(2) New rules and regulations of the utility.
(3) Changes to rules and regulations of the utility.
(4) Nonrecurring charges.
(5) Changes to rates and charges so long as the change:
(A) is revenue neutral within a specific rate schedule; or
(B) results in an overall decrease in the revenues of the utility and is done on an across-the-board basis to all classes of customers.
(6) A request by a clean energy resource for approval of an alternative equation to determine the number of clean energy credits earned for the useful thermal energy produced.
(7) A filing for which the commission has already approved or accepted the procedure for the change.
(8) Any other filing as may be ordered by the commission to be filed under this rule.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-3; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

170 IAC 1-6-4 Prohibited filings

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1

Sec. 4. The following types of filings shall not be allowed under this rule:
(1) Increases to any existing rates.
(2) Rules and regulations of the utility that would:
(A) violate the commission's rules and regulations as found in this title; or
(B) have the effect of being more lenient to the utility than the commission's rules and regulations.
(3) A general rate increase.
(4) Class rate restructuring.
(5) SDCs.
(6) Approval of financing.
(7) Any request that is inconsistent with a commission order dealing with the subject matter of the request.
(8) Any filing for which the utility wants confidential treatment for all or part of the filing.
(9) Any:
(A) rates;
(B) charges;
(C) rules;
(D) conditions of service; or
(E) change thereto;
that the commission in its discretion determines should not be processed under this rule.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-4; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

170 IAC 1-6-5 Filing requirements

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1

Sec. 5. (a) Each filing under this rule shall include the following:
(1) A cover letter clearly stating:
(A) that the filing is being made under this rule;
(B) the purpose of the filing;
(C) the need for what is being requested; and
(D) why the filing is an allowable request under section 3 of this rule.
(2) Contact information for the utility regarding this filing, including the following for each person to be contacted:
(A) The name of the person or persons to be contacted.
(B) Telephone number.
(C) Mailing address.
(D) Either:
(i) an electronic mailing address; or
(ii) a facsimile number.
(3) Tariff sheet or sheets.
(4) All work papers supporting the filing, including revenue and cost projections, which must be clearly explained and include clear explanations of the following:
(A) All assumptions used.
(B) Whether the data used is actual or estimated. It is presumed that actual data shall be used in all supporting calculations. If it is necessary to use estimated data, the utility shall state the following:
(i) The reasons the estimated data is being used.
(ii) How the estimated data was derived.
(iii) Why the estimated data should be used.
(C) The source of the data.
(D) Models or methodologies employed.
(5) A verified statement by the utility:
(A) affirming that affected customers have been notified as required under section 6 of this rule;
(B) stating in detail the means used for notification; and
(C) including copies of any written means of notification.
(b) A copy of the items listed in subsection (a) shall be provided to the OUCC on the filing date.
(c) The items listed in subsections (a) and (b) may be provided in:
(1) electronic format to the commission and the OUCC:
(A) via electronic mail; or
(B) on a compact disk; or
(2) paper format with:
(A) three (3) copies provided to the commission; and
(B) one (1) copy provided to the OUCC.
(d) A filing submitted under this rule shall be addressed to the "Secretary of the Commission", who shall distribute the filing to the appropriate commission division. *(Indiana Utility Regulatory Commission; 170 IAC 1-6-5; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

170 IAC 1-6-6 Notice requirements

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1

Sec. 6. (a) A utility that intends to make a filing under this rule shall provide notice prior to the filing date by:

(1) posting the notice described in subsection (b):

(A) in a public place at the utility's local customer service office or offices, to the extent the utility has such offices; and

(B) in an obvious place on the utility's website, which at a minimum is a link on the Indiana homepage of the utility's website, if the utility has a website; and

(2) publishing the notice described in subsection (b) in at least one (1) newspaper of general circulation that has a circulation encompassing the highest number of the utility's customers affected by the filing.

(b) At a minimum, the notice shall contain the following information:

(1) A brief but accurate description of the filing, including the following:

(A) The nature of the filing.

(B) Which customers may be affected.

(C) How those customers may be affected.

(2) The expected filing date.

(3) The date by which approval of the filing is expected.

(4) The contact information, to which an objection should be made, for both the:

(A) secretary of the commission; and

(B) OUCC.

(c) If a utility filing under this rule is already required to provide notice pursuant to a commission order, the notice requirements may be combined into one (1) notice; however, the notice at a minimum shall contain the information required in subsection (b).

(d) Commission staff shall post the filing to the commission's electronic gateway as soon as possible on or after the filing date. *(Indiana Utility Regulatory Commission; 170 IAC 1-6-6; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)*

170 IAC 1-6-7 Objections

Authority: IC 8-1-1-3; IC 8-1-2-42
Affected: IC 8-1-1-5; IC 8-1-2-34.5; IC 8-1-2-54

Sec. 7. (a) If any person or entity has an objection to a filing made under this rule, the objection shall be submitted to the secretary of the commission.

(b) The objection must be as follows:

(1) In writing in:

(A) paper; or

(B) electronic format.

(2) Based on a statement that at least one (1) of the following applies to the filing:

(A) It is a violation of:

(i) applicable law;

(ii) a prior commission order; or

(iii) a commission rule.

(B) Information in the filing is inaccurate.

(C) The filing is:

(i) incomplete; or

(ii) prohibited under section 4 of this rule.

(c) The commission division shall promptly notify the utility, via electronic mail or facsimile, of any objections it receives. Within ten (10) calendar days following notification by the commission division, the utility may submit one (1) or more of the following:

(1) A response to the objection.

(2) Clarification of the filing.

(3) Additional information.

(4) An amendment to the filing.
(5) A withdrawal of its filing.
A filing may be withdrawn at any time before it is presented to the commission for approval under section 8 of this rule.
(d) If the objection is resolved to the satisfaction of the:
(1) objector;
(2) utility;
(3) OUCC; and
(4) commission division;
the filing may continue through the recommendation and approval process in section 8 of this rule. Otherwise, if the filing has not been previously withdrawn by the utility, the filing, under IC 8-1-1-5, shall not be presented to the commission for consideration upon an objection that complies with this section.
(e) If an objection that complies with this section is not received by the commission at least three (3) business days before the filing is approved, the objection may still be:
(1) a basis for an investigation by the commission;
(2) used as part of a complaint that complies with:
(A) IC 8-1-2-54; or
(B) IC 8-1-2-34.5(b); and
(3) considered by the commission in accordance with the commission's procedural rules and evidentiary standards in subsequent related filings by the utility.
(f) Nothing in this rule shall restrict:
(1) a person's or entity's rights regarding, or access to, the complaint processes and procedures of the commission; or
(2) the commission's investigatory authority.
(Indiana Utility Regulatory Commission; 170 IAC 1-6-7; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

170 IAC 1-6-8 Commission approval
Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1

Sec. 8. (a) The commission division shall review the filings for its respective utility industry and promptly inform the utility of any:
(1) missing information;
(2) incomplete information; or
(3) additional information;
it requires to complete review of the filing.
(b) Upon completing its review, the commission division shall recommend the filing for approval or denial by the commission. If the commission division recommends the filing be denied, it shall notify the utility of its decision in writing via electronic mail or facsimile at least five (5) calendar days prior to submitting its recommendations to the commission. The utility may withdraw its filing at any time prior to the submission of the commission division's recommendations to the commission.
(c) If the utility has not previously withdrawn the filing, the commission division shall submit:
(1) a description of the filing; and
(2) the commission division's recommendation;
to the utility articles for consideration at the next conference, which shall be at least thirty (30) days after the filing date unless the commission has approved an order prescribing a different time frame.
(d) A utility may do the following:
(1) Withdraw its filing at any time without approval of the commission.
(2) Resubmit a filing that has previously been:
(A) withdrawn by the utility; or
(B) denied by the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-8; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

170 IAC 1-6-9 Application of ex parte rules

Authority: IC 8-1-1-3; IC 8-1-1-5; IC 8-1-2-42
Affected: IC 8-1

Sec. 9. (a) The ex parte rules of the commission in 170 IAC 1-1.5 do not apply to communications made in association with a filing under this rule.

(b) A filing under this rule and related communications shall not be deemed prior communications under 170 IAC 1-1.5-5 and 170 IAC 1-1.5-6, even if the filing is:

(1) withdrawn by the utility; or

(2) denied by the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-9; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA)

Rule 7. Commission Review of Municipal Utility Rates and Charges

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 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 IC 8-1.5-3-8.3(e) for the commission to review and adjust, if necessary, the rates and charges imposed on users 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)*

170 IAC 1-7-2 Definitions

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. 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.

(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) "Customers" means the users of the works whose property is located outside the corporate boundaries of the municipality.

(5) "Filing date" means the date a filing under this rule is received and file stamped by the secretary of the commission.

(6) "Municipality" means a:

(A) city; or

(B) town.

(7) "Ordinance" means the ordinance adopted by the municipality under IC 8-1.5-3-8.1 that imposes rates and charges on users of the works outside the corporate boundaries of the municipality that are greater than those imposed on users of the works whose property is located inside the corporate boundaries of the municipality.

(8) "OUCC" means the Indiana office of utility consumer counselor.

(9) "Petition" means a petition meeting the form and manner prescribed by the commission as defined in section 4(c) of this rule.

(10) "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)

170 IAC 1-7-3 Time frames 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 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.
(c) 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 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.
(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) 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 papers, with the commission:
(1) The OUCC.
(2) A party to the proceeding.
(f) Within fifteen (15) days after the response is filed with the commission, the municipality may file its rebuttal.
(g) 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)*

170 IAC 1-7-4 Petitions and notice requirements
Authority: IC 8-1-1-3; IC 8-1.5-3-8.3
Affected: IC 8-1.5-3-8.3

Sec. 4. (a) 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 section 3(e) of this rule.
(5) A statement that the customer may also contact the commission concerning a complaint.
(6) Contact information for the commission.
(b) Notice to customers under this section must be sent by U.S. mail on the date the petition is filed.
(c) Petitions shall be submitted in substantial compliance with the following forms:
(1) Form A Sample Customers' Petition:

Form A Sample Customers' Petition

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PETITION FOR COMMISSION REVIEW	)	
AND ADJUSTMENT, IF NECESSARY,	)	
OF RATE AND CHARGE DIFFERENCE	)	
BETWEEN PROPERTY WITHIN AND	)	CAUSE NO.
PROPERTY OUTSIDE THE CORPORATE	)	
BOUNDARIES OF _____	)	
(MUNICIPALITY)	)	

Pursuant to IC 8-1.5-3-8.3(d) and IC 8-1.5-3-8.3(e), Petitioners, _____, users of the works whose property is located outside the corporate boundaries of _____ (Municipality) ("Customers") by counsel, respectfully petition the Indiana Utility Regulatory Commission ("Commission") to review and adjust, if necessary, the rates and charges imposed on property outside the corporate boundaries of _____ (Municipality). In support of its Petition, Petitioners state:

1. On _____ (date), _____ (Municipality) adopted an ordinance under IC 8-1.5-3-8.1 which imposed rates and charges on users of the works for service to property located outside the corporate boundaries of _____ (Municipality) that exceed the rates and charges imposed on users of the works for service to property located within the municipality's corporate boundaries by more than fifteen percent (15%). Attached as "Exhibit A" is a copy of the ordinance.

2. Under IC 8-1.5-3-8.3(d) and IC 8-1.5-3-8.3(e), either or both the municipality, or the lesser of ten percent (10%) of all or twenty-five (25) of the users of the works whose property is located outside the corporate boundaries of the municipality may petition the Commission to review the percentage difference between the rates and charges in order to determine whether the difference is nondiscriminatory, reasonable, and just.

3. In accordance with IC 8-1.5-3-8.3(d)(2) or IC 8-1.5-3-8.3(e)(2) this petition is brought by _____ percent (___ %) of all or _____ # of the users of the works whose property is located outside the corporate boundaries of _____ (Municipality).

4. The percentage difference between the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and to property located within the corporate boundaries is _____.

5. The rate differential between the property located outside and inside corporate boundaries is discriminatory, unreasonable or unjust because _____.

6. To the extent the petitioner seeks specific relief, indicate how the rates and charges in the ordinance should be adjusted: _____.

7. Other facts or information petitioner believes to be relevant for the commission to consider: _____.

8. Petitioners consider IC 8-1.5-3-8.3(d) and IC 8-1.5-3-8.3(e), and (identify any other statutes determined to be relevant) to be applicable to the relief requested by this Petition.

9. _____ is counsel of record for Petitioners in this matter and is duly authorized to accept service of papers in this cause on behalf of Petitioners.

WHEREFORE Petitioners respectfully request the Commission to review the percentage difference between the respective rates and charges and determine whether the difference is discriminatory, unreasonable and unjust, and if necessary, adjust the rates and charges imposed on Petitioners, and for all other just and reasonable relief.

Respectfully submitted,

_____

Attorney for Petitioners

Verification

I, _____, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Signed _____ (Representative of the Ratepayers/Petitioners)

Attorney Contact Information

(2) Form B Sample Municipality's Petition:

Form B Sample Municipality's Petition

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PETITION FOR COMMISSION REVIEW	)	
AND ADJUSTMENT, IF NECESSARY,	)	
OF RATE AND CHARGE DIFFERENCE	)	
BETWEEN PROPERTY WITHIN AND	)	CAUSE NO.
PROPERTY OUTSIDE THE CORPORATE	)	
BOUNDARIES OF _____	)	
(MUNICIPALITY)	)	

INDIANA UTILITY REGULATORY COMMISSION

Pursuant to IC 8-1.5-3-8.3(d) and IC 8-1.5-3-8.3(e), Petitioner, _____, (Municipality), by counsel, respectfully petitions the Indiana Utility Regulatory Commission ("Commission") to review and adjust, if necessary, the rates and charges imposed on property outside the corporate boundaries of _____ (Municipality). In support of its Petition, Petitioner states:

1. On _____ (date), _____ (Municipality) adopted an ordinance under IC 8-1.5-3-8.1 which imposed rates and charges on users of the works for service to property located outside the corporate boundaries of _____ (Municipality) that exceed the rates and charges imposed on users of the works for service to property located within the municipality's corporate boundaries by more than fifteen percent (15%). Attached as "Exhibit A" is a copy of the ordinance.

2. Under IC 8-1.5-3-8.3(d) and IC 8-1.5-3-8.3(e), either or both the municipality, or the lesser of ten percent (10%) of all or twenty-five (25) of the users of the works whose property is located outside the corporate boundaries of the municipality may petition the Commission to review the percentage difference between the rates and charges in order to determine whether the difference is nondiscriminatory, reasonable, and just.

3. In accordance with IC 8-1.5-3-8.3(d)(1) or IC 8-1.5-3-8.3(e)(1) this petition is brought by _____ (Municipality).

4. The percentage difference between the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and to property located within the corporate boundaries is _____.

5. The rate differential between the property located outside and inside the corporate boundaries is nondiscriminatory, reasonable and just because _____.

6. Other facts or information petitioner believes is relevant for the commission to consider: _____.

7. Petitioner considers IC 8-1.5-3-8.3(d) and IC 8-1.5-3-8.3(e), and (identify any other statutes determined to be relevant) to be applicable to the relief requested by this Petition.

8. _____ is counsel of record for Petitioner in this matter and is duly authorized to accept service of papers in this cause on behalf of Petitioner.

WHEREFORE Petitioner respectfully requests the Commission to review the percentage difference between the respective rates and charges and determine whether the difference is discriminatory, unreasonable and unjust, and if necessary, adjust the rates and charges imposed on the users of the works whose property is located outside the corporate boundaries of the municipality, and for all other just and reasonable relief.

Respectfully submitted,

_____

Attorney for Petitioner

Verification

I, _____, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Signed_____ (Representative of the Municipality)

Attorney Contact Information

(Indiana Utility Regulatory Commission; 170 IAC 1-7-4; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA)

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.

(Indiana Utility Regulatory Commission; 170 IAC 1-7-5; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA)

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